

Public Law 110–1
110th Congress

An Act

To redesignate the White Rocks National Recreation Area in the State of Vermont
as the “Robert T. Stafford White Rocks National Recreation Area”.

Jan. 17, 2007

[S. 159]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. ROBERT T. STAFFORD WHITE ROCKS NATIONAL RECRE-
ATION AREA.**

16 USC 460nn–1
note.

(a) REDESIGNATION.—The White Rocks National Recreation Area in the State of Vermont, as established by section 202 of the Vermont Wilderness Act of 1984 (16 U.S.C. 460nn–1), is redesignated as the “Robert T. Stafford White Rocks National Recreation Area”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the recreation area referred to in subsection (a) shall be deemed to be a reference to the Robert T. Stafford White Rocks National Recreation Area.

16 USC 460nn,
460nn–1,
460nn–3.

Approved January 17, 2007.

LEGISLATIVE HISTORY—S. 159:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Jan. 4, considered and passed Senate.

Jan. 5, considered and passed House.



Public Law 110–2
110th Congress

An Act

Feb. 2, 2007
[H.R. 475]

House Page
Board Revision
Act of 2007.
2 USC 88b–2
note.

To revise the composition of the House of Representatives Page Board to equalize the number of members representing the majority and minority parties and to include a member representing the parents of pages and a member representing former pages, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “House Page Board Revision Act of 2007”.

SEC. 2. REVISION OF COMPOSITION OF HOUSE OF REPRESENTATIVES PAGE BOARD.

(a) **EXPANSION OF MEMBERSHIP.**—Section 2(a) of House Resolution 611, Ninety-seventh Congress, agreed to November 30, 1982, as enacted into permanent law by section 127 of Public Law 97–377 (2 U.S.C. 88b–3(a)), is amended—

(1) in paragraph (1), by striking “one Member” and inserting “two Members”;

(2) by striking “and” at the end of paragraph (1);

(3) by redesignating paragraph (2) as paragraph (4); and

(4) by inserting after paragraph (1) the following new paragraphs:

“(2) one individual who, at any time during the 5-year period which ends on the date of the individual’s appointment, is or was a parent of a page participating in the program;

“(3) one individual who is a former page of the House who is not a Member of the House or an individual described in paragraph (2); and”.

(b) **SPECIAL RULES FOR MEMBERS REPRESENTING PARENTS AND FORMER PAGES.**—Section 2 of such House Resolution (2 U.S.C. 88b–3) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

“(b) In the case of the members of the Page Board who are described in paragraphs (2) and (3) of subsection (a), the following shall apply:

“(1) Each such member shall be appointed jointly by the Speaker and minority leader of the House of Representatives.

“(2) Each such member shall serve for a term of one year and may be reappointed for additional terms if the member continues to meet the requirements for appointment.

“(3) A vacancy in the position held by any such member shall be filled in the same manner as the original appointment. An individual appointed to fill a vacancy shall serve for the remainder of the original term and may be reappointed in accordance with paragraph (2).

“(4) Each such member may be paid travel or transportation expenses, including per diem in lieu of subsistence, for attending meetings of the Page Board while away from the member’s home or place of business. There are authorized to be appropriated from the applicable accounts of the House of Representatives such sums as may be necessary for payments under this paragraph.”.

Appropriation
authorization.

SEC. 3. REQUIRING REGULAR MEETINGS.

Section 1 of House Resolution 611, Ninety-seventh Congress, agreed to November 30, 1982, as enacted into permanent law by section 127 of Public Law 97–377 (2 U.S.C. 88b–2), is amended—

(1) by striking “Until otherwise” and inserting “(a) Until otherwise”; and

(2) by adding at the end the following new subsection:

“(b) The Page Board shall meet regularly, in accordance with a schedule established jointly by the Speaker and minority leader of the House of Representatives.”.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to the portion of the One Hundred Tenth Congress which begins after the date of the enactment of this Act and each succeeding Congress.

2 USC 88b–2
note.

Approved February 2, 2007.

LEGISLATIVE HISTORY—H.R. 475:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Jan. 19, considered and passed House.

Jan. 23, considered and passed Senate.



Public Law 110–3
110th Congress

An Act

Feb. 8, 2007
[H.R. 188]

To provide a new effective date for the applicability of certain provisions of law
to Public Law 105–331.

31 USC 5112
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, for the purposes of Public Law 105–331, the end of the 2-year period specified in subparagraph (B) of section 5134(f)(1) of title 31, United States Code, shall be July 1, 2007. This section shall apply on and after December 31, 2006, as if the section had been enacted on such date.

Approved February 8, 2007.

LEGISLATIVE HISTORY—H.R. 188:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Jan. 16, considered and passed House.

Jan. 25, considered and passed Senate.



Public Law 110–4
110th Congress

An Act

To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through July 31, 2007, and for other purposes.

Feb. 15, 2007
[H.R. 434]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION
OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND
THE SMALL BUSINESS INVESTMENT ACT OF 1958.**

(a) IN GENERAL.—Section 1 of the Act entitled “An Act to extend temporarily certain authorities of the Small Business Administration”, approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742), is amended by striking “February 2, 2007” each place it appears and inserting “July 31, 2007”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on February 2, 2007.

Approved February 15, 2007.

LEGISLATIVE HISTORY—H.R. 434:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Jan. 17, considered and passed House.

Feb. 1, considered and passed Senate, amended.

Feb. 7, House concurred in Senate amendments.



Public Law 110–5
110th Congress

Joint Resolution

Feb. 15, 2007
[H.J. Res. 20]

Making further continuing appropriations for the fiscal year 2007, and for other purposes.

Revised
Continuing
Appropriations
Resolution, 2007.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this joint resolution may be cited as the “Revised Continuing Appropriations Resolution, 2007”.

120 Stat. 1311.

SEC. 2. The Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B), as amended by Public Laws 109–369 and 109–383, is amended to read as follows:

“DIVISION B—CONTINUING APPROPRIATIONS RESOLUTION,
2007

“The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2007, and for other purposes, namely:

“TITLE I—FULL-YEAR CONTINUING APPROPRIATIONS

“SEC. 101. (a) Such amounts as may be necessary, at the level specified in subsection (c) and under the authority and conditions provided in the applicable appropriations Act for fiscal year 2006, for projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise provided for and for which appropriations, funds, or other authority were made available in the following appropriations Acts:

“(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006.

“(2) The Energy and Water Development Appropriations Act, 2006.

“(3) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006.

“(4) The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006.

“(5) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006.

“(6) The Legislative Branch Appropriations Act, 2006.

“(7) The Military Quality of Life and Veterans Affairs Appropriations Act, 2006.

“(8) The Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006.

“(9) The Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006.

“(b) For purposes of this division, the term ‘level’ means an amount.

42 USC 12651i
note.

“(c) The level referred to in subsection (a) shall be the amounts appropriated in the appropriations Acts referred to in such subsection, including transfers and obligation limitations, except that—

“(1) such level shall not include any amount designated as an emergency requirement, or to be for overseas contingency operations, pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006; and

“(2) such level shall be calculated without regard to any rescission or cancellation of funds or contract authority, other than—

“(A) the 1 percent government-wide rescission made by section 3801 of division B of Public Law 109-148;

“(B) the 0.476 percent across-the-board rescission made by section 439 of Public Law 109-54, relating to the Department of the Interior, environment, and related agencies; and

“(C) the 0.28 percent across-the-board rescission made by section 638 of Public Law 109-108, relating to Science, State, Justice, Commerce, and related agencies.

“SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

“SEC. 103. Appropriations provided by this division that, in the applicable appropriations Act for fiscal year 2006, carried a multiple-year or no-year period of availability shall retain a comparable period of availability.

“SEC. 104. Except as otherwise expressly provided in this division, the requirements, authorities, conditions, limitations, and other provisions of the appropriations Acts referred to in section 101(a) shall continue in effect through the date specified in section 106.

“SEC. 105. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were specifically prohibited during fiscal year 2006.

“SEC. 106. Unless otherwise provided for in this division or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this division shall be available through September 30, 2007.

“SEC. 107. Expenditures made pursuant to this division prior to the enactment of the Revised Continuing Appropriations Resolution, 2007, shall be charged to the applicable appropriation, fund, or authorization provided by this division (or the applicable regular appropriations Act for fiscal year 2007) as in effect following such enactment.

“SEC. 108. Funds appropriated by this division may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C.

6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

“SEC. 109. With respect to any discretionary account for which advance appropriations were provided for fiscal year 2007 or 2008 in an appropriations Act for fiscal year 2006, the levels established by section 101 shall include advance appropriations in the same amount for fiscal year 2008 or 2009, respectively, with a comparable period of availability.

“SEC. 110. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2006, and for activities under the Food Stamp Act of 1977, the levels established by section 101 shall be the amounts necessary to maintain program levels under current law.

“(b) In addition to the amounts otherwise provided by section 101, the following amounts shall be available for the following accounts for advance payments for the first quarter of fiscal year 2008:

“(1) ‘Department of Labor, Employment Standards Administration, Special Benefits for Disabled Coal Miners’, for benefit payments under title IV of the Federal Mine Safety and Health Act of 1977, \$68,000,000, to remain available until expended.

“(2) ‘Department of Health and Human Services, Centers for Medicare and Medicaid Services, Grants to States for Medicaid’, for payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act, \$65,257,617,000, to remain available until expended.

“(3) ‘Department of Health and Human Services, Administration for Children and Families, Payments to States for Child Support Enforcement and Family Support Programs’, for payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), \$1,000,000,000, to remain available until expended.

“(4) ‘Department of Health and Human Services, Administration for Children and Families, Payments to States for Foster Care and Adoption Assistance’, for payments to States or other non-Federal entities under title IV-E of the Social Security Act, \$1,810,000,000.

“(5) ‘Social Security Administration, Supplemental Security Income Program’, for benefit payments under title XVI of the Social Security Act, \$16,810,000,000, to remain available until expended.

“SEC. 111. (a)(1) In addition to any amounts otherwise provided by this division, such sums as may be necessary are hereby appropriated to fund, for covered employees under a statutory pay system (as defined by section 5302 of title 5, United States Code), 50 percent of any increase in rates of pay which became effective under sections 5303 through 5304a of such title 5 in January 2007.

“(2)(A) In addition to any amounts otherwise provided by this division, such sums as may be necessary are hereby appropriated to provide the amount which would be necessary to fund, for covered employees not described in paragraph (1), 50 percent of the cost of an increase in rates of pay, calculated as if such employees were covered by paragraph (1) and as if such increase had been made on the first day of the first pay period beginning in January

2007 based on the rates that were in effect for such employees as of the day before such first day.

“(B) Subparagraph (A) is intended only to provide funding for pay increases for covered employees not described in paragraph (1). Nothing in subparagraph (A) shall be considered to modify, supersede, or render inapplicable the provisions of law in accordance with which the size or timing of any pay increase actually provided with respect to such employees is determined.

“(b) Appropriations under this section shall include funding for pay periods beginning on or after January 1, 2007, and the pay costs covered by this appropriation shall include 50 percent of the increases in agency contributions for employee benefits resulting from the pay increases described in subsection (a).

“(c) For purposes of this section, the term ‘covered employees’ means employees whose pay is funded in whole or in part (including on a reimbursable basis) by any account for which funds are provided by this division (other than by chapters 2 and 11 of title II of this division) after October 4, 2006.

“SEC. 112. Any language specifying an earmark in a committee report or statement of managers accompanying an appropriations Act for fiscal year 2006 shall have no legal effect with respect to funds appropriated by this division.

Earmarks.

“SEC. 113. Within 30 days of the enactment of this section, each of the following departments and agencies shall submit to the Committees on Appropriations of the House of Representatives and the Senate a spending, expenditure, or operating plan for fiscal year 2007 at a level of detail below the account level:

Deadline.
Operating plan.

“(1) Department of Agriculture.

“(2) Department of Commerce, including the United States Patent and Trademark Office.

“(3) Department of Defense, with respect to military construction, family housing, the Department of Defense Base Closure accounts, and ‘Defense Health Program’.

“(4) Department of Education.

“(5) Department of Energy.

“(6) Department of Health and Human Services.

“(7) Department of Housing and Urban Development.

“(8) Department of the Interior.

“(9) Department of Justice.

“(10) Department of Labor.

“(11) Department of State and United States Agency for International Development.

“(12) Department of Transportation.

“(13) Department of the Treasury.

“(14) Department of Veterans Affairs, including ‘Construction, Major Projects’.

“(15) National Aeronautics and Space Administration.

“(16) National Science Foundation.

“(17) The Judiciary.

“(18) Office of National Drug Control Policy.

“(19) General Services Administration.

“(20) Office of Personnel Management.

“(21) National Archives and Records Administration.

“(22) Environmental Protection Agency.

“(23) Indian Health Service.

“(24) Smithsonian Institution.

“(25) Social Security Administration.

Deadline.
Reports.

“(26) Corporation for National and Community Service.
“(27) Corporation for Public Broadcasting.
“(28) Food and Drug Administration.
“SEC. 114. Within 15 days after the enactment of this section, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate—
“(1) a report specifying, by account, the amounts provided by this division for executive branch departments and agencies; and
“(2) a report specifying, by account, the amounts provided by section 111 for executive branch departments and agencies.
Pay raise.
Cancellation.
2 USC 31 note.

“SEC. 115. Notwithstanding any other provision of this division and notwithstanding section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31), the percentage adjustment scheduled to take effect under such section for 2007 shall not take effect.

“TITLE II—ELIMINATION OF EARMARKS, ADJUSTMENTS IN FUNDING, AND OTHER PROVISIONS

“CHAPTER 1—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

“SEC. 20101. Notwithstanding section 101, the level for each of the following accounts for Agricultural Programs of the Department of Agriculture shall be as follows: ‘Common Computing Environment’, \$107,971,000; ‘Economic Research Service’, \$74,825,000; ‘National Agricultural Statistics Service’, \$146,543,000, of which up to \$36,074,000 shall be available until expended for the Census of Agriculture; ‘Agricultural Research Service, Buildings and Facilities’, \$0; ‘Cooperative State Research, Education, and Extension Service, Research and Education Activities’, \$671,224,000; ‘Cooperative State Research, Education, and Extension Service, Extension Activities’, \$450,252,000; ‘Animal and Plant Health Inspection Service, Salaries and Expenses’, \$841,970,000; ‘Agricultural Marketing Service, Payments to States and Possessions’, \$1,334,000; ‘Grain Inspection, Packers and Stockyards Administration, Salaries and Expenses’, \$37,564,000; ‘Food Safety and Inspection Service’, \$886,982,000; and ‘Farm Service Agency, Salaries and Expenses’, \$1,028,700,000.

“SEC. 20102. The amounts included under the heading ‘Cooperative State Research, Education, and Extension Service, Research and Education Activities’ in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Public Law 109-97) shall be applied to funds appropriated by this division as follows: by substituting ‘\$322,597,000’ for ‘\$178,757,000’; by substituting ‘\$30,008,000’ for ‘\$22,230,000’; by substituting ‘for payments to eligible institutions (7 U.S.C. 3222), \$40,680,000’ for ‘for payments to the 1890 land-grant colleges, including Tuskegee University and West Virginia State University (7 U.S.C. 3222), \$37,591,000’; by substituting ‘\$0’ for ‘\$128,223,000’; by substituting ‘competitive grants for agricultural research on improved pest control’ for ‘special grants for agricultural research on improved pest control’; by substituting ‘\$190,229,000’ for ‘\$183,000,000’; by substituting ‘\$1,544,000’ for ‘\$1,039,000’; by substituting ‘competitive grants for the purpose

of carrying out all provisions of 7 U.S.C. 3242' for 'noncompetitive grants for the purpose of carrying out all provisions of 7 U.S.C. 3242'; by substituting 'to institutions eligible to receive funds under 7 U.S.C. 3221 and 3222, \$12,375,000' for 'to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee and West Virginia State University, \$12,312,000'; by substituting '\$3,342,000' for '\$2,250,000'; by substituting '\$10,083,000' for '\$50,471,000'; by substituting '\$2,561,000' for '\$2,587,000'; and by substituting '\$2,030,000' for '\$2,051,000'.

"SEC. 20103. The amounts included under the heading 'Cooperative State Research, Education, and Extension Service, Extension Activities' in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 shall be applied to funds appropriated by this division as follows: by substituting '\$285,565,000' for '\$275,730,000'; by substituting '\$3,321,000' for '\$3,273,000'; by substituting '\$63,538,000' for '\$62,634,000'; by substituting 'at institutions eligible to receive funds under 7 U.S.C. 3221 and 3222, \$16,777,000' for 'at the 1890 land-grant colleges, including Tuskegee University and West Virginia State University, as authorized by section 1447 of Public Law 95-113 (7 U.S.C. 3222b), \$16,777,000'; by substituting '\$3,000,000' for '\$1,196,000'; by substituting 'payments for cooperative extension work by eligible institutions (7 U.S.C. 3221), \$35,205,000' for 'payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326 and 328) and Tuskegee University and West Virginia State University, \$33,868,000'; and by substituting '\$6,922,000' for '\$25,390,000'.

"SEC. 20104. Notwithstanding section 101, the level for each of the following accounts for Conservation Programs of the Department of Agriculture shall be as follows: 'Natural Resources Conservation Service, Conservation Operations', \$759,124,000; and 'Natural Resources Conservation Service, Watershed and Flood Prevention Operations', \$0.

"SEC. 20105. Notwithstanding section 101, the level for each of the following accounts for Rural Development Programs of the Department of Agriculture shall be as follows: 'Rural Development Salaries and Expenses', \$160,349,000; 'Rural Business-Cooperative Service, Rural Cooperative Development Grants', \$26,718,000; and 'Rural Utilities Service, Rural Telephone Bank Program Account', \$0.

"SEC. 20106. Notwithstanding section 101, the level for 'Rural Housing Service, Rental Assistance Program' shall be \$616,020,000, to remain available through September 30, 2008, and the second and third provisos under such heading shall not apply to funds appropriated by this division. Using funds available in such account, the Secretary of Agriculture may enter into or renew contracts under section 521(a)(2) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)) for two years. Any unexpended balances remaining at the end of such two-year agreements may be transferred and used for the purposes of any debt reduction; maintenance, repair, or rehabilitation of any existing projects; preservation; and rental assistance activities authorized under title V of such Act (42 U.S.C. 1471 et seq.).

"SEC. 20107. Notwithstanding section 101, the level for 'Food and Nutrition Service, Child Nutrition Programs' shall be \$13,345,487,000, of which \$7,614,414,000 is appropriated funds and

\$5,731,073,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c).

“SEC. 20108. Notwithstanding section 101, the level for each of the following accounts for Foreign Assistance and Related Programs of the Department of Agriculture shall be as follows: ‘Foreign Agricultural Service, Salaries and Expenses’, \$155,422,000; ‘Foreign Agricultural Service, Public Law 480 Title I Ocean Freight Differential Grants’, \$0; and ‘Foreign Agricultural Service, Public Law 480 Title II Grants’, \$1,214,711,000.

“SEC. 20109. Notwithstanding section 101, the level for ‘Food and Drug Administration, Salaries and Expenses’ shall be \$1,965,207,000, of which \$352,200,000 shall be derived from prescription drug user fees authorized by 21 U.S.C. 379h, shall be credited to this account and remain available until expended, and shall not include any fees pursuant to 21 U.S.C. 379h(a)(2) and (a)(3) assessed for fiscal year 2008 but collected in fiscal year 2007, \$43,726,000 shall be derived from medical device user fees authorized by 21 U.S.C. 379j and shall be credited to this account and remain available until expended, and \$11,604,000 shall be derived from animal drug user fees authorized by 21 U.S.C. 379j and shall be credited to this account and remain available until expended: *Provided*, That fees derived from prescription drug, medical device, and animal drug assessments received during fiscal year 2007, including any such fees assessed prior to the current fiscal year but credited during the current year, shall be subject to the fiscal year 2007 limitation: *Provided further*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the total amount appropriated: (1) \$453,180,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) \$567,594,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs, of which not less than \$34,900,000 shall be for the Office of Generic Drugs; (3) \$209,180,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) \$103,544,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) \$253,710,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) \$41,751,000 shall be for the National Center for Toxicological Research; (7) \$68,609,000 shall be for Rent and Related activities, of which \$25,552,000 is for relocation expenses, other than the amounts paid to the General Services Administration for rent; (8) \$146,013,000 shall be for payments to the General Services Administration for rent; and (9) \$121,626,000 shall be for other activities, including the Office of the Commissioner, the Office of Management, the Office of External Relations, the Office of Policy and Planning, and central services for these offices.

“SEC. 20110. Notwithstanding section 101, the level for ‘Food and Drug Administration, Buildings and Facilities’ shall be \$4,950,000.

“SEC. 20111. Notwithstanding any other provision of this division, the following provisions included in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 shall not apply to funds appropriated

by this division: the last proviso under the heading ‘Common Computing Environment’; the provisos under the heading ‘Economic Research Service’; the third, fourth, sixth, and eighth through twelfth provisos under the heading ‘Agricultural Research Service, Salaries and Expenses’; the set-aside of funds under the heading ‘Agricultural Marketing Service, Payments to States and Possessions’; the set-aside of \$753,252,000 under the heading ‘Food Safety and Inspection Service’ and the first three provisos under such heading; the first proviso under the heading ‘Natural Resources Conservation Service, Resource Conservation and Development’; the set-aside of \$5,600,000 in the seventh proviso under the heading ‘Rural Development Programs, Rural Community Advancement Program’; the first proviso under the heading ‘Rural Development Salaries and Expenses’; the second proviso in the second paragraph under the heading ‘Rural Housing Service, Rural Housing Insurance Fund Program Account’; the last paragraph under the heading ‘Rural Business-Cooperative Service, Rural Economic Development Loans Program Account’; the set-aside of \$2,500,000 under the heading ‘Rural Business-Cooperative Service, Rural Cooperative Development Grants’; the proviso under the heading ‘Rural Business-Cooperative Service, Rural Empowerment Zones and Enterprise Communities Grants’; the last paragraph under the heading ‘Rural Utilities Service, Rural Telephone Bank Program Account’; the second proviso under the heading ‘Food and Nutrition Service, Food Stamp Program’; the first paragraph, including the proviso in such paragraph, under the heading ‘Foreign Agricultural Service, Public Law 480 Title I Direct Credit and Food for Progress Program Account’; and the first four provisos under the heading ‘Food and Drug Administration, Salaries and Expenses’.

“SEC. 20112. The following provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 shall be applied to funds appropriated by this division by substituting ‘2007’ and ‘2008’ for ‘2006’ and ‘2007’, respectively, each place they appear: the second paragraph under the heading ‘Animal and Plant Health Inspection Service, Salaries and Expenses’; the availability of funds clause under the heading ‘Natural Resources Conservation Service, Conservation Operations’; the eighth proviso under the heading ‘Rural Development Programs, Rural Community Advancement Program’; the first proviso in the second paragraph under the heading ‘Rural Housing Service, Rural Housing Insurance Fund Program Account’; the proviso under the heading ‘Rural Housing Service, Mutual and Self-Help Housing Grants’; the fourth proviso under the heading ‘Rural Housing Service, Rural Housing Assistance Grants’; the three availability of funds clauses under the heading ‘Rural Business-Cooperative Service, Rural Development Loan Fund Program Account’; the second proviso under the heading ‘Food and Nutrition Service, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)’; section 719; section 734; and section 738.

“SEC. 20113. Section 704 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 shall be applied to the funds appropriated by this division by substituting ‘avian influenza programs’ for ‘low pathogen avian influenza program’.

“SEC. 20114. The following sections of title VII of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 shall be applied to funds

7 USC 2209b
note.

appropriated by this division by substituting \$0 for the following dollar amounts: section 721, \$2,500,000; section 723, \$1,250,000; section 755, \$1,000,000; section 764, \$650,000; section 766, \$200,000; section 767, \$2,250,000; section 779, \$6,000,000; section 790, \$140,000, \$400,000, \$200,000, \$500,000, and \$350,000; and section 791, \$1,000,000.

“SEC. 20115. The following sections of title VII of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 shall not apply for fiscal year 2007: section 726; paragraphs (1) and (2) of section 754; section 768; section 785; and section 789.

“SEC. 20116. The following sections of title VII of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 authorized or required certain actions by the Secretary of Agriculture that have been performed before the date of the enactment of this division and need not reoccur: section 761; section 770; section 782; and section 783.

“SEC. 20117. Of the unobligated balances under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), \$37,601,000 is rescinded.

“SEC. 20118. Of the unobligated balances of funds provided pursuant to section 16(h)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)(A)), \$11,200,000 is rescinded.

“SEC. 20119. Of the funds derived from interest on the cushion of credit payments, as authorized by section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940c), \$74,000,000 shall not be obligated and \$74,000,000 is rescinded.

“SEC. 20120. In addition to amounts otherwise appropriated or made available by this division, \$31,000,000 is appropriated to the Secretary of Agriculture for the costs of loan and loan guarantees under the Rural Development Mission Area to ensure that the fiscal year 2006 program levels for such loan and loan guarantee programs are maintained for fiscal year 2007. The Secretary may transfer funds, to the extent practicable, among loan and loan guarantee programs within the Rural Development Mission Area to ensure that the fiscal year 2006 program levels for such programs and activities are maintained during fiscal year 2007.

“SEC. 20121. For the programs and activities administered by the Secretary of Agriculture under the Farm Service Agency, Agricultural Credit Insurance Fund, the Secretary may transfer funds made available by this division among programs and activities within such Fund: *Provided*, That the fiscal year 2006 program levels for such programs and activities are at least maintained.

“SEC. 20122. With respect to any loan or loan guarantee program administered by the Secretary of Agriculture that has a negative credit subsidy score for fiscal year 2007, the program level for the loan or loan guarantee program, for the purposes of the Federal Credit Reform Act of 1990, shall be the program level established pursuant to such Act for fiscal year 2006.

“SEC. 20123. The Secretary of Agriculture shall continue the Water and Waste Systems Direct Loan Program and the loan guarantee programs of the Agricultural Credit Insurance Fund under the authority and conditions (including the borrower's interest rate and fees as of September 1, 2006) provided by the Agriculture,

Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006.

“SEC. 20124. Of the appropriations available for payments for the nutrition and family education program for low-income areas under section 3(d) of the Smith-Lever Act (7 U.S.C. 343(d)), if the payment allocation pursuant to section 1425(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)) would be less than \$100,000 for any institution eligible under section 3(d)(2) of the Smith-Lever Act, the Secretary of Agriculture shall adjust payment allocations under section 1425(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to ensure that each institution receives a payment of not less than \$100,000.

“CHAPTER 2—DEPARTMENT OF DEFENSE

“SEC. 20201. For purposes of title I, the appropriations Acts listed in section 101(a) shall be deemed to include the Department of Defense Appropriations Act, 2006 for purposes of activities of the Department of Defense under the ‘Environmental Restoration’ accounts.

“SEC. 20202. In addition to amounts otherwise provided in this division or any other Act, amounts are appropriated for certain military activities of the Department of Defense for the fiscal year ending September 30, 2007, as follows:

“(1) For an additional amount for ‘Military Personnel, Army’, \$3,902,556,000, to be available for the basic allowance for housing for members of the Army on active duty.

“(2) For an additional amount for ‘Military Personnel, Navy’, \$3,726,778,000, to be available for the basic allowance for housing for members of the Navy on active duty.

“(3) For an additional amount for ‘Military Personnel, Marine Corps’, \$1,241,965,000, to be available for the basic allowance for housing for members of the Marine Corps on active duty.

“(4) For an additional amount for ‘Military Personnel, Air Force’, \$3,278,835,000, to be available for the basic allowance for housing for members of the Air Force on active duty.

“(5) For an additional amount for ‘Reserve Personnel, Army’, \$321,642,000, to be available for the basic allowance for housing for members of the Army Reserve on active duty.

“(6) For an additional amount for ‘Reserve Personnel, Navy’, \$204,115,000, to be available for the basic allowance for housing for members of the Navy Reserve on active duty.

“(7) For an additional amount for ‘Reserve Personnel, Marine Corps’, \$43,082,000, to be available for the basic allowance for housing for members of the Marine Corps Reserve on active duty.

“(8) For an additional amount for ‘Reserve Personnel, Air Force’, \$76,218,000, to be available for the basic allowance for housing for members of the Air Force Reserve on active duty.

“(9) For an additional amount for ‘National Guard Personnel, Army’, \$457,226,000, to be available for the basic allowance for housing for members of the Army National Guard on active duty.

“(10) For an additional amount for ‘National Guard Personnel, Air Force’, \$258,000,000, to be available for the basic allowance for housing for members of the Air National Guard on active duty.

“(11) For an additional amount for ‘Operation and Maintenance, Army’, \$1,810,774,000, to be available for facilities sustainment, restoration and modernization.

“(12) For an additional amount for ‘Operation and Maintenance, Navy’, \$1,202,313,000, to be available for facilities sustainment, restoration and modernization.

“(13) For an additional amount for ‘Operation and Maintenance, Marine Corps’, \$473,141,000, to be available for facilities sustainment, restoration and modernization.

“(14) For an additional amount for ‘Operation and Maintenance, Air Force’, \$1,684,019,000, to be available for facilities sustainment, restoration and modernization.

“(15) For an additional amount for ‘Operation and Maintenance, Defense-Wide’, \$86,386,000, to be available for facilities sustainment, restoration and modernization.

“(16) For an additional amount for ‘Operation and Maintenance, Army Reserve’, \$202,326,000, to be available for facilities sustainment, restoration and modernization.

“(17) For an additional amount for ‘Operation and Maintenance, Navy Reserve’, \$52,136,000, to be available for facilities sustainment, restoration and modernization.

“(18) For an additional amount for ‘Operation and Maintenance, Marine Corps Reserve’, \$10,004,000, to be available for facilities sustainment, restoration and modernization.

“(19) For an additional amount for ‘Operation and Maintenance, Air Force Reserve’, \$53,850,000, to be available for facilities sustainment, restoration and modernization.

“(20) For an additional amount for ‘Operation and Maintenance, Army National Guard’, \$387,579,000, to be available for facilities sustainment, restoration and modernization.

“(21) For an additional amount for ‘Operation and Maintenance, Air National Guard’, \$177,993,000, to be available for facilities sustainment, restoration and modernization.

“SEC. 20203. Notwithstanding any other provision of law or of this division, amounts are appropriated for the Defense Health Program of the Department of Defense, as follows:

“(1) For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, \$21,217,000,000, of which \$20,494,000,000 shall be for Operation and Maintenance, of which not to exceed 2 percent shall remain available until September 30, 2008, and of which up to \$10,887,784,000 may be available for contracts entered into under the TRICARE program; of which \$375,000,000, to remain available for obligation until September 30, 2009, shall be for Procurement; and of which \$348,000,000, to remain available for obligation until September 30, 2008, shall be for Research, Development, Test and Evaluation.

“(2) Of the amount made available in this section for Research, Development, Test and Evaluation, \$217,500,000 shall be made available only for peer reviewed cancer research activities, of which \$127,500,000 shall be for breast cancer research activities; of which \$10,000,000 shall be for ovarian

cancer research activities; and of which \$80,000,000 shall be for prostate cancer research activities.

“(3) Amounts made available in this section are subject to the terms and conditions set forth in the Department of Defense Appropriations Act, 2007 (Public Law 109-289).

“CHAPTER 3—ENERGY AND WATER DEVELOPMENT

“SEC. 20301. Notwithstanding section 101, the level for each of the following accounts shall be as follows: ‘Corps of Engineers, Construction’, \$2,334,440,000; and ‘Corps of Engineers, General Expenses’, \$166,300,000.

“SEC. 20302. The limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2007 to any project that received funds provided in this division.

“SEC. 20303. All of the provisos under the heading ‘Corps of Engineers—Civil, Department of Army, Investigations’ in Public Law 109-103 shall not apply to funds appropriated by this division.

“SEC. 20304. All of the provisos under the heading ‘Corps of Engineers—Civil, Department of Army, Construction’ in Public Law 109-103 shall not apply to funds appropriated by this division.

“SEC. 20305. All of the provisos under the heading ‘Corps of Engineers—Civil, Department of Army, Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee’ in Public Law 109-103 shall not apply to funds appropriated by this division.

“SEC. 20306. All of the provisos under the heading ‘Corps of Engineers—Civil, Department of Army, Operation and Maintenance’ in Public Law 109-103 shall not apply to funds appropriated by this division.

“SEC. 20307. The last proviso under the heading ‘Corps of Engineers—Civil, Department of Army, General Expenses’ in Public Law 109-103 shall not apply to funds appropriated by this division.

“SEC. 20308. Section 135 of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103) shall not apply to funds appropriated by this division.

“SEC. 20309. The last proviso under the heading ‘Department of the Interior, Bureau of Reclamation, Water and Related Resources’ in Public Law 109-103 shall not apply to funds appropriated by this division.

“SEC. 20310. The last proviso under the heading ‘Department of the Interior, Bureau of Reclamation, California Bay-Delta Restoration’ in Public Law 109-103 shall not apply to funds appropriated by this division.

“SEC. 20311. Section 208 of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103) shall not apply to funds appropriated by this division.

“SEC. 20312. Section 8 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note) is amended—

“(1) in subsection (a) by striking ‘2006’ and inserting ‘2011’; and

“(2) in subsection (b) by striking ‘2006’ and inserting ‘2011’.

“SEC. 20313. Notwithstanding section 101, the level for each of the following accounts shall be as follows: ‘Department of Energy, Elk Hills School Lands Fund’, \$0; ‘Department of Energy, Northeast Home Heating Oil Reserve’, \$5,000,000; ‘Department of Energy,

Energy Information Administration', \$90,314,000; 'Department of Energy, Science', \$3,796,393,000; 'Department of Energy, Nuclear Waste Disposal', \$99,000,000; 'Department of Energy, National Nuclear Security Administration, Weapons Activities', \$6,275,103,000; and 'Department of Energy, Defense Environmental Cleanup', \$5,730,448,000.

"SEC. 20314. Notwithstanding section 101, the level for 'Department of Energy, Energy Supply and Conservation' shall be \$2,153,627,000, of which not less than \$1,473,844,000 shall be for Energy Efficiency and Renewable Energy Resources.

"SEC. 20315. Notwithstanding section 101, the level for salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses not to exceed \$35,000, shall be \$275,789,000, to remain available until expended, of which \$43,075,000 shall be available for cyber-security activities and of which \$7,000,000 shall be available for necessary administrative expenses of the loan guarantee program authorized in title XVII of the Energy Policy Act of 2005, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total \$123,000,000 in fiscal year 2007 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during 2007, and any related appropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2007 appropriation from the general fund estimated at not more than \$152,789,000.

"SEC. 20316. Notwithstanding section 101, the level for 'Department of Energy, National Nuclear Security Administration, Defense Nuclear Nonproliferation' shall be \$1,683,339,000, of which \$472,730,000 shall be for International Nuclear Material Protection and Cooperation and of which \$115,495,000 shall be for Global Threat Reduction Initiative.

"SEC. 20317. Notwithstanding section 101, the level for necessary expenses of the Nuclear Regulatory Commission in carrying out the purposes of the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954, including official representation expenses (not to exceed \$15,000), and including purchase of promotional items for use in the recruitment of individuals for employment, shall be \$813,300,000, to remain available until expended: *Provided*, That of the amount appropriated herein, \$45,700,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$659,055,000 in fiscal year 2007 shall be retained and used for necessary salaries and expenses in this account, notwithstanding section 3302 of title 31, United

States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2007 so as to result in a final fiscal year 2007 appropriation estimated at not more than \$154,245,000.

“SEC. 20318. The Secretary of Energy may not make available any of the funds provided by this division or previous appropriations Acts for construction activities for Project 99-D-143, mixed oxide fuel fabrication facility, Savannah River Site, South Carolina, until August 1, 2007.

South Carolina.
Effective date.

“SEC. 20319. Section 302 of Public Law 102-377 is repealed.

42 USC 7269a.

“SEC. 20320. (a) Notwithstanding section 101, subject to the Federal Credit Reform Act of 1990, as amended, commitments to guarantee loans under title XVII of the Energy Policy Act of 2005 shall not exceed a total principal amount, any part of which is to be guaranteed, of \$4,000,000,000: *Provided*, That there are appropriated for the cost of the guaranteed loans such sums as are hereafter derived from amounts received from borrowers pursuant to section 1702(b)(2) of that Act, to remain available until expended: *Provided further*, That the source of payments received from borrowers for the subsidy cost shall not be a loan or other debt obligation that is made or guaranteed by the Federal government. In addition, fees collected pursuant to section 1702(h) in fiscal year 2007 shall be credited as offsetting collections to the Departmental Administration account for administrative expenses of the Loan Guarantee Program: *Provided further*, That the sum appropriated for administrative expenses for the Loan Guarantee Program shall be reduced by the amount of fees received during fiscal year 2007: *Provided further*, That any fees collected under section 1702(h) in excess of the amount appropriated for administrative expenses shall not be available until appropriated.

42 USC 16515.

“(b) No loan guarantees may be awarded under title XVII of the Energy Policy Act of 2005 until final regulations are issued that include—

“(1) programmatic, technical, and financial factors the Secretary will use to select projects for loan guarantees;

“(2) policies and procedures for selecting and monitoring lenders and loan performance; and

“(3) any other policies, procedures, or information necessary to implement title XVII of the Energy Policy Act of 2005.

“(c) The Secretary of Energy shall enter into an arrangement with an independent auditor for annual evaluations of the program under title XVII of the Energy Policy Act of 2005. In addition to the independent audit, the Comptroller General shall conduct an annual review of the Department’s execution of the program under title XVII of the Energy Policy Act of 2005. The results of the independent audit and the Comptroller General’s review shall be provided directly to the Committees on Appropriations of the House of Representatives and the Senate.

Audit.
Annual review.
Reports.

“(d) The Secretary of Energy shall promulgate final regulations for loan guarantees under title XVII of the Energy Policy Act of 2005 within 6 months of enactment of this division.

Regulations.
Deadline.

“(e) Not later than 120 days after the date of enactment of this division, and annually thereafter, the Secretary of Energy shall transmit to the Committees on Appropriations of the House of Representatives and the Senate a report containing a summary of all activities under title XVII of the Energy Policy Act of 2005,

Reports.

beginning in fiscal year 2007, with a listing of responses to loan guarantee solicitations under such title, describing the technologies, amount of loan guarantee sought, and the applicants' assessment of risk.

"SEC. 20321. For fiscal year 2007, except as otherwise provided by law in effect as of the date of enactment of this division or unless a rate is specifically set by an Act of Congress thereafter, the Administrators of the Southeastern Power Administration, the Southwestern Power Administration, the Western Power Administration, shall use the 'yield' rate in computing interest during Construction and interest on the unpaid balance of the cost of Federal power facilities. The yield rate shall be defined as the average yield during the preceding fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity.

"SEC. 20322. The second proviso under the heading 'Department of Energy, Energy Programs, Nuclear Waste Disposal' in title III of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103) shall not apply to funds appropriated by this division.

"SEC. 20323. The provisos under the heading 'Atomic Energy Defense Activities, National Nuclear Security Administration, Weapons Activities' in title III of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103) shall not apply to funds appropriated by this division.

"SEC. 20324. The second proviso under the heading 'Power Marketing Administrations, Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration' in title III of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103) shall not apply to funds appropriated by this division.

119 Stat. 2280.

"SEC. 20325. Title III of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103) is amended by striking sections 310 and 312.

"SEC. 20326. Section 14704 of title 40, United States Code, is amended by striking 'October 1, 2006' and inserting 'October 1, 2007'.

"CHAPTER 4—FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

"SEC. 20401. Notwithstanding section 101, the level for each of the following accounts shall be as follows: 'Export and Investment Assistance, Export-Import Bank of the United States, Subsidy Appropriation', \$26,382,000; 'Bilateral Economic Assistance, Funds Appropriated to the President, Other Bilateral Economic Assistance, Assistance for Eastern Europe and the Baltic States', \$273,900,000; 'Bilateral Economic Assistance, Funds Appropriated to the President, Other Bilateral Economic Assistance, Assistance for the Independent States of the Former Soviet Union', \$452,000,000; 'Bilateral Economic Assistance, Department of State, Andean Counterdrug Initiative', \$721,500,000; 'Bilateral Economic Assistance, Department of State, Migration and Refugee Assistance', \$832,900,000; 'Bilateral Economic Assistance, Department of State, United States Emergency Refugee and Migration Assistance Fund', \$55,000,000; 'Military Assistance, Funds Appropriated to the President, Foreign

Military Financing Program’, \$4,550,800,000, of which not less than \$2,340,000,000 shall be available for grants only for Israel and \$1,300,000,000 shall be available for grants only for Egypt; and ‘Military Assistance, Funds Appropriated to the President, Peacekeeping Operations’, \$223,250,000, of which not less than \$50,000,000 should be provided for peacekeeping operations in Sudan: *Provided*, That the number in the third proviso under the heading ‘Military Assistance, Funds Appropriated to the President, Foreign Military Financing Program’ in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102) shall be deemed to be \$610,000,000 for the purpose of applying funds appropriated under such heading by this division.

“SEC. 20402. Notwithstanding section 101, the level for ‘Bilateral Economic Assistance, Funds Appropriated to the President, Other Bilateral Economic Assistance, Economic Support Fund’ shall be \$2,455,010,000: *Provided*, That the number in the first proviso under the heading ‘Other Bilateral Economic Assistance, Economic Support Fund’ in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102) shall be deemed to be \$120,000,000 for the purpose of applying funds appropriated under such heading by this division: *Provided further*, That the number in the second proviso under the heading ‘Other Bilateral Economic Assistance, Economic Support Fund’ in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102) shall be deemed to be \$455,000,000 for the purpose of applying funds appropriated under such heading by this division: *Provided further*, That up to \$50,000,000 shall be made available for assistance for the West Bank and Gaza and up to \$50,000,000 shall be made available for the Middle East Partnership Initiative: *Provided further*, That not less than \$5,000,000 shall be made available for the fund established by section 2108 of Public Law 109-13: *Provided further*, That the fourteenth and twentieth provisos under the heading ‘Bilateral Economic Assistance, Funds Appropriated to the President, Other Bilateral Economic Assistance, Economic Support Fund’ in Public Law 109-102 shall not apply to funds made available under this division.

“SEC. 20403. Notwithstanding section 101, the level for each of the following accounts shall be as follows: ‘Bilateral Economic Assistance, Department of State, Global HIV/AIDS Initiative’, \$3,246,500,000, of which \$377,500,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108-25) for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria; and ‘Bilateral Economic Assistance, Funds Appropriated to the President, United States Agency for International Development, Child Survival and Health Programs Fund’, \$1,718,150,000, of which \$248,000,000 shall be made available for programs and activities to combat malaria.

“SEC. 20404. Notwithstanding section 101, the level for each of the following accounts shall be \$0: ‘Multilateral Economic Assistance, Funds Appropriated to the President, Contribution to the Multilateral Investment Guarantee Agency’; ‘Multilateral Economic Assistance, Funds Appropriated to the President, Contribution to

the Inter-American Investment Corporation'; and 'Multilateral Economic Assistance, Funds Appropriated to the President, Contribution to the European Bank for Reconstruction and Development'.

"SEC. 20405. (a) Of the unobligated balances available from funds appropriated under the heading 'Funds Appropriated to the President, International Financial Institutions, Contribution to the International Development Association' in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102), \$31,350,000 is rescinded.

"(b) Of the unobligated balances available from funds appropriated under the heading 'Bilateral Economic Assistance, Funds Appropriated to the President, Other Bilateral Economic Assistance, Economic Support Fund', \$200,000,000 is rescinded: *Provided*, That such amounts shall be derived only from funds not yet expended for cash transfer assistance.

"SEC. 20406. Notwithstanding any other provision of this division, the eighth proviso under the heading 'Bilateral Economic Assistance, Funds Appropriated to the President, United States Agency for International Development, Development Assistance' in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102) shall not apply to funds appropriated by this division.

"SEC. 20407. Section 599D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102) is amended by striking 'certifies' and all that follows and inserting the following: 'reports to the appropriate congressional committees on the extent to which the World Bank has completed the following:

"(1) World Bank procurement guidelines have been applied to all procurement financed in whole or in part by a loan from the World Bank or a credit agreement or grant from the International Development Association (IDA).

"(2) The World Bank proposal "Increasing the Use of Country Systems in Procurement" dated March 2005 has been withdrawn.

"(3) The World Bank maintains a strong central procurement office staffed with senior experts who are designated to address commercial concerns, questions, and complaints regarding procurement procedures and payments under IDA and World Bank projects.

"(4) Thresholds for international competitive bidding have been established to maximize international competitive bidding in accordance with sound procurement practices, including transparency, competition, and cost-effective results for the Borrowers.

"(5) All tenders under the World Bank's national competitive bidding provisions are subject to the same advertisement requirements as tenders under international competitive bidding.

"(6) Loan agreements between the World Bank and the Borrowers have been made public.'

"SEC. 20408. Section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102) shall be applied to funds made available under this division by substituting '\$1,022,086,000' for the first dollar amount.

“SEC. 20409. Notwithstanding any other provision of this division, the following provisions in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102) shall not apply to funds appropriated by this division: the proviso in subsection (a) under the heading ‘Bilateral Economic Assistance, Funds Appropriated to the President, Other Bilateral Economic Assistance, Assistance for Eastern Europe and the Baltic States’; the eleventh proviso under the heading ‘Bilateral Economic Assistance, Funds Appropriated to the President, United States Agency for International Development, Development Assistance’; the third proviso under the heading ‘Bilateral Economic Assistance, Department of State, Migration and Refugee Assistance’; subsection (d) under the heading ‘Bilateral Economic Assistance, Funds Appropriated to the President, Other Bilateral Economic Assistance, Assistance for the Independent States of the Former Soviet Union’; the fourth proviso of section 522; subsections (a) and (c) of section 554; and the first proviso of section 593.

“SEC. 20410. The Inter-American Development Bank Act (22 U.S.C. 283-283z-10) is amended by adding at the end the following:

“**SEC. 39. FIRST REPLENISHMENT OF THE RESOURCES OF THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND.**

22 USC 283z-11.

“(a) CONTRIBUTION AUTHORITY.—

“(1) IN GENERAL.—The Secretary of the Treasury may contribute on behalf of the United States \$150,000,000 to the first replenishment of the resources of the Enterprise for the Americas Multilateral Investment Fund.

“(2) SUBJECT TO APPROPRIATIONS.—The authority provided by paragraph (1) may be exercised only to the extent and in the amounts provided for in advance in appropriations Acts.

“(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the United States contribution authorized by subsection (a), there are authorized to be appropriated not more than \$150,000,000, without fiscal year limitation, for payment by the Secretary of the Treasury.”

“SEC. 20411. The authority provided by section 801(b)(1)(ii) of Public Law 106-429 shall apply to fiscal year 2007.

Applicability.

“SEC. 20412. (a) Notwithstanding any other provision of this division, section 534(m) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102) shall not apply to funds and authorities provided under this division.

“(b) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended—

“(1) in section 599D (8 U.S.C. 1157 note)—

“(A) in subsection (b)(3), by striking ‘and 2006’ and inserting ‘2006, and 2007’; and

“(B) in subsection (e), by striking ‘2006’ each place it appears and inserting ‘2007’; and

“(2) in section 599E (8 U.S.C. 1255 note), in subsection

(b)(2), by striking ‘2006’ and inserting ‘2007’.

“SEC. 20413. Notwithstanding section 653(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2413), the President shall transmit to Congress the report required under section 653(a) of that Act with respect to the provision of funds appropriated by

President.
Reports.

this division: *Provided*, That such report shall include a comparison of amounts, by category of assistance, provided or intended to be provided from funds appropriated for fiscal years 2006 and 2007, for each country and international organization.

“SEC. 20414. The seventh proviso under the heading ‘Bilateral Economic Assistance, Funds Appropriated to the President, United States Agency for International Development, Child Survival and Health Programs Fund’ of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102) shall be applied to funds made available under this division by substituting ‘The GAVI Fund’ for ‘The Vaccine Fund’.

“SEC. 20415. Section 501(i) of H.R. 3425, as enacted into law by section 1000(a)(5) of division B of Public Law 106-113 (Appendix E, 113 Stat. 1501A-313), as amended by section 591(b) of division D of Public Law 108-447 (118 Stat. 3037), shall apply to fiscal year 2007.

“CHAPTER 5—DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

“SEC. 20501. Notwithstanding section 101, the level for each of the following accounts shall be as follows: ‘Bureau of Land Management, Management of Lands and Resources’, \$862,632,000; ‘United States Fish and Wildlife Service, Resource Management’, \$1,009,037,000; ‘National Park Service, Historic Preservation Fund’, \$55,663,000; ‘United States Geological Survey, Surveys, Investigations, and Research’, \$977,675,000; and ‘Environmental Protection Agency, Hazardous Substance Superfund’, \$1,251,574,000.

“SEC. 20502. Notwithstanding section 101, the level for ‘National Park Service, Operation of the National Park Service’, shall be \$1,758,415,000, of which not to exceed \$5,000,000 may be transferred to the United States Park Police.

“SEC. 20503. Notwithstanding section 101, under ‘National Park Service, Construction’, the designations under Public Law 109-54 of specific amounts and sources of funding for modified water deliveries and the national historic landmark shall not apply.

16 USC 4601-10a
note.

“SEC. 20504. The contract authority provided for fiscal year 2007 under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-10a) is rescinded.

“SEC. 20505. Notwithstanding section 101, the level for ‘Bureau of Indian Affairs, Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians’, shall be \$42,000,000 for payments required for settlements approved by Congress or a court of competent jurisdiction.

“SEC. 20506. Notwithstanding section 101, the ‘Minerals Management Service, Royalty and Offshore Minerals Management’ shall credit an amount not to exceed \$128,730,000 under the same terms and conditions of the credit to said account as in Public Law 109-54. To the extent \$128,730,000 in addition to receipts are not realized from sources of receipts stated above, the amount needed to reach \$128,730,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993.

“SEC. 20507. Notwithstanding section 101, within the amounts made available under ‘Environmental Protection Agency, State and Tribal Assistance Grants’, \$1,083,817, 000, shall be for making

capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, and no funds shall be available for making special project grants for the construction of drinking water, wastewater, and storm water infrastructure and for water quality protection in accordance with the terms and conditions specified for such grants in the joint explanatory statement of the managers in Conference Report 109-188.

“SEC. 20508. Notwithstanding section 101, for ‘Forest Service, State and Private Forestry’, the \$1,000,000 specified in the second proviso and the \$1,500,000 specified in the third proviso in Public Law 109-54 are not required.

“SEC. 20509. Notwithstanding section 101, the level for ‘Forest Service, National Forest System’, shall be \$1,445,646,000, except that the \$5,000,000 specified as an additional regional allocation is not required.

“SEC. 20510. Notwithstanding section 101, the level for ‘Forest Service, Wildland Fire Management’, shall be \$1,816,091,000 of which the allocation provided for fire suppression operations shall be \$741,477,000; the allocation for hazardous fuels reduction shall be \$298,828,000; and other funding allocations and terms and conditions shall follow Public Law 109-54.

“SEC. 20511. Notwithstanding section 101, of the level for ‘Forest Service, Capital Improvement and Maintenance’, the \$3,000,000 specified in the third proviso is not required.

“SEC. 20512. Notwithstanding section 101, the level for ‘Indian Health Service, Indian Health Services’, shall be \$2,817,099,000 and the \$15,000,000 allocation of funding under the eleventh proviso shall not be required.

“SEC. 20513. Notwithstanding section 101, the level for ‘Smithsonian Institution, Salaries and Expenses’ shall be \$533,218,000, except that current terms and conditions shall not be interpreted to require a specific grant for the Council of American Overseas Research Centers or for the reopening of the Patent Office Building.

“SEC. 20514. Notwithstanding section 101, no additional funding is made available by this division for fiscal year 2007 based on the terms of section 134 and section 437 of Public Law 109-54.

“SEC. 20515. Notwithstanding section 101, the level for ‘Bureau of Indian Affairs, Operation of Indian Programs’ shall be \$1,984,190,000, of which not less than \$75,477,000 is for post-secondary education programs.

“SEC. 20516. The rule referenced in section 126 of Public Law 109-54 shall continue in effect for the 2006-2007 winter use season.

“SEC. 20517. Section 123 of Public Law 109-54 is amended by striking ‘9’ in the first sentence and inserting ‘10’.

“SEC. 20518. For fiscal year 2007, the Minerals Management Service may retain 3 percent of the amounts disbursed under section 31(b)(1) of the Coastal Impact Assistance Program, authorized by section 31 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1456(a)), for administrative costs, to remain available until expended.

“SEC. 20519. Of the funds made available in section 8098(b) of Public Law 108-287, to construct a wildfire management training facility, \$7,400,000 shall be transferred not later than 15 days after the date of the enactment of the Continuing Appropriations

Regulations.

119 Stat. 524.

Deadline.

Resolution, 2007, to the “Forest Service, Wildland Fire Management” account and shall be available for hazardous fuels reduction, hazard mitigation, and rehabilitation activities of the Forest Service.

118 Stat. 3102. “SEC. 20520. Section 337 of division E of Public Law 108-447 is amended by striking ‘2006’ and inserting ‘2007’.

“SEC. 20521. No funds appropriated or otherwise made available to the Department of the Interior may be used, in relation to any proposal to store water for the purpose of export, for approval of any right-of-way or similar authorization on the Mojave National Preserve or lands managed by the Needles Field Office of the Bureau of Land Management or for carrying out any activities associated with such right-of-way or similar approval.

“CHAPTER 6—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

“SEC. 20601. (a)(1) Notwithstanding section 101, the level for ‘Employment and Training Administration, Training and Employment Services’ shall be \$2,670,730,000 plus reimbursements.

“(2) Of the amount provided in paragraph (1)—

“(A) \$1,672,810,000 shall be available for obligation for the period July 1, 2007, through June 30, 2008, of which: (i) \$341,811,000 shall be for dislocated worker employment and training activities; (ii) \$70,092,000 shall be for the dislocated workers assistance national reserve; (iii) \$79,752,000 shall be for migrant and seasonal farmworkers, including \$74,302,000 for formula grants, \$4,950,000 for migrant and seasonal housing (of which not less than 70 percent shall be for permanent housing), and \$500,000 for other discretionary purposes; (iv) \$878,538,000 shall be for Job Corps operations; (v) \$14,700,000 shall be for carrying out pilots, demonstrations, and research activities authorized by section 171(d) of the Workforce Investment Act of 1998; (vi) \$49,104,000 shall be for Responsible Reintegration of Youthful Offenders; (vii) \$4,921,000 shall be for Evaluation; and (viii) not less than \$1,000,000 shall be for carrying out the Women in Apprenticeship and Nontraditional Occupations Act (29 U.S.C. 2501 et seq.);

“(B) \$990,000,000 shall be available for obligation for the period April 1, 2007, through June 30, 2008, for youth activities, of which \$49,500,000 shall be available for the Youthbuild Program; and

“(C) \$7,920,000 shall be available for obligation for the period July 1, 2007, through June 30, 2010, for necessary expenses of construction, rehabilitation and acquisition of Job Corps centers.

Grants.

“(3) The Secretary of Labor shall award the following grants on a competitive basis: (A) Community College Initiative grants or Community-Based Job Training Grants awarded from amounts provided for such purpose under section 109 of this division and under the Department of Labor Appropriations Act, 2006; and (B) grants for job training for employment in high growth industries awarded during fiscal year 2007 under section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998.

“(4) None of the funds made available in this division or any other Act shall be available to finalize or implement any proposed

regulation under the Workforce Investment Act of 1998, Wagner-Peyser Act of 1933, or the Trade Adjustment Assistance Reform Act of 2002 until such time as legislation reauthorizing the Workforce Investment Act of 1998 and the Trade Adjustment Assistance Reform Act of 2002 is enacted.

“(b) Notwithstanding section 101, the level for ‘Employment and Training Administration, Program Administration’ shall be \$116,702,000 (together with not to exceed \$82,049,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund), of which \$28,578,000 shall be for necessary expenses for the Office of Job Corps.

“(c) None of the funds made available in this division or under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006 shall be used to reduce Job Corps total student training slots below 44,491 in program year 2006 or program year 2007.

“(d) Of the funds available under the heading ‘Employment and Training Administration, Training and Employment Services’ in the Department of Labor Appropriations Act, 2006 for the Responsible Reintegration of Youthful Offenders, \$25,000,000 shall be used for grants to local educational agencies to discourage youth in high-crime urban areas from involvement in violent crime.

Grants.

“(e) Notwithstanding section 101, the level for ‘Employment and Training Administration, Community Service Employment for Older Americans’ shall be \$483,611,000.

“(f) Notwithstanding section 101, the level for administrative expenses of ‘Employment and Training Administration, State Unemployment Insurance and Employment Service Operations’ shall be \$106,252,000 (together with not to exceed \$3,234,098,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund), of which \$63,855,000 shall be available for one-stop career centers and labor market information activities. For purposes of this division, the first proviso under such heading in the Department of Labor Appropriations Act, 2006 shall be applied by substituting ‘2007’ and ‘2,703,000’ for ‘2006’ and ‘2,800,000’, respectively.

“SEC. 20602. Notwithstanding section 101, the level for ‘Employee Benefits Security Administration, Salaries and Expenses’ shall be \$140,834,000, of which no less than \$5,000,000 shall be for the development of an electronic Form 5500 filing system (EFAST2).

“SEC. 20603. Notwithstanding section 101, the level for ‘Employment Standards Administration, Salaries and Expenses’ shall be \$416,308,000 (together with \$2,028,000 which may be expended from the Special Fund in accordance with sections 39 (c), 44(d), and 44(j) of the Longshore and Harbor Workers’ Compensation Act).

“SEC. 20604. Notwithstanding section 101, the level for ‘Occupational Safety and Health Administration, Salaries and Expenses’ shall be \$485,074,000, of which \$7,500,000 shall be for continued development of the Occupational Safety and Health Information System, and of which \$10,116,000 shall be for the Susan Harwood training grants program. Notwithstanding any other provision of this division, the fifth proviso under such heading in the Department of Labor Appropriations Act, 2006 shall not apply to funds appropriated by this division.

“SEC. 20605. Notwithstanding section 101, the level for ‘Mine Safety and Health Administration, Salaries and Expenses’ shall be \$299,836,000.

“SEC. 20606. Notwithstanding section 101, the level for ‘Bureau of Labor Statistics, Salaries and Expenses’ shall be \$468,512,000 (together with not to exceed \$77,067,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund).

“SEC. 20607. Notwithstanding section 101, the level for ‘Departmental Management, Salaries and Expenses’ shall be \$297,272,000 (together with not to exceed \$308,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund), of which \$72,516,000 shall be for contracts, grants, or other arrangements of Departmental activities conducted by or through the Bureau of International Labor Affairs, including \$60,390,000 for child labor activities, and of which not to exceed \$6,875,000 may remain available until September 30, 2008, for Frances Perkins Building Security Enhancements.

“SEC. 20608. (a) Notwithstanding section 101, the level for ‘Veterans Employment and Training, Salaries and Expenses’ shall not exceed \$193,753,000 which may be derived from the Employment Security Administration Account in the Unemployment Trust Fund to carry out the provisions of sections 4100 through 4113, 4211 through 4215, and 4321 through 4327 of title 38, United States Code, and Public Law 103-353, of which \$1,967,000 is for the National Veterans Employment and Training Services Institute.

“(b) Notwithstanding section 101, the level to carry out the Homeless Veterans Reintegration Programs and the Veterans Workforce Investment Programs shall be \$29,244,000, of which \$7,435,000 shall be available for obligation for the period July 1, 2007, through June 30, 2008.

“SEC. 20609. Notwithstanding section 101, the level for ‘Office of the Inspector General’ shall be \$66,783,000 (together with not to exceed \$5,552,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund).

“SEC. 20610. Section 193 of the Workforce Investment Act of 1998 (29 U.S.C. 2943) is amended to read as follows:

“SEC. 193. TRANSFER OF FEDERAL EQUITY IN STATE EMPLOYMENT SECURITY REAL PROPERTY TO THE STATES.

“(a) TRANSFER OF FEDERAL EQUITY.—Notwithstanding any other provision of law, any Federal equity acquired in real property through grants to States awarded under title III of the Social Security Act (42 U.S.C. 501 et seq.) or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) is transferred to the States that used the grants for the acquisition of such equity. The portion of any real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under this Act, the Wagner-Peyser Act (29 U.S.C. 49 et seq.), or title III of the Social Security Act (42 U.S.C. 501 et seq.). Any disposition of such real property shall be carried out in accordance with the procedures prescribed by the Secretary and the portion of the proceeds from the disposition of such real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under this

Act, the Wagner-Peyser Act, or title III of the Social Security Act.

“(b) LIMITATION ON USE.—A State shall not use funds awarded under this Act, the Wagner-Peyser Act, or title III of the Social Security Act to amortize the costs of real property that is purchased by any State on or after the date of enactment of the Revised Continuing Appropriations Resolution, 2007.”

“SEC. 20611. (a)(1) Notwithstanding section 101 or any other provision of this division, the level for ‘Department of Health and Human Services, Health Resources and Services Administration, Health Resources and Services’ shall be \$6,883,586,000.

“(2) Of the amount provided in paragraph (1)—

“(A) \$1,988,000,000 shall be for carrying out section 330 of the Public Health Service Act (42 U.S.C. 254b; relating to health centers), of which \$25,000,000 shall be for base grant adjustments for existing health centers and \$13,959,000 shall be for carrying out Public Law 100-579, as amended by section 9168 of Public Law 102-396 (42 U.S.C. 11701 et seq.);

“(B) \$184,746,000 shall be for carrying out title VII of the Public Health Service Act (42 U.S.C. 292 et seq.; relating to health professions programs) of which: (i) \$31,548,000 shall be for carrying out section 753 of the Public Health Service Act (42 U.S.C. 294c; relating to geriatric programs); and (ii) \$48,851,000 shall be for carrying out section 747 of the Public Health Service Act (42 U.S.C. 293k; relating to training in primary care medicine and dentistry), of which: (I) not less than \$5,000,000 shall be for pediatric dentistry programs; (II) not less than \$5,000,000 shall be for general dentistry programs; and (III) not less than \$24,614,000 shall be for family medicine programs;

“(C) \$1,195,500,000 shall be for carrying out part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-11 et seq.; relating to Ryan White CARE Grants); and

“(D) \$495,000,000 shall be transferred to ‘Department of Health and Human Services, Office of the Secretary, Public Health and Social Services Emergency Fund’ to carry out sections 319C-2, 319F, and 319I of the Public Health Service Act (42 U.S.C. 247d-3b, 247d-6, 247d-7b; relating to hospital preparedness grants, bioterrorism training and curriculum development, and credentialing/emergency systems for advance registration of volunteer health professionals).

“(b) Notwithstanding any other provision of this division, the parenthetical preceding the first proviso under the heading ‘Department of Health and Human Services, Health Resources and Services Administration, Health Resources and Services’ in the Department of Health and Human Services Appropriations Act, 2006 shall not apply to funds appropriated by this division.

“(c) Amounts made available by this division to carry out parts A and B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-11 et seq.; relating to Ryan White Emergency Relief Grants and CARE Grants) shall remain available for obligation by the Secretary of Health and Human Services through September 30, 2009.

“(d) Any assets and liabilities associated with any program under section 319C-2, 319F, or 319I of the Public Health Service Act (42 U.S.C. 247d-3b, 247d-6, 247d-7b; relating to hospital

preparedness grants, bioterrorism training and curriculum development, and credentialing/emergency systems for advance registration of volunteer health professionals) shall be permanently transferred to the Secretary of Health and Human Services.

“SEC. 20612. Notwithstanding section 101, the level for ‘Department of Health and Human Services, Health Resources and Services Administration, Vaccine Injury Compensation Program Trust Fund’, for necessary administrative expenses, shall not exceed \$3,964,000.

“SEC. 20613. (a) Notwithstanding section 101, the level for ‘Department of Health and Human Services, Centers for Disease Control and Prevention; Disease Control, Research, and Training’ shall be \$5,829,086,000, of which: (1) \$456,863,000 shall be for carrying out the immunization program authorized by section 317(a), (j), and (k)(1) of the Public Health Service Act (42 U.S.C. 247b(a), (j), and (k)(1)); (2) \$99,000,000 shall be for carrying out part A of title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.; relating to preventive health and health services block grants); and (3) \$134,400,000 shall be for equipment, construction, and renovation of facilities.

“(b) None of the funds appropriated by this division may be used to: (1) implement section 2625 of the Public Health Service Act (42 U.S.C. 300ff-33; relating to the Ryan White early diagnosis grant program); or (2) enter into contracts for annual bulk monovalent influenza vaccine.

“(c) Of the amounts made available in the Department of Health and Human Services Appropriations Act, 2006 for ‘Department of Health and Human Services, Centers for Disease Control and Prevention; Disease Control, Research, and Training’, \$29,680,000 for entering into contracts for annual bulk monovalent influenza vaccine is rescinded.

“SEC. 20614. (a) Notwithstanding section 101, the levels for the following accounts of the Department of Health and Human Services, National Institutes of Health, shall be as follows: ‘National Institute of Child Health and Human Development’, \$1,253,769,000; ‘National Center for Research Resources’, \$1,133,101,000; ‘National Center on Minority Health and Health Disparities’, \$199,405,000; ‘National Library of Medicine’, \$319,910,000; and ‘Office of the Director’, \$1,095,566,000, of which up to \$14,000,000 may be used to carry out section 217 of the Department of Health and Human Services Appropriations Act, 2006, \$69,000,000 shall be available to carry out the National Children’s Study, and \$483,000,000 shall be available for the Common Fund established under section 402A(c)(1) of the Public Health Service Act.

“(b) The seventh, eighth, and ninth provisos under the heading ‘Department of Health and Human Services, National Institutes of Health, Office of the Director’ in the Department of Health and Human Services Appropriations Act, 2006, pertaining to the National Institutes of Health Roadmap for Medical Research, shall not apply to funds appropriated by this division.

“(c) Funds appropriated by this division to the Institutes and Centers of the National Institutes of Health may be expended for improvements and repairs of facilities, as necessary for the proper and efficient conduct of the activities authorized herein, not to exceed \$2,500,000 per project.

“SEC. 20615. (a) Notwithstanding section 101, the level for ‘Department of Health and Human Services, Centers for Medicare and Medicaid Services, Program Management’ shall be

\$3,136,006,000, of which \$15,892,000 shall be for Real Choice Systems Change Grants to States, \$48,960,000 shall be for contract costs for the Healthcare Integrated General Ledger Accounting System, and \$106,260,000 shall remain available until September 30, 2008, for contracting reform activities of the Centers for Medicare and Medicaid Services.

“(b) The Secretary of Health and Human Services shall charge fees necessary to cover the costs incurred under ‘Department of Health and Human Services, Centers for Medicare and Medicaid Services, Program Management’ for conducting revisit surveys on health care facilities cited for deficiencies during initial certification, recertification, or substantiated complaints surveys. Notwithstanding section 3302 of title 31, United States Code, receipts from such fees shall be credited to such account as offsetting collections, to remain available until expended for conducting such surveys.

“SEC. 20616. Notwithstanding any other provision of this division, the provision of the Department of Health and Human Services Appropriations Act, 2006, ‘Department of Health and Human Services, Centers for Medicare and Medicaid Services, Health Maintenance Organization Loan and Loan Guarantee Fund’, shall not apply to funds appropriated by this division.

“SEC. 20617. Notwithstanding section 101, the level for ‘Department of Health and Human Services, Administration for Children and Families, Refugee and Entrant Assistance’ shall be \$587,823,000, of which \$95,302,000 shall be for costs associated with the care and placement of unaccompanied alien children under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

“SEC. 20618. Notwithstanding any other provision of this division, the first proviso under the heading ‘Department of Health and Human Services, Administration for Children and Families, Payments to States for the Child Care and Development Block Grant’ in the Department of Health and Human Services Appropriations Act, 2006 may be applied to child care resource and referral and school-aged child care activities without regard to any specific designation therein.

“SEC. 20619. Notwithstanding section 101, the level for ‘Department of Health and Human Services, Administration for Children and Families, Children and Families Services Programs’ shall be \$8,937,059,000, of which: (1) \$6,888,571,000 shall be for making payments under the Head Start Act; (2) \$186,365,000 shall be for Federal administration; and (3) \$5,000,000 shall be for grants to States for adoption incentive payments, as authorized by section 473A of the Social Security Act (42 U.S.C. 673b).

Grants.

“SEC. 20620. Notwithstanding section 101, the level for ‘Department of Health and Human Services, Administration on Aging, Aging Services Programs’ shall be \$1,382,859,000, of which \$398,919,000 shall be for Congregate Nutrition Services and \$188,305,000 shall be for Home-Delivered Nutrition Services.

“SEC. 20621. Notwithstanding section 101, the level for ‘Department of Health and Human Services, Public Health and Social Services Emergency Fund’ shall be \$160,027,000, of which \$100,000,000 shall be transferred within 30 days of enactment of the Revised Continuing Appropriations Resolution, 2007, to ‘Department of Health and Human Services, Centers for Disease Control and Prevention; Disease Control, Research, and Training’

Deadline.

for preparedness and response to pandemic influenza and other emerging infectious diseases.

“SEC. 20622. Notwithstanding section 208 of the Department of Health and Human Services Appropriations Act, 2006, not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) that are appropriated for the current fiscal year for the Department of Health and Human Services in this division may be transferred among appropriations, but no such appropriation to which such funds are transferred may be increased by more than 3 percent by any such transfer: *Provided*, That an appropriation may be increased by up to an additional 2 percent subject to approval by the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the transfer authority granted by this section shall be available only to meet unanticipated needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this division: *Provided further*, That the Committees on Appropriations are notified at least 15 days in advance of any transfer.

Notification.
Deadline.

“SEC. 20623. Section 214 of the Department of Health and Human Services Appropriations Act, 2006 shall be applied to funds appropriated by this division by substituting ‘2006’ and ‘2007’ for ‘2005’ and ‘2006’, respectively, each place they appear.

“SEC. 20624. Notwithstanding any other provision of this division, sections 222 and 223 of the Department of Health and Human Services Appropriations Act, 2006 shall not apply to funds appropriated by this division.

“SEC. 20625. (a) Notwithstanding section 101 or any other provision of this division, the level for ‘Department of Education, Education for the Disadvantaged’ shall be \$14,725,593,000.

“(b) Of the amount provided in subsection (a)—

“(1) \$7,172,994,000 shall become available on July 1, 2007, and shall remain available through September 30, 2008, of which: (A) \$5,451,387,000 shall be for basic grants under section 1124 of the Elementary and Secondary Education Act of 1965 (ESEA); (B) \$125,000,000 shall be for school improvement grants authorized under section 1003(g) of the ESEA; and (C) not to exceed \$2,352,000 shall be available for section 1608 of the ESEA; and

“(2) \$7,383,301,000 shall become available on October 1, 2007, and shall remain available through September 30, 2008, for academic year 2007–2008, of which: (A) \$1,353,584,000 shall be for basic grants under section 1124 of the ESEA; (B) \$2,332,343,000 shall be for targeted grants under section 1125 of the ESEA; and (C) \$2,332,343,000 shall be for education finance incentive grants under section 1125A of the ESEA.

“(c) Notwithstanding any other provision of this division, the last proviso under the heading ‘Department of Education, Education for the Disadvantaged’ in the Department of Education Appropriations Act, 2006 may be applied to activities authorized under part F of title I of the ESEA without regard to any specific designation therein.

“SEC. 20626. For purposes of this division, the proviso under the heading ‘Department of Education, Impact Aid’ shall be applied by substituting ‘2006–2007’ for ‘2005–2006’.

“SEC. 20627. Of the amount provided by section 101 for ‘Department of Education, School Improvement Programs’, \$33,907,000

shall be for programs authorized under part B of title VII of the ESEA and \$33,907,000 shall be for programs authorized under part C of title VII of the ESEA. Notwithstanding any other provision of this division, the second proviso under such heading in the Department of Education Appropriations Act, 2006 shall not apply to funds appropriated by this division.

“SEC. 20628. Notwithstanding section 101 or any other provision of this division: (1) the level for ‘Department of Education, Innovation and Improvement’ shall be \$837,686,000, of which not to exceed \$200,000 shall be for the teacher incentive fund authorized in subpart 1 of part D of title V of the ESEA; and (2) the first proviso under such heading in the Department of Education Appropriations Act, 2006 may be applied to advanced credentialing activities authorized under subpart 5 of part A of title II of the ESEA without regard to any specific designation therein.

“SEC. 20629. Notwithstanding section 101 or any other provision of this division: (1) the level for ‘Department of Education, Safe Schools and Citizenship Education’ shall be \$729,518,000, of which: (A) not less than \$72,674,000 shall be used to carry out subpart 10 of part D of title V of the ESEA; and (B) \$48,814,000 shall be used for mentoring programs authorized under section 4130 of the ESEA; and (2) the last proviso under such heading in the Department of Education Appropriations Act, 2006 may be applied to civic education activities authorized under subpart 3 of part C of title II of the ESEA without regard to any specific designation therein.

“SEC. 20630. (a)(1) Notwithstanding section 101, the level for ‘Department of Education, Special Education’ shall be \$11,802,867,000.

“(2) Of the amount made available in paragraph (1), \$6,175,912,000 shall become available on July 1, 2007, and shall remain available through September 30, 2008, of which \$5,358,761,000 shall be for State grants authorized under section 611 (20 U.S.C. 1411) of part B of the Individuals with Disabilities Education Act (IDEA).

“(b) None of the funds appropriated by this division may be used for State personnel development authorized in subpart 1 of part D of the IDEA (20 U.S.C. 1451 et seq.).

“(c) Notwithstanding any other provision of this division, the first and second provisos under the heading ‘Department of Education, Special Education’ in the Department of Education Appropriations Act, 2006 shall not apply to funds appropriated by this division. For purposes of this division, the last proviso under such heading shall be applied by substituting ‘2006’ for ‘2005’.

“SEC. 20631. Notwithstanding any other provision of this division, the second appropriation under the heading ‘Department of Education, Rehabilitation Services and Disability Research’ in the Department of Education Appropriations Act, 2006 shall not apply to funds appropriated by this division.

“SEC. 20632. The provision pertaining to funding for construction under ‘Department of Education, Special Institutions for Persons With Disabilities, National Technical Institute for the Deaf’ shall not apply to funds appropriated by this division.

“SEC. 20633. (a) Notwithstanding section 101, the level for ‘Department of Education, Student Financial Assistance’ shall be \$15,542,456,000.

Grants.
20 USC 1070a
note.

“(b) The maximum Pell Grant for which a student shall be eligible during award year 2007–2008 shall be \$4,310.

“SEC. 20634. (a) In addition to the amounts provided under section 101 of this division, amounts obligated in fiscal year 2006 from funding provided in section 458(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)(1)) (as reduced by the amount of account maintenance fees obligated to guaranty agencies for fiscal year 2006 pursuant to section 458(a)(1)(B) of that Act) shall be deemed to have been provided in an applicable appropriations Act for fiscal year 2006.

“(b) Notwithstanding section 101, the level for ‘Department of Education, Student Aid Administration’ shall be \$718,800,000, to remain available until expended.

“SEC. 20635. Of the amount provided by section 101 for ‘Department of Education, Higher Education’, \$11,785,000 shall be for carrying out section 317 of the Higher Education Act of 1965 (20 U.S.C. 1059d).

“SEC. 20636. Notwithstanding section 101, the level for ‘Department of Education, Departmental Management, Program Administration’ shall be \$416,250,000, of which \$2,100,000, to remain available until expended, shall be for building alterations and related expenses for the move of Department staff to the Mary E. Switzer building in Washington, D.C.

“SEC. 20637. Notwithstanding any other provision of this division, section 305 of the Department of Education Appropriations Act, 2006 (title III of Public Law 109–149; 119 Stat. 2870) shall not apply to this division.

42 USC 12651i.

“SEC. 20638. Notwithstanding section 101, the level for ‘Corporation for National and Community Service, Domestic Volunteer Service Programs, Operating Expenses’ shall be \$316,550,000, of which \$3,500,000 shall be for establishment in the Treasury of a VISTA Advance Payments Revolving Fund (in this section referred to as the ‘Fund’) for the Corporation for National and Community Service which, in addition to reimbursements collected from eligible public agencies and private nonprofit organizations pursuant to cost-share agreements, shall be available until expended to make advance payments in furtherance of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951–4995): *Provided*, That up to 10 percent of funds appropriated to carry out title I of such Act may be transferred to the Fund if the Chief Executive Officer of the Corporation for National and Community Service determines that the amounts in the Fund are not sufficient to cover expenses of the Fund: *Provided further*, That the Corporation for National and Community Service shall provide detailed information on the activities and financial status of the Fund during the preceding fiscal year in the annual congressional budget justifications to the Committees on Appropriations of the House of Representatives and the Senate.

Budget.

“SEC. 20639. (a) Notwithstanding section 101, the level for the ‘Corporation for National and Community Service, National and Community Service Programs, Operating Expenses’ shall be \$494,007,000, of which: (1) \$117,720,000 shall be transferred to the National Service Trust; and (2) \$31,131,000 shall be for activities authorized under subtitle H of title I of the National and Community Service Act of 1990.

“(b) Notwithstanding any other provision of this division, the eleventh and thirteenth provisos under the heading ‘Corporation

for National and Community Service, National and Community Service Programs, Operating Expenses' in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006 shall not apply to funds appropriated by this division.

"SEC. 20640. Notwithstanding section 101, the level for 'Corporation for National and Community Service, Salaries and Expenses' shall be \$68,627,000.

"SEC. 20641. Notwithstanding section 101, the level for 'Corporation for National and Community Service, Office of Inspector General' shall be \$4,940,000.

"SEC. 20642. In addition to amounts provided by section 101 of this division, funds appropriated to the Medicare Payment Advisory Commission under section 106(b)(1)(B) of the Medicare Improvements and Extension Act of 2006 (division B of Public Law 109-432) shall be used to carry out section 1805 of the Social Security Act (42 U.S.C. 1395b-6).

"SEC. 20643. Notwithstanding section 101, the level for 'Railroad Retirement Board, Dual Benefits Payments Account' shall be \$88,000,000.

"SEC. 20644. Notwithstanding section 101, the level for 'Railroad Retirement Board, Limitation on Administration' shall be \$103,018,000.

"SEC. 20645. (a) ADMINISTRATIVE EXPENSES.—Notwithstanding section 101, the level for the first paragraph under the heading 'Social Security Administration, Limitation on Administrative Expenses' shall be \$9,136,606,000.

"(b) CONFORMING CHANGE.—Notwithstanding section 101, the level for the first paragraph under the heading 'Social Security Administration, Supplemental Security Income Program' shall be \$29,058,000,000, of which \$2,937,000,000 shall be for administrative expenses.

"CHAPTER 7—LEGISLATIVE BRANCH

"SEC. 20701. (a) Notwithstanding section 101, the level for 'Senate, Contingent Expenses of the Senate, Senators' Official Personnel and Office Expense Account' shall be \$361,456,000.

"(b)(1) The Architect of the Capitol may acquire (through purchase, lease, transfer from another Federal entity, or otherwise) real property, for the use of the Sergeant at Arms and Doorkeeper of the Senate to support the operations of the Senate— 2 USC 1823.

"(A) subject to the approval of the Committee on Rules and Administration of the Senate; and

"(B) subject to the availability of appropriations and upon approval of an obligation plan by the Committee on Appropriations of the Senate.

"(2) Subject to the approval of the Committee on Appropriations of the Senate, the Secretary of the Senate may transfer funds for the acquisition or maintenance of any property under paragraph (1) from the account under the heading 'Senate, Contingent Expenses of the Senate, Sergeant at Arms and Doorkeeper of the Senate' to the account under the heading 'Architect of the Capitol, Senate Office Buildings'.

"(3) This subsection shall apply with respect to fiscal year 2007 and each fiscal year thereafter.

2 USC 61f-12. “(c)(1) Section 10 of the Legislative Branch Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 3170) is amended—

“(A) by inserting ‘(a) IN GENERAL.—’ before ‘The Office’; and

“(B) by adding at the end the following new subsection:

“(b) EFFECTIVE DATE.—This section shall apply to fiscal year 2005 and each fiscal year thereafter.”

Effective date.
2 USC 61f-12
note.

“(2) The amendments made by this subsection shall take effect as though included in the Legislative Branch Appropriations Act, 2005.

“SEC. 20702. (a) Notwithstanding section 101, the level for ‘House of Representatives, Salaries and Expenses’ shall be \$1,129,454,000, to be allocated in accordance with an allocation plan submitted by the Chief Administrative Officer and approved by the Committee on Appropriations of the House of Representatives.

“(b) Sections 103 and 107 of H.R. 5521, One Hundred Ninth Congress, as passed by the House of Representatives on June 7, 2006, are enacted into law.

2 USC 75a,
75a-1, 130f.

“SEC. 20703. (a) Notwithstanding section 101, the level for ‘Capitol Guide Service and Special Services Office’ shall be \$8,490,000, and the provisos under the heading ‘Capitol Guide Service and Special Services Office’ in the Legislative Branch Appropriations Act, 2006 (Public Law 109-55; 119 Stat. 571) shall not apply.

“(b) Notwithstanding section 101, the level for ‘Capitol Police, General Expenses’ shall be \$38,500,000: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 2007 shall be paid by the Secretary of Homeland Security from funds available to the Department of Homeland Security.

“(c)(1) Notwithstanding section 101, the level for ‘Architect of the Capitol, Capitol Power Plant’ shall be \$73,098,000.

“(2) Notwithstanding section 101, the level for ‘Architect of the Capitol, Library Buildings and Grounds’ shall be \$27,375,000.

“(3) Notwithstanding section 101, the level for ‘Architect of the Capitol, Capitol Police Buildings and Grounds’ shall be \$11,753,000, of which \$2,000,000 shall remain available until September 30, 2011.

“(4) Notwithstanding section 101, amounts made available under such section for projects and activities described under the heading ‘Architect of the Capitol, Capitol Visitor Center’ in the Legislative Branch Appropriations Act, 2006 may be transferred among the accounts and purposes specified in such heading, upon the approval of the Committees on Appropriations of the House of Representatives and Senate.

“(d)(1) Notwithstanding section 101, the level for ‘Library of Congress, Salaries and Expenses’ shall be \$385,000,000, of which not more than \$6,000,000 shall be derived from collections credited to this appropriation during fiscal year 2007 and shall remain available until expended under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150), and not more than \$350,000 shall be derived from collections credited to this appropriation during fiscal year 2007 and shall remain available until expended for the development and maintenance of an international legal information database (and related activities).

“(2) The eighth, tenth, and eleventh provisos under the heading ‘Library of Congress, Salaries and Expenses’ in the Legislative Branch Appropriations Act, 2006 (Public Law 109-55; 119 Stat. 580) shall not apply to funds appropriated by this division.

“(3) Of the unobligated balances available under the heading ‘Library of Congress, Salaries and Expenses’, the following amounts are rescinded:

“(A) Of the unobligated balances available for the National Digital Information Infrastructure and Preservation Program, \$47,000,000.

“(B) Of the unobligated balances available for furniture and furnishings, \$695,394.

“(C) Of the unobligated balances available for the acquisition and partial support for implementation of an Integrated Library System, \$1,853,611.

“(4) Notwithstanding section 101, the level for ‘Library of Congress, Books for the Blind and Physically Handicapped, Salaries and Expenses’ shall be \$53,505,000, of which \$16,231,000 shall remain available until expended.

“(5) The proviso under the heading ‘Books for the Blind and Physically Handicapped, Salaries and Expenses’ in the Legislative Branch Appropriations Act, 2006 (Public Law 109-55; 119 Stat. 582) shall not apply to funds appropriated by this division.

“(6) Section 3402 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109-13; 119 Stat. 272) is repealed, and each provision of law amended by such section is restored as if such section had not been enacted into law.

“(e) Notwithstanding section 101, the level for ‘Government Printing Office, Government Printing Office Revolving Fund’ shall be \$1,000,000.

“(f) Notwithstanding section 101, the amount applicable under the first proviso under the heading ‘Government Accountability Office, Salaries and Expenses’ in the Legislative Branch Appropriations Act, 2006 (Public Law 109-55; 119 Stat. 586) shall be \$5,167,900, and the amount applicable under the second proviso under such heading shall be \$2,763,000.

2 USC 132b note,
1151 and note.

“CHAPTER 8—MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS

“SEC. 20801. Notwithstanding section 101, the level for each of the following accounts of the Department of Defense for projects authorized in division B of Public Law 109-364 shall be as follows: ‘Military Construction, Army’, \$2,013,000,000; ‘Military Construction, Navy and Marine Corps’, \$1,129,000,000; ‘Military Construction, Air Force’, \$1,083,000,000; ‘Military Construction, Defense-Wide’, \$1,127,000,000; ‘Military Construction, Army National Guard’, \$473,000,000; ‘Military Construction, Air National Guard’, \$126,000,000; ‘Military Construction, Army Reserve’, \$166,000,000; ‘Military Construction, Navy Reserve’, \$43,000,000; and ‘Military Construction, Air Force Reserve’, \$45,000,000.

“SEC. 20802. Of the total amount specified in section 20801, the amount available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, under the headings ‘Military Construction, Army’, ‘Military Construction, Navy and Marine Corps’, ‘Military Construction, Air

Force', and 'Military Construction, Defense-Wide' shall not exceed \$541,000,000.

"SEC. 20803. Notwithstanding any other provision of this division, the following provisions included in the Military Quality of Life, Military Construction, and Veterans Affairs Appropriations Act, 2006 (Public Law 109-114) shall not apply to funds appropriated by this division: the first two provisos under the heading 'Military Construction, Army'; the first proviso under the heading 'Military Construction, Navy and Marine Corps'; the first proviso under the heading 'Military Construction, Air Force'; and the second proviso under the heading 'Military Construction, Defense-Wide'.

"SEC. 20804. Notwithstanding section 101, the level for each of the following accounts for the Department of Defense shall be as follows: 'Family Housing Construction, Army', \$579,000,000; 'Family Housing Operation and Maintenance, Army', \$671,000,000; 'Family Housing Construction, Navy and Marine Corps', \$305,000,000; 'Family Housing Operation and Maintenance, Navy and Marine Corps', \$505,000,000; 'Family Housing Construction, Air Force', \$1,168,000,000; 'Family Housing Operation and Maintenance, Air Force', \$750,000,000; 'Family Housing Construction, Defense-Wide', \$9,000,000; 'Family Housing Operation and Maintenance, Defense-Wide', \$49,000,000; 'Chemical Demilitarization Construction, Defense-Wide', \$131,000,000; and 'Department of Defense Base Closure Account 2005', \$2,489,421,000.

"SEC. 20805. Of the funds made available under the following headings in Public Law 108-132, the following amounts are rescinded: 'Military Construction, Navy and Marine Corps', \$19,500,000; and 'Military Construction, Defense-Wide', \$9,000,000.

"SEC. 20806. Of the funds made available under the following headings in Public Law 108-324, the following amounts are rescinded: 'Military Construction, Navy and Marine Corps', \$8,000,000; 'Military Construction, Air Force', \$2,694,000; 'Military Construction, Defense-Wide', \$43,000,000; and 'Family Housing Construction, Air Force', \$18,000,000.

"SEC. 20807. Of the funds made available under the following headings in Public Law 109-114, the following amounts are rescinded: 'Military Construction, Army', \$43,348,000; 'Military Construction, Defense-Wide', \$58,229,000; and 'Military Construction, Army National Guard', \$2,129,000.

"SEC. 20808. Notwithstanding section 101, the level for each of the following accounts of the Department of Veterans Affairs shall be as follows: 'Veterans Health Administration, Medical Services', \$25,423,250,000; 'Veterans Health Administration, Medical Administration', \$3,156,850,000; 'Veterans Health Administration, Medical Facilities', \$3,558,150,000; 'Departmental Administration, General Operating Expenses', \$1,472,164,000, provided that the Veterans Benefits Administration shall be funded at not less than \$1,161,659,000; 'Departmental Administration, Construction, Major Projects', \$399,000,000, of which \$2,000,000 shall be to make reimbursements as provided in section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) for claims paid for contracts disputes; and 'Departmental Administration, National Cemetery Administration', \$159,983,000.

"SEC. 20809. The first proviso under the heading 'Veterans Benefits Administration, Compensation and Pensions' in the Military Quality of Life, Military Construction, and Veterans Affairs Appropriations Act, 2006 (Public Law 109-114) shall be applied

to funds appropriated by this division by substituting ‘\$28,112,000’ for ‘\$23,491,000’.

“SEC. 20810. Notwithstanding any other provision of this division, the following provisions included in the Military Quality of Life, Military Construction, and Veterans Affairs Appropriations Act, 2006 (Public Law 109-114) shall not apply to funds appropriated by this division: the first, second, and last provisos, and the set-aside of \$2,200,000,000, under the heading ‘Veterans Health Administration, Medical Services’; the set-aside of \$15,000,000 under the heading ‘Veterans Health Administration, Medical and Prosthetic Research’; the set-aside of \$532,010,000 under the heading ‘Departmental Administration, Construction, Major Projects’; and the set-aside of \$155,000,000 under the heading ‘Departmental Administration, Construction, Minor Projects’.

“SEC. 20811. Notwithstanding any other provision of this division, the following sections included in the Military Quality of Life, Military Construction, and Veterans Affairs Appropriations Act, 2006 (Public Law 109-114) shall not apply to funds appropriated by this division: section 217, section 224, section 228, section 229, and section 230.

“SEC. 20812. Notwithstanding section 101, the level for each of the following accounts of the American Battle Monuments Commission shall be as follows: ‘Salaries and Expenses’, \$37,000,000; and ‘Foreign Currency Fluctuations Account’, \$5,000,000.

“SEC. 20813. Notwithstanding section 101, the level for ‘United States Court of Appeals for Veterans Claims, Salaries and Expenses’ shall be \$20,100,000.

“SEC. 20814. Section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109-364; 120 Stat. 2445) is amended by striking the first table of authorized Army construction and land acquisition projects for inside the United States and by adding at the end of the remaining table the last two items in the corresponding table on pages 366 and 367 of House Report 109-702, which is the conference report resolving the disagreeing votes of the House of Representatives and the Senate on the amendment of the Senate to H.R. 5122 of the 109th Congress.

“CHAPTER 9—SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES

“SEC. 20901. (a) Notwithstanding section 101, the level for each of the following accounts of the Department of Justice shall be as follows: ‘General Administration, Salaries and Expenses’, \$97,053,000; ‘General Administration, Justice Information Sharing Technology’, \$123,510,000; ‘General Administration, Narrowband Communications/Integrated Wireless Network’, \$89,188,000; ‘General Administration, Detention Trustee’, \$1,225,788,000; ‘General Administration, Office of Inspector General’, \$70,118,000; ‘United States Parole Commission, Salaries and Expenses’, \$11,424,000; ‘Legal Activities, Salaries and Expenses, Foreign Claims Settlement Commission’, \$1,551,000; ‘United States Marshals Service, Salaries and Expenses’, \$807,967,000; ‘United States Marshals Service, Construction’, \$6,846,000; ‘Salaries and Expenses, Community Relations Service’, \$10,178,000; ‘Assets Forfeiture Fund’, \$21,211,000; ‘Interagency Law Enforcement, Interagency Crime and Drug

Enforcement’, \$494,793,000; ‘Drug Enforcement Administration, Salaries and Expenses’, \$1,737,412,000; ‘Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses’, \$979,244,000; ‘Federal Prison System, Salaries and Expenses’, \$4,974,261,000; ‘Office of Justice Programs, Justice Assistance’, \$237,689,000; ‘Office of Justice Programs, Community Oriented Policing Services’, \$541,697,000; and ‘Office on Violence Against Women, Violence Against Women Prevention and Prosecution Programs’, \$382,534,000.

“(b) In addition to the amount otherwise appropriated by this division for ‘Department of Justice, Office of Justice Programs, State and Local Law Enforcement Assistance’ for the Edward Byrne Memorial Justice Assistance Grant program, there is appropriated \$108,693,000 for such purpose.

“SEC. 20902. Notwithstanding section 101, the level for ‘Department of Justice, Legal Activities, Salaries and Expenses, Antitrust Division’ shall be \$147,002,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed \$129,000,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Anti-trust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection, shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year 2007, so as to result in a final fiscal year 2007 appropriation from the general fund estimated at not more than \$18,002,000.

“SEC. 20903. Notwithstanding section 101, the level for ‘Department of Justice, Legal Activities, United States Trustee System Fund’, as authorized, shall be \$222,121,000, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That notwithstanding any other provision of law, \$222,121,000 of offsetting collections pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 2007, so as to result in a final fiscal year 2007 appropriation from the Fund estimated at \$0.

“SEC. 20904. Notwithstanding section 101, the level for ‘Department of Justice, Federal Bureau of Investigation, Salaries and Expenses’ shall be \$5,962,219,000.

“SEC. 20905. Notwithstanding section 101, the level for ‘Department of Justice, Federal Bureau of Investigation, Construction’ shall be \$51,392,000.

“SEC. 20906. Notwithstanding section 101, the level for ‘Department of Justice, National Security Division’, as authorized by section 509A of title 28, United States Code, shall be \$66,741,000: *Provided*, That upon a determination by the Attorney General that emergent circumstances require additional funding for activities of the National Security Division, the Attorney General may transfer such amounts to the National Security Division from available appropriations for the current fiscal year for the Department of Justice,

as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of Public Law 109-108 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

“SEC. 20907. Notwithstanding section 101, the level for ‘Department of Justice, United States Attorneys, Salaries and Expenses’ shall be \$1,645,613,000.

“SEC. 20908. Notwithstanding section 101, the level for ‘Department of Justice, Administrative Review and Appeals’ shall be \$228,066,000.

“SEC. 20909. Notwithstanding section 101, the level for ‘Department of Justice, General Legal Activities, Salaries and Expenses’ shall be \$672,609,000.

“SEC. 20910. Notwithstanding section 101, the level for ‘Department of Justice, Federal Prison System, Buildings and Facilities’ shall be \$432,290,000.

“SEC. 20911. Notwithstanding section 101, the level for ‘Bureau of the Census, Periodic Censuses and Programs’ shall be \$511,603,000 for necessary expenses related to the 2010 decennial census and \$182,489,000 for expenses to collect and publish statistics for other periodic censuses and programs provided for by law.

“SEC. 20912. Notwithstanding section 101, the level for ‘Department of Commerce, Science and Technology, Technology Administration, Salaries and Expenses’ shall be \$2,000,000.

“SEC. 20913. Notwithstanding section 101, the level for the following accounts of the National Institute of Standards and Technology shall be as follows: ‘Scientific and Technical Research and Services’, \$432,762,000; and ‘Construction of Research Facilities’, \$58,651,000.

“SEC. 20914. Notwithstanding section 101 under ‘National Oceanic and Atmospheric Administration, Operations, Research, and Facilities’, \$79,000,000 shall be derived by transfer from the fund entitled ‘Promote and Develop Fishery Products and Research Pertaining to American Fisheries’.

“SEC. 20915. Notwithstanding section 101, the level for the following accounts of the National Aeronautics and Space Administration shall be as follows: ‘Science, Aeronautics and Exploration’, \$10,075,000,000, of which \$5,251,200,000 shall be for science, \$890,400,000 shall be for aeronautics research, \$3,401,600,000 shall be for exploration systems, and \$531,800,000 shall be for cross-agency support programs; ‘Exploration Capabilities’, \$6,140,000,000; and ‘Office of Inspector General’, \$32,000,000.

“SEC. 20916. Notwithstanding section 101, the level for ‘National Science Foundation, Research and Related Activities’ shall be \$4,665,950,000, of which not to exceed \$485,000,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic Program: *Provided*, That from funds provided under this section, such sums as are necessary shall be available for the procurement of polar icebreaking services: *Provided further*, That the National Science Foundation shall reimburse the Coast Guard according to the existing memorandum of agreement.

“SEC. 20917. Notwithstanding section 101, the level for ‘Anti-trust Modernization Commission, Salaries and Expenses’ shall be \$462,000.

“SEC. 20918. Notwithstanding section 101, the level for ‘Legal Services Corporation, Payment to the Legal Services Corporation’ shall be \$348,578,000.

“SEC. 20919. Of the unobligated balances available under the heading ‘Department of Justice, General Administration, Working Capital Fund’, \$2,500,000 is rescinded.

“SEC. 20920. Of the unobligated balances available under the heading ‘Department of Justice, General Administration, Telecommunications Carrier Compliance Fund’, \$39,000,000 is rescinded.

“SEC. 20921. Of the unobligated balances available under the heading ‘Department of Justice, Violent Crime Reduction Trust Fund’, \$8,000,000 is rescinded.

“SEC. 20922. Of the unobligated balances available under the heading ‘Department of Justice, Legal Activities, Assets Forfeiture Fund’, \$170,000,000 shall be rescinded not later than September 30, 2007.

“SEC. 20923. Of the unobligated balances available from prior year appropriations under any ‘Department of Justice, Office of Justice Programs’ account, \$109,000,000 shall be rescinded, of which no more than \$31,000,000 shall be rescinded from ‘Department of Justice, Office of Justice Programs, Community Oriented Policing Services’, not later than September 30, 2007: *Provided*, That funds made available for ‘Department of Justice, Office of Justice Programs, Community Oriented Policing Services’ program management and administration shall not be reduced due to such rescission.

“SEC. 20924. Of the unobligated balances available under the heading ‘Department of Commerce, National Oceanic and Atmospheric Administration’, \$25,000,000 is rescinded.

“SEC. 20925. Of the unobligated balances available under the heading ‘Department of Commerce, National Institute of Standards and Technology, Industrial Technology Services’, \$7,000,000 is rescinded.

“SEC. 20926. The third proviso under the heading ‘Department of Justice, Legal Activities, Salaries and Expenses, United States Attorneys’, of the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006 (Public Law 109-108) shall not apply to funds appropriated by this division.

“SEC. 20927. The first through third provisos under the heading ‘Department of Justice, Federal Bureau of Investigation, Construction’ of the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006 (Public Law 109-108) shall not apply to funds appropriated by this division.

“SEC. 20928. The tenth through twelfth provisos under the heading ‘Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses’ of the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006 (Public Law 109-108) shall not apply to funds appropriated by this division.

“SEC. 20929. The matter pertaining to the National District Attorneys Association in paragraph (12) under the heading ‘Department of Justice, Office of Justice Programs, Community Oriented Policing Services’ of the Science, State, Justice, Commerce and

Related Agencies Appropriations Act, 2006 (Public Law 109-108) shall not apply to funds appropriated by this division.

“SEC. 20930. Sections 207, 208, and 209 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108) shall not apply to funds appropriated by this division.

“SEC. 20931. Notwithstanding any other provision of this division, the following provisions of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108), relating to the Department of Commerce, National Oceanic and Atmospheric Administration, shall not apply to funds appropriated by this division: the twelfth proviso under the heading ‘Operations, Research and Facilities’; the fifth proviso under the heading ‘Procurement, Acquisition and Construction’; and the set-aside of \$19,000,000 under the second proviso under the heading ‘Fisheries Finance Program Account’.

“SEC. 20932. In the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108), under the heading ‘National Aeronautics and Space Administration, Administrative Provisions’, the paragraph beginning ‘Funding made available under’ and all that follows through ‘conference report for this Act.’ shall not apply to funds appropriated by this division.

“SEC. 20933. Title VIII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108-447, division B) is amended by striking ‘fiscal years 2005 and 2006’ each place it appears and inserting ‘fiscal years 2005, 2006, and 2007’.

35 USC 41 note.

“SEC. 20934. Notwithstanding section 101, the level for ‘Department of Commerce, United States Patent and Trademark Office, Salaries and Expenses’ shall be \$1,771,000,000, to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to section 1113 of title 15 of the United States Code, and sections 41 and 376 of title 35 of the United States Code, are received during fiscal year 2007, so as to result in a fiscal year 2007 appropriation from the general fund estimated at \$0: *Provided further*, That during fiscal year 2007, should the total amount of offsetting fee collections be less than \$1,771,000,000, this amount shall be reduced accordingly.

“SEC. 20935. Funds appropriated by section 101 of this division for International Space Station Cargo Crew Services/International Partner Purchases and International Space Station/Multi-User System Support within the National Aeronautics and Space Administration may be obligated in the account and budget structure set forth in the pertinent Act specified in section 101(a)(8).

“SEC. 20936. The matter pertaining to paragraph (1)(B) under the heading ‘Department of Justice, Office of Justice Programs, State and Local Law Enforcement Assistance’ of the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006 shall not apply to funds appropriated by this division.

“SEC. 20937. The Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108), under the heading ‘National Aeronautics and Space Administration, Science, Aeronautics and Exploration’ is amended by striking ‘, of which amounts’ and all that follows through ‘as amended by Public Law 106-377’.

119 Stat. 2316.

119 Stat. 2316.

“SEC. 20938. The Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108), under the heading ‘National Aeronautics and Space Administration, Exploration Capabilities’ is amended by striking ‘, of which amounts’ and all that follows through ‘as amended by Public Law 106-377’.

“SEC. 20939. Notwithstanding section 101, or any other provision of law, no funds shall be used to implement any Reduction in Force or other involuntary separations (except for cause) by the National Aeronautics and Space Administration prior to September 30, 2007.

“SEC. 20940. Any terms, conditions, uses, or authorities put into effect, available, or exercised pursuant to the reprogramming notification dated August 10, 2006, relating to the Department of Justice with respect to the Office of Justice Programs, the Office of Community Oriented Policing Services, or the Office on Violence Against Women are hereby made applicable, available, and effective with respect to Fiscal Year 2007 appropriations for those Offices.

“SEC. 20941. Section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)) is amended—

“(1) in paragraph (1)—

“(A) in the matter preceding subparagraph (A), by striking ‘To facilitate’ and all that follows through ‘the Secretary’ and inserting ‘The Secretary’; and

“(B) in subparagraph (B), by striking ‘if’ and inserting ‘to facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan, if’;

“(2) in paragraph (2), by striking ‘subparagraphs (A) or (B) of such paragraph’ and inserting ‘such subparagraph’; and

“(3) in paragraph (3), by striking ‘paragraph (1)’ and inserting ‘paragraph (1)(B)’.

“SEC. 20942. Notwithstanding section 101, the level for each of the following accounts and activities shall be \$0: ‘Department of State, Administration of Foreign Affairs, Centralized Information Technology Modernization Program’; and the grant to the Center for Middle Eastern-Western Dialogue Trust Fund made available in the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108) under the heading ‘Department of State, Other, Center for Middle Eastern-Western Dialogue Trust Fund’.

“SEC. 20943. Notwithstanding section 101, the level for each of the following accounts shall be as follows: ‘Department of State, Administration of Foreign Affairs, Educational and Cultural Exchange Programs’, \$445,275,000; ‘Department of State, Administration of Foreign Affairs, Emergencies in the Diplomatic and Consular Service’, \$4,940,000; ‘Department of State, Administration of Foreign Affairs, Payment to the American Institute in Taiwan’, \$15,826,000; ‘Department of State, International Organizations, Contributions for International Peacekeeping Activities’, \$1,135,275,000; ‘Related Agency, Broadcasting Board of Governors, International Broadcasting Operations’, \$636,387,000; ‘Related Agency, Broadcasting Board of Governors, Broadcasting Capital Improvements’, \$7,624,000; and ‘Related Agencies, Commission on International Religious Freedom, Salaries and Expenses’, \$3,000,000.

“SEC. 20944. Notwithstanding any other provision of this division, the fourth proviso under the heading ‘Department of State, Administration of Foreign Affairs, Diplomatic and Consular Programs’ in the Science, State, Justice, Commerce, and Related Appropriations Act, 2006 (Public Law 109-108) and section 406 of such Act shall not apply to funds appropriated by this division.

“SEC. 20945. The appropriation to the Securities and Exchange Commission pursuant to this division shall be deemed a regular appropriation for purposes of section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) and sections 13(e), 14(g), and 31(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e), 78n(g), and 78ee(k)).

“SEC. 20946. Section 302 of the Universal Service Antideficiency Temporary Suspension Act (Public Law 108-494; 118 Stat. 3998) is amended by striking ‘December 31, 2006,’ each place it appears and inserting ‘December 31, 2007,’.

“SEC. 20947. Notwithstanding section 101, the level for ‘Small Business Administration, Salaries and Expenses’ shall be \$326,733,000, and section 613 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108; 119 Stat. 2336) shall not apply to such funds.

“SEC. 20948. Notwithstanding section 101, the level for ‘Small Business Administration, Disaster Loans Program Account’ shall be \$113,850,000, to remain available until expended, which shall be for administrative expenses to carry out the direct loan program authorized by section 7(b) of the Small Business Act, of which \$112,365,000 may be transferred to and merged with ‘Small Business Administration, Salaries and Expenses’, and of which \$1,485,000 is for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program and shall be transferred to and merged with appropriations for the Office of Inspector General.

“SEC. 20949. Of the unobligated balances available under the heading ‘Small Business Administration, Salaries and Expenses’, \$6,100,000 is rescinded.

“SEC. 20950. Of the unobligated balances available under the heading ‘Small Business Administration, Business Loans Program Account’, \$5,000,000 is rescinded.

“SEC. 20951. Of the unobligated balances available under the heading ‘Small Business Administration, Disaster Loans Program Account’, \$2,300,000 is rescinded.

“CHAPTER 10—TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, THE DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES

“SEC. 21001. Of the amounts provided by section 101 for ‘Department of Transportation, Office of the Secretary, Transportation, Planning, Research, and Development’, for activities of the Department of Transportation, up to \$9,900,000 may be made available for the purpose of agency facility improvements and associated administrative costs as determined necessary by the Secretary.

“SEC. 21002. (a) Section 44302(f)(1) of title 49, United States Code, shall be applied by substituting the date specified in section 106 of this division for ‘August 31, 2006, and may extend through December 31, 2006’.

Applicability.
49 USC 44302
note.

49 USC 44303
note.

“(b) Section 44303(b) of title 49, United States Code, shall be applied by substituting the date specified in section 106 of this division for ‘December 31, 2006’.

“SEC. 21003. Of the funds made available under section 101(a)(2) of Public Law 107-42, \$50,000,000 is rescinded.

“SEC. 21004. Notwithstanding section 101, no funds are provided by this division for activities or reimbursements described in section 185 of Public Law 109-115.

“SEC. 21005. Notwithstanding section 101, the level for ‘Federal Aviation Administration, Operations’ shall be \$8,330,750,000, of which \$5,627,900,000 shall be derived from the Airport and Airway Trust Fund, of which no less than \$6,704,223,000 shall be for air traffic organization activities; no less than \$997,718,000 shall be for aviation regulation and certification activities; not to exceed \$11,641,000 shall be available for commercial space transportation activities; not to exceed \$76,175,000 shall be available for financial services activities; not to exceed \$85,313,000 shall be available for human resources program activities; not to exceed \$275,156,000 shall be available for region and center operations and regional coordination activities; not to exceed \$144,617,000 shall be available for staff offices; and not to exceed \$35,907,000 shall be available for information services.

“SEC. 21006. Notwithstanding section 101, the level for ‘Federal Aviation Administration, Research, Engineering, and Development (Airport and Airway Trust Fund)’ shall be \$130,000,000.

“SEC. 21007. Of the amounts provided by section 101 for limitation on obligations under ‘Federal Aviation Administration, Grants-in-Aid for Airports (Liquidation of Contract Authorization) (Limitation on Obligations) (Airport and Airway Trust Fund)’, not to exceed \$74,971,000 shall be obligated for administrative expenses; up to \$17,870,000 shall be available for airport technology research, to remain available until expended; not less than \$10,000,000 shall be for airport cooperative research; and \$10,000,000 shall be available and transferred to ‘Office of the Secretary, Salaries and Expenses’ to administer the small community air service development program to remain available until expended.

“SEC. 21008. Notwithstanding section 101, the level for liquidation of contract authorization under ‘Federal Aviation Administration, Grants-in-Aid for Airports (Liquidation of Contract Authorization) (Limitation on Obligations) (Airport and Airway Trust Fund)’ shall be \$4,399,000,000.

“SEC. 21009. Of the amounts authorized for the fiscal year ending September 30, 2007, and prior years under sections 48103 and 48112 of title 49, United States Code, \$621,000,000 is rescinded.

23 USC 104 note.

“SEC. 21010. Notwithstanding section 101, the level for ‘Federal Highway Administration, Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)’ shall be \$39,086,464,683.

“SEC. 21011. Notwithstanding section 101, sections 110, 112, and 113 of division A of Public Law 109-115 shall not apply to fiscal year 2007.

“SEC. 21012. Funds appropriated under this division pursuant to section 1069(y) of Public Law 102-240 shall be distributed in accordance with the formula set forth in section 1116(a) of Public Law 109-59.

“SEC. 21013. Notwithstanding section 101, the level for the limitation on obligations and transfer of contract authority for ‘National Highway Traffic Safety Administration, Operations and

Research (Highway Trust Fund) (Including Transfer of Funds)' shall be \$121,232,430: *Provided*, That notwithstanding any other provision of law, whenever an allocation is made of the sums authorized to be appropriated for expenditure on the Federal lands highway program, and whenever an apportionment is made of the sums authorized to be appropriated for the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the Interstate maintenance program, the bridge program, the Appalachian development highway system, and the equity bonus program, the Secretary of Transportation shall deduct from all sums so authorized such sums as may be necessary to fund this section: *Provided further*, That funds made available under this section shall be transferred by the Secretary of Transportation to and administered by the National Highway Traffic Safety Administration: *Provided further*, That the Federal share payable on account of any program, project, or activity carried out with funds made available under this section shall be 100 percent: *Provided further*, That the sum deducted in accordance with this section shall remain available until expended: *Provided further*, That all funds made available under this section shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs set forth in this division or any other Act: *Provided further*, That the obligation limitation made available for the programs, projects, and activities for which funds are made available under this section shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years: *Provided further*, That, notwithstanding any other provision of law, prior to making any distribution of obligation limitation for the Federal-aid highway program under section 1102 of Public Law 109-59 for fiscal year 2007, the Secretary of Transportation shall not distribute from such limitation amounts provided under this section: *Provided further*, That, notwithstanding any other provision of law, in allocating funds for the equity bonus program under section 105 of title 23, United States Code, for fiscal year 2007, the Secretary of Transportation shall make the required calculations under that section as if this section had not been enacted.

“SEC. 21014. Of the unobligated balances of funds apportioned to each State under chapter 1 of title 23, United States Code, \$3,471,582,000 is rescinded: *Provided*, That such rescission shall not apply to the funds distributed in accordance with sections 130(f) and 104(b)(5) of title 23, United States Code; sections 133(d)(1) and 163 of such title, as in effect on the day before the date of enactment of Public Law 109-59; and the first sentence of section 133(d)(3)(A) of such title.

“SEC. 21015. Notwithstanding section 101 and section 111, the level for each of the following accounts under the heading ‘Federal Motor Carrier Safety Administration’ shall be as follows: ‘Motor Carrier Safety Operations and Programs (Liquidation of Contract Authorization) (Limitation on Obligations) (Highway Trust Fund)’, \$223,000,000; and ‘Motor Carrier Safety Grants (Liquidation of Contract Authorization) (Limitation on Obligations) (Highway Trust Fund)’, \$294,000,000.

“SEC. 21016. Notwithstanding section 101 and section 111, the level for each of the following accounts under the heading

‘National Highway Traffic Safety Administration’ shall be as follows: ‘Operations and Research (Liquidation of Contract Authorization) (Limitation on Obligations) (Highway Trust Fund)’, \$107,750,000; ‘National Driver Register (Liquidation of Contract Authorization) (Limitation on Obligations) (Highway Trust Fund)’, \$4,000,000; and ‘Highway Traffic Safety Grants (Liquidation of Contract Authorization) (Limitation on Obligations) (Highway Trust Fund)’, \$587,750,000.

“SEC. 21017. Notwithstanding section 101, the level for ‘Federal Railroad Administration, Safety and Operations’ shall be \$149,570,000.

“SEC. 21018. Notwithstanding section 101, the level for ‘Federal Railroad Administration, Railroad Research and Development’ shall be \$34,524,000.

“SEC. 21019. Notwithstanding section 101, the level for ‘Federal Railroad Administration, Efficiency Incentive Grants to the National Railroad Passenger Corporation’ shall be \$31,300,000 and section 135 of division A of Public Law 109-115 shall not apply to fiscal year 2007.

“SEC. 21020. Notwithstanding section 101, no funds are appropriated under this division for ‘Federal Railroad Administration, Alaska Railroad Rehabilitation’.

“SEC. 21021. Notwithstanding section 101 and section 111, the level for each of the following accounts under the heading ‘Federal Transit Administration’ shall be as follows: ‘Administrative Expenses’, \$85,000,000; ‘Research and University Research Centers’, \$61,000,000; and ‘Capital Investment Grants’, \$1,566,000,000.

“SEC. 21022. Notwithstanding section 101, the level for the liquidation of contract authorizations for ‘Federal Transit Administration, Formula and Bus Grants (Liquidation of Contract Authorization)’ available for payment of obligations incurred in carrying out the provisions of sections 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 of title 49, United States Code, and section 3038 of Public Law 105-178 shall be \$4,660,000,000, to be derived from the Mass Transit Account of the Highway Trust Fund and to remain available until expended.

“SEC. 21023. Notwithstanding section 101, the level for the limitation on obligations for ‘Federal Transit Administration, Formula and Bus Grants (Liquidation of Contract Authorization) (Limitation on Obligations) (Including Transfer of Funds)’ shall be \$7,262,775,000: *Provided*, That no funds made available to modernize fixed guideway systems shall be transferred to ‘Capital Investment Grants’.

“SEC. 21024. Notwithstanding any other provision of law, funds appropriated or limited under this division and made available to carry out the new fixed guideway program of the Federal Transit Administration shall be allocated at the discretion of the Administrator of the Federal Transit Administration for projects authorized under subsections (a) through (c) of section 3043 of Public Law 109-59 and for activities authorized under section 5309 of title 49, United States Code.

“SEC. 21025. Notwithstanding section 101, the level for ‘Maritime Administration, Operations and Training’ shall be \$111,127,000.

“SEC. 21026. Of the unobligated balances under the heading ‘Maritime Administration, National Defense Tank Vessel Construction Program’, \$74,400,000 is rescinded.

“SEC. 21027. Of the unobligated balances under the heading ‘Maritime Administration, Ship Construction’, \$2,000,000 is rescinded.

“SEC. 21028. Notwithstanding section 101, the level for each of the following accounts under the heading ‘Pipeline and Hazardous Materials Safety Administration’ shall be as follows: ‘Administrative Expenses’, \$18,000,000; ‘Hazardous Materials Safety’, \$26,663,000; and ‘Pipeline Safety (Pipeline Safety Fund) (Oil Spill Liability Trust Fund)’, \$74,832,000, of which \$14,850,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2009, of which \$59,982,000 shall be derived from the Pipeline Safety Fund, of which \$24,000,000 shall remain available until September 30, 2009.

“SEC. 21029. Notwithstanding section 101, the level for ‘Research and Innovative Technology Administration, Research and Development’ shall be \$7,716,260, of which \$2,000,000 shall be for the air transportation statistics program.

“SEC. 21030. Notwithstanding section 101, the level for ‘Department of Transportation, Office of Inspector General, Salaries and Expenses’ shall be \$63,643,000.

“SEC. 21031. Notwithstanding section 101, the level for the ‘National Transportation Safety Board, Salaries and Expenses’ shall be \$78,854,000.

“SEC. 21032. Of the available unobligated balances made available to the ‘National Transportation Safety Board’ under Public Law 106-246, \$1,000,000 is rescinded.

“SEC. 21033. Notwithstanding section 101, the level for ‘Department of Housing and Urban Development, Public and Indian Housing, Tenant-Based Rental Assistance’ shall be \$15,920,000,000, to remain available until expended, of which \$11,727,000,000 shall be available on October 1, 2006, and notwithstanding section 109, \$4,193,000,000 shall be available on October 1, 2007: *Provided*, That paragraph (1) under such heading in Public Law 109-115 (119 Stat. 2440) shall not apply to funds appropriated by this division: *Provided further*, That of the amounts available for such heading, \$14,436,200,000 shall be for renewals of expiring section 8 tenant-based annual contributions contracts (including renewals of enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.) (‘the Act’ herein)): *Provided further*, That notwithstanding any other provision of law, from amounts provided under the second proviso under this section the Secretary shall, for the calendar year 2007 funding cycle, provide renewal funding for each public housing agency based on voucher management system (VMS) leasing and cost data for the most recently completed period of 12 consecutive months for which the Secretary determines the data is verifiable and complete, prior to prorations, and by applying the 2007 Annual Adjustment Factor as established by the Secretary, and by making any necessary adjustments for the costs associated with the first-time renewal of tenant protection or HOPE VI vouchers or vouchers that were not in use during the 12-month period in order to be available to meet a commitment pursuant to section 8(o)(13) of the Act: *Provided further*, That the Secretary shall, to the extent necessary to stay within the amount provided under the second proviso under this section, pro rate each public housing agency’s allocation otherwise established pursuant to this section: *Provided further*, That

Vouchers.

Allocations.

except as provided in the following proviso, the entire amount provided under the second proviso under this section shall be obligated to the public housing agencies based on the allocation and pro rata method described above: *Provided further*, That public housing agencies participating in the Moving to Work demonstration shall be funded pursuant to their Moving to Work agreements and shall be subject to the same pro rata adjustments under the previous proviso: *Provided further*, That from amounts provided under the second proviso of this section up to \$100,000,000 shall be available only: (1) for adjustments for public housing agencies that experienced a significant increase, as determined by the Secretary, in renewal costs resulting from unforeseen circumstances or from the portability under section 8(r) of the Act of tenant-based rental assistance; and (2) for adjustments for public housing agencies that could experience a significant decrease in voucher funding that could result in the risk of loss of voucher units due to the shift to using VMS data based on a 12-month period: *Provided further*, That none of the funds provided under the second proviso of this section may be used to support a total number of unit months under lease which exceeds a public housing agency's authorized level of units under contract.

"SEC. 21034. Notwithstanding section 101, the level for each of the following accounts for Public and Indian Housing of the Department of Housing and Urban Development shall be as follows: 'Project-Based Rental Assistance', \$5,976,417,000, of which \$5,829,303,000 shall be for activities specified in paragraph (1) under such heading in Public Law 109-115 (119 Stat. 2442); 'Public Housing Operating Fund', \$3,864,000,000; and 'Indian Housing Loan Guarantee Fund Program Account', \$6,000,000: *Provided*, That such funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$251,000,000.

"SEC. 21035. Of the unobligated balances, including recaptures and carryover, remaining from funds appropriated under the headings referred to under the heading 'Department of Housing and Urban Development, Public and Indian Housing, Housing Certificate Fund' in Public Law 109-115 (119 Stat. 2442) for fiscal year 2006 and prior years, \$1,650,000,000 is rescinded: *Provided*, That the provisions under such heading shall be applied to such rescission by substituting 'September 30, 2007' for 'September 30, 2006' and '2007 funding cycle' for '2006 funding cycle'.

"SEC. 21036. None of the funds appropriated by this division may be used for the following activities under the heading 'Department of Housing and Urban Development, Public and Indian Housing' in Public Law 109-115: the activities specified in the last three provisos under the heading 'Public Housing Capital Fund' (119 Stat. 2444); and the first activity specified in the second proviso under the heading 'Native American Housing Block Grants' (119 Stat. 2445).

"SEC. 21037. Notwithstanding section 101, the level for each of the following accounts for Community Planning and Development of the Department of Housing and Urban Development shall be as follows: 'Community Development Fund', \$3,771,900,000, of which \$3,710,916,000 shall be for carrying out the community development block grant program under title I of the Housing and Community Development Act of 1974, as amended: *Provided*, That none of the funds made available by this section for such account may be used for grants for the Economic Development

Initiative, neighborhood initiatives, or YouthBuild program activities; ‘Self-Help and Assisted Homeownership Opportunity Program’, \$49,390,000, of which \$19,800,000 shall be for the Self Help Homeownership Opportunity Program as authorized under section 11 of the Housing Opportunity Program Extension Act of 1996, as amended, and \$29,590,000 shall be made available through a competition for activities authorized by section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note); and ‘Homeless Assistance Grants’, \$1,441,600,000.

“SEC. 21038. None of the funds appropriated by this division may be used for activities specified in the first proviso under the heading ‘Department of Housing and Urban Development, Housing Programs, Housing for the Elderly’ in Public Law 109–115 (119 Stat. 2452).

“SEC. 21039. The first proviso in the first paragraph under the heading ‘Department of Housing and Urban Development, Federal Housing Administration, General and Special Risk Program Account’ in Public Law 109–115 (119 Stat. 2454) shall be applied in fiscal year 2007 by substituting “\$45,000,000,000” for “\$35,000,000,000”.

“SEC. 21040. Notwithstanding section 101, the level for ‘Department of Housing and Urban Development, Policy Development and Research, Research and Technology’ shall be \$50,087,000: *Provided*, That none of the funds made available by this section for such account may be used for activities under the first four provisos under such heading in Public Law 109–115 (119 Stat. 2455).

“SEC. 21041. Funds appropriated by this division for ‘Department of Housing and Urban Development, Office of Lead Hazard Control, Lead Hazard Reduction’ shall be made available without regard to the limitations that are set forth after ‘needs’ in the second proviso under such heading in Public Law 109–115 (119 Stat. 2457).

“SEC. 21042. The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act, through the earlier of: (1) the date specified in section 106 of this division; or (2) the date of the enactment into law of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

Effective date.
42 USC 11319
note.

“SEC. 21043. (a) Section 579 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended—

“(1) in subsection (a)(1), by striking ‘October 1, 2006’ and inserting ‘October 1, 2011’; and

“(2) in subsection (b), by striking ‘October 1, 2006’ and inserting ‘October 1, 2011’.

“(b) The repeal made by section 579(a)(1) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be deemed not to have taken effect before the date of the enactment of the Revised Continuing Appropriations Resolution, 2007, and subtitle A of such Act shall be in effect as if no such repeal had been made before such date of enactment.

Effective date.
42 USC 1437f
note.

“SEC. 21044. Notwithstanding the limitation in the first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)), the Secretary of Housing and Urban Development may, until the date specified in section 106 of this division, insure and enter into commitments to insure mortgages under section 255 of the National Housing Act (12 U.S.C. 1715z–20(g)).

“SEC. 21045. Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended—

“(1) in subsection (m)(1), by striking ‘2003’ and inserting ‘2007’; and

“(2) in subsection (o), by striking “September 30, 2006” and inserting “September 30, 2007”.

Applicability.

“SEC. 21046. Section 710 of Public Law 109-115 (119 Stat. 2491) shall be applied to funds appropriated by this division by substituting ‘2007’ and ‘30 days’ for ‘2006’ and ‘60 days’, respectively.

Applicability.

“SEC. 21047. Section 711 of Public Law 109-115 (119 Stat. 2492) shall be applied to funds appropriated by this division by substituting ‘2007’ for ‘2006’ each place it appears, and by substituting ‘September 30, 2008’ for ‘September 30, 2007’.

“SEC. 21048. Notwithstanding section 101, the level for ‘Department of the Treasury, Departmental Offices, Salaries and Expenses’ shall be \$215,167,000, of which not less than \$23,826,000 shall be for the following increases for the following activities: \$9,352,000 to expand the overseas presence of the Department of the Treasury; \$3,761,000 for intelligence analysts; \$1,000,000 for additional secure workspace for intelligence analysts; \$2,050,000 to support the Department of the Treasury’s participation as co-lead agency in the Iraq Threat Finance Cell; \$1,483,000 to support economic sanctions efforts against terrorist networks; \$946,000 to support economic sanctions efforts against proliferators of Weapons of Mass Destruction; \$542,000 for General Counsel support of the Office of Terrorism and Financial Intelligence; \$492,000 for Chief Counsel support of the Office of Foreign Assets Control; and \$4,200,000 to reimburse the United States Secret Service for the security detail to the Secretary of the Treasury.

“SEC. 21049. Notwithstanding section 101, the level for ‘Department of the Treasury, Departmental Offices, Department-wide Systems and Capital Investments Programs’ shall be \$30,268,000, of which not less than \$6,100,000 shall be for an increase for the Treasury Foreign Intelligence Network.

“SEC. 21050. Notwithstanding section 101, the level for each of the following accounts of the Internal Revenue Service shall be as follows: ‘Taxpayer Services’, \$2,142,042,391; ‘Enforcement’, \$4,708,440,879; ‘Operations Support’, \$3,461,204,720; ‘Health Insurance Tax Credit Administration’, \$14,846,000; and ‘Business Systems Modernization’, \$212,310,000.

“SEC. 21051. Funds appropriated by section 101 of this division for the Internal Revenue Service may be obligated in the account and budget structure set forth in title II of H.R. 5576 (109th Congress), as passed by the House of Representatives.

Notification.
Deadline.

“SEC. 21052. Funds for the Internal Revenue Service for fiscal year 2007 under the ‘Taxpayer Services’, ‘Enforcement’, and ‘Operations Support’ accounts may be transferred between the accounts and among budget activities to the extent necessary to implement the restructuring of the Internal Revenue Service accounts after notice of the amount and purpose of the transfer is provided to the Committees on Appropriations of the House of Representatives and Senate and a period of 30 days has elapsed: *Provided*, That the limitation on transfers is 10 percent in fiscal year 2007.

“SEC. 21053. Funds appropriated by this division for ‘Internal Revenue Service, Business Systems Modernization’ are available for obligation without the prior approval of the Committees on

Appropriations of the House of Representatives and the Senate for employee salaries and expenses.

“SEC. 21054. (a) Notwithstanding section 101, the level for ‘The Judiciary, Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses’ shall be \$4,498,130,000, of which \$20,371,000 shall be available for critically understaffed workload associated with immigration and other law enforcement needs.

“(b) Notwithstanding section 402 of Public Law 109-115, of the amount provided by this section, not to exceed \$80,954,000 shall be available for transfer between accounts to maintain fiscal year 2006 operating levels.

“SEC. 21055. Notwithstanding section 101, within the amount provided by this division for ‘The Judiciary, Administrative Office of the United States Courts, Salaries and Expenses’, \$990,000 shall not be required for the National Academy of Public Administration for a review of the financial and management procedures of the Federal Judiciary.

“SEC. 21056. Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101-650; 28 U.S.C. 133 note), is amended—

“(1) in the second sentence, by inserting ‘the district of Kansas,’ after ‘Except with respect to’; and

“(2) by inserting after the second sentence the following: ‘The first vacancy in the office of district judge in the district of Kansas occurring 16 years or more after the confirmation date of the judge named to fill the temporary judgeship created for such district under this subsection, shall not be filled.’.

“SEC. 21057. (a) Notwithstanding section 101, the level for ‘Office of National Drug Control Policy, Counterdrug Technology Assessment Center’ shall be \$20,000,000, which shall remain available until, and obligated and expended by, September 30, 2008, consisting of \$10,000,000 for counternarcotics research and development projects, of which up to \$1,000,000 is to be directed to supply reduction activities, and \$10,000,000 for the continued operation of the technology transfer program.

“(b) The Office of National Drug Control Policy shall expend funds provided for ‘Counterdrug Technology Assessment Center’ by Public Law 109-115 in accordance with the Joint Explanatory Statement of the Committee of Conference for Public Law 109-115 (House Report 109-307) within 60 days after the date of the enactment of this section.

“(c) Funding for counternarcotics research and development projects shall be available for transfer to other Federal departments or agencies within 45 days after the date of the enactment of this section. Any unexpended funds from previous fiscal years shall be expended in fiscal year 2007 to reinstate the demand instrumentation program as instructed in the Joint Explanatory Statement of the Committee of Conference for Public Law 109-115 (House Report 109-307). The Director of the Office of National Drug Control Policy shall submit to the Committees on Appropriations of the House of Representatives and the Senate an accounting of fiscal year 2006 funds, including funds that are unexpended for fiscal year 2007.

“SEC. 21058. The structure of any of the offices or components within the Office of National Drug Control Policy shall remain as they were on October 1, 2006, and none of the funds appropriated

Courts.
Kansas.

Deadline.

Deadline.

Reports.

Government
organization.

or otherwise made available by this division may be used to implement a reorganization of offices within the Office of National Drug Control Policy without the explicit approval of the Committees on Appropriations of the House of Representatives and the Senate.

“SEC. 21059. (a) Funds appropriated or otherwise made available by this division for ‘Federal Drug Control Programs, High Intensity Drug Trafficking Areas Program’ shall remain available until September 30, 2008.

Plan.
Deadlines.

“(b) The Office of National Drug Control Policy shall submit a plan to the Committees on Appropriations of the House of Representatives and the Senate for the initial High Intensity Drug Trafficking Areas allocation funding within 90 days after the date of the enactment of this section and the discretionary High Intensity Drug Trafficking Areas funding within 150 days after the date of the enactment of this section. Within the discretionary funding amount, \$2,000,000 shall be available for new counties, not including previously funded counties, with priority given to meritorious applicants who have submitted applications previously and have not been funded.

“SEC. 21060. Notwithstanding section 101, the level for ‘Election Assistance Commission, Salaries and Expenses’ shall be \$16,236,000, of which \$4,950,000 shall be transferred to the National Institute of Standards and Technology for election reform activities authorized under the Help America Vote Act of 2002.

“SEC. 21061. Notwithstanding section 101, the level for each of the following accounts for the General Services Administration shall be as follows: ‘Operating Expenses’, \$82,975,000; and ‘Office of Inspector General’, \$52,312,000.

Government
organization.

“SEC. 21062. Notwithstanding GSA Order ADM 5440 of December 21, 2006, the Office of Governmentwide Policy and the Office of Congressional and Intergovernmental Affairs shall continue to exist and operate separately, and none of the funds appropriated or otherwise made available by this division or any other Act may be used to establish or operate an Office of Congressional and Intergovernmental Affairs and Governmentwide Policy or any combination thereof without the explicit approval of the Committees on Appropriations of the House of Representatives and the Senate.

“SEC. 21063. Notwithstanding section 101—

“(1) the aggregate amount of new obligational authority provided under the heading ‘General Services Administration, Real Property Activities, Federal Buildings Fund, Limitations on Availability of Revenue’ for Federal buildings and courthouses and other purposes of the Fund shall be \$7,598,426,000, including repayment of debt, of which not less than \$280,872,000 shall be for courthouse construction, and not less than \$96,539,000 shall be for border station construction, and of which \$89,061,000 shall be from the additional amount provided by paragraph (2) of this subsection;

“(2) for an additional amount to be deposited in the ‘General Services Administration, Real Property Activities, Federal Buildings Fund’, \$89,061,000 is appropriated, out of any money in the Treasury not otherwise appropriated;

“(3) the Administrator of General Services is authorized to initiate design, construction, repair, alteration, leasing, and other projects through existing authorities of the Administrator: *Provided*, That the General Services Administration shall submit a detailed plan, by project, regarding the use of funds

Plan.
Deadline.

to the Committees on Appropriations of the House of Representatives and the Senate within 30 days of enactment of this section; and

“(4) none of the funds appropriated or otherwise made available in this division for the ‘General Services Administration, Real Property Activities, Federal Buildings Fund’ may be obligated for the Coast Guard consolidation and development of St. Elizabeths campus in the District of Columbia.

“SEC. 21064. Notwithstanding section 101, the level for ‘Merit Systems Protection Board, Salaries and Expenses’ shall be \$35,814,000, together with not to exceed \$2,579,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

“SEC. 21065. Notwithstanding section 101, the level for ‘National Archives and Records Administration, Electronic Records Archives’ shall be \$45,214,000.

“SEC. 21066. (a) Notwithstanding section 101, the level for ‘National Archives and Records Administration, Repairs and Restoration’ shall be \$9,120,000.

“(b) Within the amount provided by this section, the following amounts shall not be required:

“(1) \$1,485,000 for construction of a new regional archives and records facility.

“(2) \$990,000 for repair and restoration of a plaza surrounding a presidential library.

“SEC. 21067. (a) Notwithstanding section 101, the level for ‘National Archives and Records Administration, Operating Expenses’ shall be \$278,235,000.

“(b) Within the amount provided by this section, \$1,980,000 shall not be required for the initial move of records, staffing, and operations of a presidential library.

“SEC. 21068. Section 403(f) of Public Law 103-356 (31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106 of this division for ‘October 1, 2006’.

Applicability.

“SEC. 21069. The text of section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended to read as follows: ‘There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 2007’.

“SEC. 21070. Notwithstanding section 101, the level for ‘Office of Personnel Management, Salaries and Expenses’ shall be \$111,095,000, of which \$6,913,170 shall remain available until expended for the Enterprise Human Resources Integration project and \$1,435,500 shall remain available until expended for the Human Resources Line of Business project; and in addition \$112,017,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials, for the retirement and insurance programs, of which \$13,000,000 shall remain available until expended for the cost of automating the retirement recordkeeping systems.

“SEC. 21071. Notwithstanding section 101, the level for ‘Office of Special Counsel, Salaries and Expenses’ shall be \$15,407,000.

“SEC. 21072. Notwithstanding section 101, the level for ‘United States Postal Service, Payment to the Postal Service Fund’ shall be \$29,000,000; and, in addition, \$6,915,000, which shall not be

available for obligation until October 1, 2007, and shall be in addition to amounts provided under section 109.

“SEC. 21073. (a) Notwithstanding section 101, the level for ‘Federal Payment to the Court Services and Offender Supervision Agency for the District of Columbia’, shall be \$209,594,000, of which \$133,476,000 shall be for necessary expenses of the Community Supervision and Sex Offender Registration, \$45,220,000 shall be available to the Pretrial Services Agency, and \$30,898,000 shall be transferred to the Public Defender Service of the District of Columbia.

Expenditure
plan.
Deadline.

“(b) Notwithstanding section 101, the level for ‘Federal Payment to the Office of the Chief Financial Officer of the District of Columbia’ shall be \$20,000,000, and shall be used only for upgrading and expanding public transportation capacity, in accordance with an expenditure plan submitted by the Mayor of the District of Columbia not later than 60 days after the enactment of this section which details the activities to be carried out with such Federal Payment. Such Federal Payment may be applied to expenditures incurred as of October 1, 2006.

Charter schools.

“(c) Notwithstanding section 101, any appropriation or funds made available to the District of Columbia pursuant to this division for ‘Federal Payment for School Improvement’ which are made available to expand quality public charter schools in the District of Columbia shall remain available until expended to the extent that the appropriation or funds are used for public charter school credit enhancement and direct loans.

“(d) Notwithstanding section 101, no appropriation or funds shall be made available to the District of Columbia pursuant to this division with respect to any of the following items in the District of Columbia Appropriations Act, 2006 (Public Law 109-115; 119 Stat. 2508 et seq.):

“(1) The item relating to ‘Federal Payment for the National Guard Youth Challenge Program’.

“(2) The item relating to ‘Federal Payment for Marriage Development and Improvement’.

“(e) Notwithstanding section 101, the level for ‘Federal Payment for Emergency Planning and Security Costs in the District of Columbia’ shall be \$8,533,000.

“(f) Notwithstanding section 101, the level for ‘Defender Services in District of Columbia Courts’ shall be \$43,475,000.

“(g) Notwithstanding any other provision of this division, except section 106, the District of Columbia may expend local funds for programs and activities under the heading ‘District of Columbia Funds’ for such programs and activities under title V of H.R. 5576 (109th Congress), as passed by the House of Representatives, at the rate set forth under ‘District of Columbia Funds, Summary of Expenses’ as included in the Fiscal Year 2007 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 5, 2006 as amended on January 16, 2007.

“(h) Section 203(c) of the 2005 District of Columbia Omnibus Authorization Act (Public Law 109-356; 120 Stat. 2038) is amended by striking ‘6 months’ and inserting ‘1 year’.

Expenditure
plan.
Deadline.

“(i) Not later than 60 days after the enactment of this section, the Mayor of the District of Columbia shall submit a plan for the expenditure of the funds made available to the District of Columbia pursuant to this division to the Committees on Appropriations of the House of Representatives and the Senate.

“SEC. 21074. Within the amount provided by this division for ‘Other Federal Drug Control Programs’, the following amount shall not be required: \$1,980,000 as a directed grant to the Community Anti-Drug Coalitions of America for the National Community Anti-Drug Coalition Institute, as authorized in chapter 2 of the National Narcotics Leadership Act of 1988, as amended.

“SEC. 21075. Within the amount provided by this division for ‘Other Federal Drug Control Programs’, \$1,980,000 is provided, as authorized, under the Drug-Free Communities Support Program, for training, technical assistance, evaluation, research, and capacity building for coalitions.

“SEC. 21076. Notwithstanding section 101, no funds shall be appropriated or otherwise made available by this division for the following accounts of the Department of the Treasury: ‘Air Transportation Stabilization Program Account’; and ‘Treasury Building and Annex Repair and Restoration’.

“SEC. 21077. For purposes of this division, section 206 of Public Law 109–115 shall not apply.

“SEC. 21078. (a) The Federal Election Commission may charge and collect fees for attending or otherwise participating in a conference sponsored by the Commission, and notwithstanding section 3302 of title 31, United States Code, any amounts received from such fees during a fiscal year shall be credited to and merged with the amounts appropriated or otherwise made available to the Commission during the year, and shall be available for use during the year for the costs of sponsoring such conferences. 2 USC 457.

“(b) This section shall apply with respect to fiscal year 2007 and each succeeding fiscal year. Applicability.

“CHAPTER 11—DEPARTMENT OF HOMELAND SECURITY

“SEC. 21101. Not to exceed \$155,600,000 shall be transferred to ‘Department of Homeland Security, Transportation Security Administration, Expenses’, to liquidate obligations incurred against funds appropriated in fiscal years 2002 and 2003, of which \$150,300,000 shall be from unobligated balances currently available to the Transportation Security Administration, \$300,000 shall be from unobligated balances currently available to the Office of the Secretary and Executive Management, and \$5,000,000 shall be from unobligated balances currently available to the Under Secretary for Management: *Provided*, That the Transportation Security Administration shall not utilize any unobligated balances from the following programs: screener partnership program; explosive detection system purchase; explosive detection system installation; check-point support; aviation regulation and other enforcement; air cargo; air cargo research and development; and operation integration: *Provided further*, That of the funds transferred, \$2,000,000 shall be from the ‘Secure Flight Program’; \$100,000 shall be from the ‘Immediate Office of the Deputy Secretary’; \$100,000 shall be from the ‘Office of Legislative and Intergovernmental Affairs’; \$100,000 shall be from the ‘Office of Public Affairs’; and \$5,000,000 shall be from ‘MAX-HR Human Resource System’.

“This division may be cited as the ‘Continuing Appropriations Resolution, 2007’.”.

Approved February 15, 2007.

LEGISLATIVE HISTORY—H.J. Res. 20:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Jan. 31, considered and passed House.

Feb. 8, 13, 14, considered and passed Senate.



Public Law 110–6
110th Congress

An Act

To amend the Antitrust Modernization Commission Act of 2002, to extend the term of the Antitrust Modernization Commission and to make a technical correction.

Feb. 26, 2007
[H.R. 742]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Antitrust Modernization Commission Extension Act of 2007”.

Antitrust
Modernization
Commission
Extension Act
of 2007.
15 USC 1 note.

SEC. 2. EXTENSION OF TERMINATION.

Section 11059 of the Antitrust Modernization Commission Act of 2002 (15 U.S.C. 1 note) is amended—

- (1) by striking “30 days” and inserting “60 days”; and
- (2) by striking “section 8” and inserting “section 11058”.

Approved February 26, 2007.

LEGISLATIVE HISTORY—H.R. 742:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Feb. 7, considered and passed House.

Feb. 12, considered and passed Senate.



Public Law 110–7
110th Congress

An Act

Mar. 7, 2007
[H.R. 49]

To designate the facility of the United States Postal Service located at 1300 North Frontage Road West in Vail, Colorado, as the “Gerald R. Ford, Jr. Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GERALD R. FORD, JR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1300 North Frontage Road West in Vail, Colorado, shall be known and designated as the “Gerald R. Ford, Jr. Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Gerald R. Ford, Jr. Post Office Building”.

Approved March 7, 2007.

LEGISLATIVE HISTORY—H.R. 49:

CONGRESSIONAL RECORD, Vol. 153 (2007):
Jan. 29, considered and passed House.
Feb. 17, considered and passed Senate.



Public Law 110–8
110th Congress

An Act

To designate the facility of the United States Postal Service located at 152 North 5th Street in Laramie, Wyoming, as the “Gale W. McGee Post Office”.

Mar. 7, 2007
[H.R. 335]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GALE W. MCGEE POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 152 North 5th Street in Laramie, Wyoming, shall be known and designated as the “Gale W. McGee Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Gale W. McGee Post Office”.

Approved March 7, 2007.

LEGISLATIVE HISTORY—H.R. 335:

CONGRESSIONAL RECORD, Vol. 153 (2007):
Jan. 29, considered and passed House.
Feb. 17, considered and passed Senate.



Public Law 110–9
110th Congress

An Act

Mar. 7, 2007
[H.R. 433]

To designate the facility of the United States Postal Service located at 1700 Main Street in Little Rock, Arkansas, as the “Scipio A. Jones Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SCIPIO A. JONES POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1700 Main Street in Little Rock, Arkansas, shall be known and designated as the “Scipio A. Jones Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Scipio A. Jones Post Office Building”.

Approved March 7, 2007.

LEGISLATIVE HISTORY—H.R. 433:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Feb. 5, considered and passed House.

Feb. 17, considered and passed Senate.



Public Law 110–10
110th Congress

An Act

To designate the facility of the United States Postal Service located at 16150 Aviation Loop Drive in Brooksville, Florida, as the “Sergeant Lea Robert Mills Brooksville Aviation Branch Post Office”.

Mar. 7, 2007

[H.R. 514]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. SERGEANT LEA ROBERT MILLS BROOKSVILLE AVIATION
BRANCH POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 16150 Aviation Loop Drive in Brooksville, Florida, shall be known and designated as the “Sergeant Lea Robert Mills Brooksville Aviation Branch Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Sergeant Lea Robert Mills Brooksville Aviation Branch Post Office”.

Approved March 7, 2007.

LEGISLATIVE HISTORY—H.R. 514:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Feb. 5, considered and passed House.

Feb. 17, considered and passed Senate.



Public Law 110–11
110th Congress

An Act

Mar. 7, 2007
[H.R. 577]

To designate the facility of the United States Postal Service located at 3903 South Congress Avenue in Austin, Texas, as the “Sergeant Henry Ybarra III Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SERGEANT HENRY YBARRA III POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 3903 South Congress Avenue in Austin, Texas, shall be known and designated as the “Sergeant Henry Ybarra III Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Sergeant Henry Ybarra III Post Office Building”.

Approved March 7, 2007.

LEGISLATIVE HISTORY—H.R. 577:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Feb. 5, considered and passed House.

Feb. 17, considered and passed Senate.



Public Law 110–12
110th Congress

An Act

To designate the facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, as the “Lane Evans Post Office Building”.

Mar. 15, 2007
[H.R. 521]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LANE EVANS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, shall be known and designated as the “Lane Evans Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lane Evans Post Office Building”.

Approved March 15, 2007.

LEGISLATIVE HISTORY—H.R. 521:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Jan. 29, considered and passed House.

Feb. 17, considered and passed Senate.



Public Law 110–13
110th Congress

An Act

Mar. 21, 2007
[H.R. 342]

To designate the United States courthouse located at 555 Independence Street in Cape Girardeau, Missouri, as the “Rush Hudson Limbaugh, Sr. United States Courthouse”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RUSH HUDSON LIMBAUGH, SR. UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse located at 555 Independence Street in Cape Girardeau, Missouri, shall be known and designated as the “Rush Hudson Limbaugh, Sr. United States Courthouse”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the “Rush Hudson Limbaugh, Sr. United States Courthouse”.

Approved March 21, 2007.

LEGISLATIVE HISTORY—H.R. 342:

HOUSE REPORTS: No. 110–10 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Feb. 12, considered and passed House.

Mar. 9, considered and passed Senate.



Public Law 110–14
110th Congress

An Act

To designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the “Santiago E. Campos United States Courthouse”.

Mar. 21, 2007
[H.R. 544]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse at South Federal Place in Santa Fe, New Mexico, shall be known and designated as the “Santiago E. Campos United States Courthouse”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the “Santiago E. Campos United States Courthouse”.

Approved March 21, 2007.

LEGISLATIVE HISTORY—H.R. 544:

HOUSE REPORTS: No. 110–18 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 6, considered and passed House.

Mar. 9, considered and passed Senate.



Public Law 110–15
110th Congress

An Act

Mar. 23, 2007
[H.R. 584]

To designate the Federal building located at 400 Maryland Avenue Southwest in the District of Columbia as the “Lyndon Baines Johnson Department of Education Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 400 Maryland Avenue Southwest in the District of Columbia shall be known and designated as the “Lyndon Baines Johnson Department of Education Building”.

SEC. 2. REFERENCES.

Any reference in law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the “Lyndon Baines Johnson Department of Education Building”.

Approved March 23, 2007.

LEGISLATIVE HISTORY—H.R. 584:

HOUSE REPORTS: No. 110–17 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 153 (2007):
Mar. 6, considered and passed House.
Mar. 9, considered and passed Senate.



Public Law 110–16
110th Congress

An Act

To provide for the construction, operation, and maintenance of an arterial road
in St. Louis County, Missouri.

Mar. 28, 2007
[H.R. 1129]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. PROJECT DEFINED.

In this Act, the term “project” means only the portion of St. Louis County, Missouri, arterial road 1151 that is deed-restricted property, which specifically applies to approximately 0.3 acres and 540 lineal feet and is identified as the “FEMA” route in the document entitled “Lemay Connector Road for Long-Term Recovery, Recreational Enhancements, & Community, & Economic Development”, dated June 1, 2006, on file with the St. Louis County department of highways and traffic.

SEC. 2. APPLICABILITY OF CERTAIN FEDERAL LAW.

The St. Louis County arterial road 1151, known as the “Lemay Connector Road” in St. Louis City and County, Missouri, may be constructed, operated, and maintained over the deed-restricted property described in section 1, notwithstanding section 404(b)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) or Public Law 103–211 and any easement or other similar restriction pursuant to those Federal laws on the development of property that requires the property be maintained for open space, recreation, or wetland management.

SEC. 3. NO DETRIMENTAL EFFECT ON FLOOD PLAIN.

For the project, St. Louis County, Missouri, shall ensure that the project is constructed, operated, and maintained in such a manner that would not cause any future additional flood damage that would not have occurred without the project. Prior to constructing the project, St. Louis County or its assignee must identify and agree to restrict a nearby parcel of land of equal or greater size to the deed restricted land used for the project so that such parcel is maintained for open space, recreation, or wetland management.

SEC. 4. LIABILITY FOR FLOOD DAMAGE.

The Federal Government shall not be liable for future flood damage that is caused by the project. St. Louis County, Missouri, or its assignee shall be liable for any future flood damage that is caused by the project.

SEC. 5. NO FUTURE DISASTER ASSISTANCE.

The deed-restricted property described in section 1 is not eligible for any future disaster assistance from any other Federal source.

Approved March 28, 2007.

LEGISLATIVE HISTORY—H.R. 1129:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Feb. 27, considered and passed House.

Mar. 13, considered and passed Senate.



Public Law 110–17
110th Congress

An Act

To endorse further enlargement of the North Atlantic Treaty Organization (NATO) and to facilitate the timely admission of new members to NATO, and for other purposes.

Apr. 9, 2007
[S. 494]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “NATO Freedom Consolidation Act of 2007”.

NATO Freedom
Consolidation Act
of 2007.
22 USC 1928
note.

SEC. 2. FINDINGS.

Congress makes the following findings:

22 USC 1928
note.

(1) The sustained commitment of the North Atlantic Treaty Organization (NATO) to mutual defense has made possible the democratic transformation of Central and Eastern Europe. Members of the North Atlantic Treaty Organization can and should play a critical role in addressing the security challenges of the post-Cold War era in creating the stable environment needed for those emerging democracies in Europe.

(2) Lasting stability and security in Europe requires the military, economic, and political integration of emerging democracies into existing European structures.

(3) In an era of threats from terrorism and the proliferation of weapons of mass destruction, the North Atlantic Treaty Organization is increasingly contributing to security in the face of global security challenges for the protection and interests of its member states.

(4) In the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), Congress declared that “full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date . . .”.

(5) In the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note), Congress called for the prompt admission of Poland, Hungary, the Czech Republic, and Slovenia to the North Atlantic Treaty Organization, and declared that “in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine . . . the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting

Poland, Hungary, the Czech Republic, and Slovenia as full members of the NATO Alliance”.

(6) In the European Security Act of 1998 (title XXVII of division G of Public Law 105-277; 22 U.S.C. 1928 note), Congress declared that “Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO” and that “Romania, Estonia, Latvia, Lithuania, and Bulgaria . . . would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members [and] upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date”.

(7) In the Gerald B. H. Solomon Freedom Consolidation Act of 2002 (Public Law 107-187; 22 U.S.C. 1928 note), Congress endorsed “. . . the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996”.

(8) At the Madrid Summit of the North Atlantic Treaty Organization in July 1997, Poland, Hungary, and the Czech Republic were invited to join the Alliance, and the North Atlantic Treaty Organization heads of state and government issued a declaration stating “[t]he alliance expects to extend further invitations in coming years to nations willing and able to assume the responsibilities and obligations of membership . . . [n]o European democratic country whose admission would fulfill the objectives of the [North Atlantic] Treaty will be excluded from consideration”.

(9) At the Washington Summit of the North Atlantic Treaty Organization in April 1999, the North Atlantic Treaty Organization heads of state and government issued a communiqué declaring “[w]e pledge that NATO will continue to welcome new members in a position to further the principles of the [North Atlantic] Treaty and contribute to peace and security in the Euro-Atlantic area . . . [t]he three new members will not be the last . . . [n]o European democratic country whose admission would fulfill the objectives of the Treaty will be excluded from consideration, regardless of its geographic location . . .”.

(10) In May 2000 in Vilnius, Lithuania, the foreign ministers of Albania, Bulgaria, Estonia, Latvia, Lithuania, the Republic of Macedonia (FYROM), Romania, Slovakia, and Slovenia issued a statement (later joined by Croatia) declaring that—

(A) their countries will cooperate in jointly seeking membership in the North Atlantic Treaty Organization in the next round of enlargement of the North Atlantic Treaty Organization;

(B) the realization of membership in the North Atlantic Treaty Organization by one or more of these countries would be a success for all; and

(C) eventual membership in the North Atlantic Treaty Organization for all of these countries would be a success for Europe and for the North Atlantic Treaty Organization.

(11) On June 15, 2001, in a speech in Warsaw, Poland, President George W. Bush stated “[a]ll of Europe’s new democracies, from the Baltic to the Black Sea and all that lie between, should have the same chance for security and freedom—and the same chance to join the institutions of Europe—as Europe’s old democracies have . . . I believe in NATO membership for all of Europe’s democracies that seek it and are ready to share the responsibilities that NATO brings . . . [a]s we plan to enlarge NATO, no nation should be used as a pawn in the agenda of others . . . [w]e will not trade away the fate of free European peoples . . . [n]o more Munichs . . . [n]o more Yaltas . . . [a]s we plan the Prague Summit, we should not calculate how little we can get away with, but how much we can do to advance the cause of freedom”.

(12) On October 22, 1996, in a speech in Detroit, Michigan, former President William J. Clinton stated “NATO’s doors will not close behind its first new members . . . NATO should remain open to all of Europe’s emerging democracies who are ready to shoulder the responsibilities of membership . . . [n]o nation will be automatically excluded . . . [n]o country outside NATO will have a veto . . . [a] gray zone of insecurity must not reemerge in Europe”.

(13) At the Prague Summit of the North Atlantic Treaty Organization in November 2002, Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia were invited to join the Alliance in the second round of enlargement of the North Atlantic Treaty Organization since the end of the Cold War, and the North Atlantic Treaty Organization heads of state and government issued a declaration stating “NATO’s door will remain open to European democracies willing and able to assume the responsibilities and obligations of membership, in accordance with Article 10 of the Washington Treaty”.

(14) On May 8, 2003, the United States Senate unanimously approved the Resolution of Ratification to Accompany Treaty Document No. 108-4, Protocols to the North Atlantic Treaty of 1949 on Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, inviting Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to join the North Atlantic Treaty Organization.

(15) At the Istanbul Summit of the North Atlantic Treaty Organization in June 2004, the North Atlantic Treaty Organization heads of state and government issued a communiqué reaffirming that NATO’s door remains open to new members, declaring “[w]e celebrate the success of NATO’s Open Door Policy, and reaffirm today that our seven new members will not be the last. The door to membership remains open. We welcome the progress made by Albania, Croatia, and the former Yugoslav Republic of Macedonia (1) in implementing their Annual National Programmes under the Membership Action Plan, and encourage them to continue pursuing the reforms necessary to progress toward NATO membership. We also commend their contribution to regional stability and cooperation. We want all three countries to succeed and will continue to assist them in their reform efforts. NATO will continue to assess each country’s candidacy individually, based on the progress made towards reform goals pursued through the Membership Action Plan, which will remain the vehicle to keep

the readiness of each aspirant for membership under review. We direct that NATO Foreign Ministers keep the enlargement process, including the implementation of the Membership Action Plan, under continual review and report to us. We will review at the next Summit progress by aspirants towards membership based on that report”.

(16) Georgia and Ukraine have stated their desire to join the Euro-Atlantic community, and in particular, are seeking to join the North Atlantic Treaty Organization. Georgia and Ukraine are working closely with the North Atlantic Treaty Organization and its members to meet criteria for eventual membership in NATO.

(17) At a press conference with President Mikhail Saakashvili of Georgia in Washington, D.C. on July 5, 2006, President George W. Bush stated that “. . . I believe that NATO would benefit with Georgia being a member of NATO, and I think Georgia would benefit. And there’s a way forward through the Membership Action Plan . . . And I’m a believer in the expansion of NATO. I think it’s in the world’s interest that we expand NATO”.

(18) Following a meeting of NATO Foreign Ministers in New York on September 21, 2006, NATO Secretary General Jaap de Hoop Scheffer announced the launching of an Intensified Dialogue on membership between the Alliance and Georgia.

(19) At the NATO-Ukraine Commission Summit in Brussels in February 2005, President of Ukraine Victor Yushchenko declared membership in NATO as the ultimate goal of Ukraine’s cooperation with the Alliance and expressed Ukraine’s desire to conclude a Membership Action Plan.

(20) At the NATO-Ukraine Commission Foreign Ministerial meeting in Vilnius in April 2005, NATO and Ukraine launched an Intensified Dialogue on the potential membership of Ukraine in NATO.

(21) At the Riga Summit of the North Atlantic Treaty Organization in November 2006, the Heads of State and Government of the member countries of NATO issued a declaration reaffirming that NATO’s door remains open to new members, declaring that “all European democratic countries may be considered for MAP (Membership Action Plan) or admission, subject to decision by the NAC (North Atlantic Council) at each stage, based on the performance of these countries towards meeting the objectives of the North Atlantic Treaty. We direct that NATO Foreign Ministers keep that process under continual review and report to us. We welcome the efforts of Albania, Croatia, and the former Yugoslav Republic of Macedonia to prepare themselves for the responsibilities and obligations of membership. We reaffirm that the Alliance will continue with Georgia and Ukraine its Intensified Dialogues which cover the full range of political, military, financial and security issues relating to those countries’ aspirations to membership, without prejudice to any eventual Alliance decision. We reaffirm the importance of the NATO-Ukraine Distinctive Partnership, which has its 10th anniversary next year and welcome the progress that has been made in the framework of our Intensified Dialogue. We appreciate Ukraine’s substantial contributions to our common security, including through participation in

NATO-led operations and efforts to promote regional cooperation. We encourage Ukraine to continue to contribute to regional security. We are determined to continue to assist, through practical cooperation, in the implementation of far-reaching reform efforts, notably in the fields of national security, defence, reform of the defence-industrial sector and fighting corruption. We welcome the commencement of an Intensified Dialogue with Georgia as well as Georgia's contribution to international peacekeeping and security operations. We will continue to engage actively with Georgia in support of its reform process. We encourage Georgia to continue progress on political, economic and military reforms, including strengthening judicial reform, as well as the peaceful resolution of outstanding conflicts on its territory. We reaffirm that it is of great importance that all parties in the region should engage constructively to promote regional peace and stability.”.

(22) Contingent upon their continued implementation of democratic, defense, and economic reform, and their willingness and ability to meet the responsibilities of membership in the North Atlantic Treaty Organization and a clear expression of national intent to do so, Congress calls for the timely admission of Albania, Croatia, Georgia, Macedonia (FYROM), and Ukraine to the North Atlantic Treaty Organization to promote security and stability in Europe.

SEC. 3. DECLARATIONS OF POLICY.

22 USC 1928
note.

Congress—

(1) reaffirms its previous expressions of support for continued enlargement of the North Atlantic Treaty Organization contained in the NATO Participation Act of 1994, the NATO Enlargement Facilitation Act of 1996, the European Security Act of 1998, and the Gerald B. H. Solomon Freedom Consolidation Act of 2002;

(2) supports the commitment to further enlargement of the North Atlantic Treaty Organization to include European democracies that are able and willing to meet the responsibilities of Membership, as expressed by the Alliance in its Madrid Summit Declaration of 1997, its Washington Summit Communiqué of 1999, its Prague Summit Declaration of 2002, its Istanbul Summit Communiqué of 2004, and its Riga Summit Declaration of 2006; and

(3) endorses the vision of further enlargement of the North Atlantic Treaty Organization articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and urges our allies in the North Atlantic Treaty Organization to work with the United States to realize a role for the North Atlantic Treaty Organization in promoting global security, including continued support for enlargement to include qualified candidate states, specifically by entering into a Membership Action Plan with Georgia and recognizing the progress toward meeting the responsibilities and obligations of NATO membership by Albania, Croatia, Georgia, Macedonia (FYROM), and Ukraine.

SEC. 4. DESIGNATION OF ALBANIA, CROATIA, GEORGIA, MACEDONIA (FYROM), AND UKRAINE AS ELIGIBLE TO RECEIVE ASSISTANCE UNDER THE NATO PARTICIPATION ACT OF 1994.

22 USC 1928
note.

(a) DESIGNATION.—

(1) ALBANIA.—The Republic of Albania is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (title II of Public Law 103-447; 22 U.S.C. 1928 note), and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(2) CROATIA.—The Republic of Croatia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(3) GEORGIA.—Georgia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(4) MACEDONIA (FYROM).—The Republic of Macedonia (FYROM) is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(5) UKRAINE.—Ukraine is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(b) RULE OF CONSTRUCTION.—The designation of the Republic of Albania, the Republic of Croatia, Georgia, the Republic of Macedonia (FYROM), and Ukraine pursuant to subsection (a) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

(1) is in addition to the designation of Poland, Hungary, the Czech Republic, and Slovenia pursuant to section 606 of the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104-208; 22 U.S.C. 1928 note), the designation of Romania, Estonia, Latvia, Lithuania, and Bulgaria pursuant to section 2703(b) of the European Security Act of 1998 (title XXVII of division G of Public Law 105-277; 22 U.S.C. 1928 note), and the designation of Slovakia pursuant to section 4(a) of the Gerald B. H. Solomon Freedom Consolidation Act of 2002 (Public Law 107-187; 22 U.S.C. 1928 note) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994; and

(2) shall not preclude the designation by the President of other countries pursuant to section 203(d)(2) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

Appropriation
authorization.
22 USC 1928
note.

SEC. 5. AUTHORIZATION OF SECURITY ASSISTANCE FOR COUNTRIES DESIGNATED UNDER THE NATO PARTICIPATION ACT OF 1994.

Of the amounts made available for fiscal year 2008 under section 23 of the Arms Export Control Act (22 U.S.C. 2763) such sums as may be necessary are authorized to be appropriated for

assistance to the Republic of Albania, the Republic of Croatia, Georgia, the Republic of Macedonia (FYROM), and Ukraine.

Approved April 9, 2007.

LEGISLATIVE HISTORY—S. 494 (H.R. 987):

SENATE REPORTS: No. 110–34 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 15, considered and passed Senate.

Mar. 26, considered and passed House.



Public Law 110–18
110th Congress

An Act

Apr. 20, 2007
[H.R. 1132]

To amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Breast
and Cervical
Cancer Early
Detection
Program
Reauthorization
Act of 2007.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Breast and Cervical Cancer Early Detection Program Reauthorization Act of 2007”.

SEC. 2. NATIONAL BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM.

Title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) is amended—

42 USC 300k.

(1) in section 1501(d)—

(A) in the heading, by striking “2000” and inserting “2020”; and

(B) by striking “by the year 2000” and inserting “by the year 2020”;

42 USC 300m.

(2) in section 1503, by adding at the end the following:

“(d) WAIVER OF SERVICES REQUIREMENT ON DIVISION OF FUNDS.—

“(1) IN GENERAL.—The Secretary shall establish a demonstration project under which the Secretary may waive the requirements of paragraphs (1) and (4) of subsection (a) for not more than 5 States, if—

“(A) the State involved will use the waiver to leverage non-Federal funds to supplement each of the services or activities described in paragraphs (1) and (2) of section 1501(a);

“(B) the application of such requirement would result in a barrier to the enrollment of qualifying women;

“(C) the State involved—

“(i) demonstrates, to the satisfaction of the Secretary, the manner in which the State will use such waiver to expand the level of screening and follow-up services provided immediately prior to the date on which the waiver is granted; and

“(ii) provides assurances, satisfactory to the Secretary, that the State will, on an annual basis, demonstrate, through such documentation as the Secretary may require, that the State has used such waiver as described in clause (i);

“(D) the State involved submits to the Secretary—

“(i) assurances, satisfactory to the Secretary, that the State will maintain the average annual level of State fiscal year expenditures for the services and activities described in paragraphs (1) and (2) of section 1501(a) for the period for which the waiver is granted, and for the period for which any extension of such waiver is granted, at a level that is not less than—

“(I) the level of the State fiscal year expenditures for such services and activities for the fiscal year preceding the first fiscal year for which the waiver is granted; or

“(II) at the option of the State and upon approval by the Secretary, the average level of the State expenditures for such services and activities for the 3-fiscal year period preceding the first fiscal year for which the waiver is granted; and

“(ii) a plan, satisfactory to the Secretary, for maintaining the level of activities carried out under the waiver after the expiration of the waiver and any extension of such waiver;

“(E) the Secretary finds that granting such a waiver to a State will increase the number of women in the State that receive each of the services or activities described in paragraphs (1) and (2) of section 1501(a), including making available screening procedures for both breast and cervical cancers; and

“(F) the Secretary finds that granting such a waiver to a State will not adversely affect the quality of each of the services or activities described in paragraphs (1) and (2) of section 1501(a).

“(2) DURATION OF WAIVER.—

“(A) IN GENERAL.—In granting waivers under paragraph (1), the Secretary—

“(i) shall grant such waivers for a period that is not less than 1 year but not more than 2 years; and

“(ii) upon request of a State, may extend a waiver for an additional period that is not less than 1 year but not more than 2 years in accordance with subparagraph (B).

“(B) ADDITIONAL PERIOD.—The Secretary, upon the request of a State that has received a waiver under paragraph (1), shall, at the end of the waiver period described in subparagraph (A)(i), review performance under the waiver and may extend the waiver for an additional period if the Secretary determines that—

“(i) without an extension of the waiver, there will be a barrier to the enrollment of qualifying women;

“(ii) the State requesting such extended waiver will use the waiver to leverage non-Federal funds to supplement the services or activities described in paragraphs (1) and (2) of section 1501(a);

“(iii) the waiver has increased, and will continue to increase, the number of women in the State that receive the services or activities described in paragraphs (1) and (2) of section 1501(a);

“(iv) the waiver has not, and will not, result in lower quality in the State of the services or activities described in paragraphs (1) and (2) of section 1501(a); and

“(v) the State has maintained the average annual level of State fiscal expenditures for the services and activities described in paragraphs (1) and (2) of section 1501(a) for the period for which the waiver was granted at a level that is not less than—

“(I) the level of the State fiscal year expenditures for such services and activities for the fiscal year preceding the first fiscal year for which the waiver is granted; or

“(II) at the option of the State and upon approval by the Secretary, the average level of the State expenditures for such services and activities for the 3-fiscal year period preceding the first fiscal year for which the waiver is granted.

“(3) REPORTING REQUIREMENTS.—The Secretary shall include as part of the evaluations and reports required under section 1508, the following:

“(A) A description of the total amount of dollars leveraged annually from Non-Federal entities in States receiving a waiver under paragraph (1) and how these amounts were used.

“(B) With respect to States receiving a waiver under paragraph (1), a description of the percentage of the grant that is expended on providing each of the services or activities described in—

“(i) paragraphs (1) and (2) of section 1501(a); and

“(ii) paragraphs (3) through (6) of section 1501(a).

“(C) A description of the number of States receiving waivers under paragraph (1) annually.

“(D) With respect to States receiving a waiver under paragraph (1), a description of—

“(i) the number of women receiving services under paragraphs (1), (2), and (3) of section 1501(a) in programs before and after the granting of such waiver; and

“(ii) the average annual level of State fiscal expenditures for the services and activities described in paragraphs (1) and (2) of section 1501(a) for the year preceding the first year for which the waiver was granted.

“(4) LIMITATION.—Amounts to which a waiver applies under this subsection shall not be used to increase the number of salaried employees.

“(5) DEFINITIONS.—In this subsection:

“(A) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

“(B) TRIBAL ORGANIZATION.—The term ‘tribal organization’ has the meaning given the term in section 4 of the Indian Health Care Improvement Act.

“(C) STATE.—The term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the

Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, an Indian tribe, and a tribal organization.

“(6) SUNSET.—The Secretary may not grant a waiver or extension under this subsection after September 30, 2012.”; (3) in section 1508—

42 USC 300n–4.

(A) in subsection (a), by striking “evaluations of the extent to which” and all that follows through the period and inserting: “evaluations of—

“(1) the extent to which States carrying out such programs are in compliance with section 1501(a)(2) and with section 1504(c); and

“(2) the extent to which each State receiving a grant under this title is in compliance with section 1502, including identification of—

“(A) the amount of the non-Federal contributions by the State for the preceding fiscal year, disaggregated according to the source of the contributions; and

“(B) the proportion of such amount of non-Federal contributions relative to the amount of Federal funds provided through the grant to the State for the preceding fiscal year.”; and

(B) in subsection (b), by striking “not later than 1 year after the date on which amounts are first appropriated pursuant to section 1509(a), and annually thereafter” and inserting “not later than 1 year after the date of the enactment of the National Breast and Cervical Cancer Early Detection Program Reauthorization of 2007, and annually thereafter”; and

Deadline.

(4) in section 1510(a)—

42 USC 300n–5.

(A) by striking “and” after “\$150,000,000 for fiscal year 1994.”; and

(B) by inserting “, \$225,000,000 for fiscal year 2008, \$245,000,000 for fiscal year 2009, \$250,000,000 for fiscal year 2010, \$255,000,000 for fiscal year 2011, and \$275,000,000 for fiscal year 2012” before the period at the end.

Approved April 20, 2007.

LEGISLATIVE HISTORY—H.R. 1132 (S. 624):

HOUSE REPORTS: No. 110–76 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 27, considered and passed House.

Mar. 29, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Apr. 20, Presidential remarks.



Public Law 110–19
110th Congress

An Act

Apr. 23, 2007
[S. 1002]

To amend the Older Americans Act of 1965 to reinstate certain provisions relating to the nutrition services incentive program.

Older Americans
Reauthorization
Technical
Corrections Act.
42 USC 3001
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Older Americans Reauthorization Technical Corrections Act”.

SEC. 2. NUTRITION SERVICES INCENTIVE PROGRAM.

Section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a), as amended by section 309 of the Older Americans Act Amendments of 2006, is further amended—

(1) by striking subsection (b)(3);

(2) by striking subsection (d) and inserting the following:

“(d)(1) Each State agency and each title VI grantee shall be entitled to use all or any part of amounts allotted under subsection (b) to obtain, subject to paragraphs (2) and (3), from the Secretary of Agriculture commodities available through any food program of the Department of Agriculture at the rates at which such commodities are valued for purposes of such program.

Reports.

“(2) The Secretary of Agriculture shall determine and report to the Secretary, by such date as the Secretary may require, the amount (if any) of its allotment under subsection (b) which each State agency and title VI grantee has elected to receive in the form of commodities. Such amount shall include an amount bearing the same ratio to the costs to the Secretary of Agriculture of providing such commodities under this subsection as the value of commodities received by such State agency or title VI grantee under this subsection bears to the total value of commodities so received.

“(3) From the allotment under subsection (b) for each State agency and title VI grantee, the Secretary shall transfer funds to the Secretary of Agriculture for the costs of commodities received by such State agency or grantee, and expenses related to the procurement of the commodities on behalf of such State agency or grantee, under this subsection, and shall then pay the balance (if any) to such State agency or grantee. The amount of funds transferred for the expenses related to the procurement of the commodities shall be mutually agreed on by the Secretary and the Secretary of Agriculture. The transfer of funds for the costs of the commodities and the related expenses shall occur in a timely manner after the Secretary of Agriculture submits the corresponding report described in paragraph (2), and shall be subject

to the availability of appropriations. Amounts received by the Secretary of Agriculture pursuant to this section to make commodity purchases for a fiscal year for a State agency or title VI grantee shall remain available, only for the next fiscal year, to make commodity purchases for that State agency or grantee pursuant to this section.

“(4) Each State agency and title VI grantee shall promptly and equitably disburse amounts received under this subsection to recipients of grants and contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase domestically produced foods for their nutrition projects.

“(5) Nothing in this subsection shall be construed to require any State agency or title VI grantee to elect to receive cash payments under this subsection.”; and

(3) by striking subsection (f) and inserting the following:

“(f) In each fiscal year, the Secretary and the Secretary of Agriculture shall jointly disseminate to State agencies, title VI grantees, area agencies on aging, and providers of nutrition services assisted under this title, information concerning the foods available to such State agencies, title VI grantees, area agencies on aging, and providers under subsection (c).”.

SEC. 3. EFFECTIVE DATE.

(a) **IN GENERAL.**—The amendments made by section 2 shall take effect beginning with fiscal year 2008.

(b) **APPLICATION PROCESS.**—Effective on the date of enactment of this Act, the Secretary of Agriculture shall take such actions as will enable State agencies and title VI grantees described in section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) to apply during fiscal year 2007 for allotments under such section for fiscal year 2008.

42 USC 3030a
note.

Approved April 23, 2007.

LEGISLATIVE HISTORY—S. 1002:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 27, considered and passed Senate.

Mar. 28, considered and passed House.



Public Law 110–20
110th Congress

An Act

May 2, 2007
[H.R. 753]

To redesignate the Federal building located at 167 North Main Street in Memphis, Tennessee, as the “Clifford Davis and Odell Horton Federal Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 167 North Main Street in Memphis, Tennessee, commonly known as the Clifford Davis Federal Building, shall be known and designated as the “Clifford Davis and Odell Horton Federal Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the “Clifford Davis and Odell Horton Federal Building”.

Approved May 2, 2007.

LEGISLATIVE HISTORY—H.R. 753:

HOUSE REPORTS: No. 110–72 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 26, considered and passed House.

Apr. 10, considered and passed Senate.



Public Law 110–21
110th Congress

An Act

To amend the Foreign Affairs Reform and Restructuring Act of 1998 to reauthorize the United States Advisory Commission on Public Diplomacy.

May 2, 2007
[H.R. 1003]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

Section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6553) is amended by striking “October 1, 2006” and inserting “October 1, 2009”.

Approved May 2, 2007.

LEGISLATIVE HISTORY—H.R. 1003:

SENATE REPORTS: No. 110–55 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 13, considered and passed House.

Apr. 18, considered and passed Senate.



Public Law 110–22
110th Congress

An Act

May 3, 2007
[H.R. 137]

To amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

Animal Fighting
Prohibition
Enforcement Act
of 2007.
18 USC 1 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Animal Fighting Prohibition Enforcement Act of 2007”.

SEC. 2. ENFORCEMENT OF ANIMAL FIGHTING PROHIBITIONS.

(a) IN GENERAL.—Chapter 3 of title 18, United States Code, is amended by adding at the end the following:

“§ 49. Enforcement of animal fighting prohibitions

“Whoever violates subsection (a), (b), (c), or (e) of section 26 of the Animal Welfare Act shall be fined under this title, imprisoned for not more than 3 years, or both, for each violation.”.

(b) CLERICAL AMENDMENT.—The table of contents for such chapter is amended by inserting after the item relating to section 48 the following:

“49. Enforcement of animal fighting prohibitions.”.

SEC. 3. AMENDMENTS TO THE ANIMAL WELFARE ACT.

Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) in subsection (c), by striking “interstate instrumentality” and inserting “instrumentality of interstate commerce for commercial speech”;

(2) in subsection (d), by striking “such subsections” and inserting “such subsection”;

(3) by striking subsection (e) and inserting the following:

“(e) It shall be unlawful for any person to knowingly sell, buy, transport, or deliver in interstate or foreign commerce a knife, a gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a bird for use in an animal fighting venture.”;

(4) in subsection (g)—

(A) in paragraph (1), by striking “or animals, such as waterfowl, bird, raccoon, or fox hunting”; and

(B) by striking paragraph (3) and inserting the following:

“(3) the term ‘instrumentality of interstate commerce’ means any written, wire, radio, television or other form of

communication in, or using a facility of, interstate commerce;”;
and

(5) by adding at the end the following new subsection:

“(i) The criminal penalties for violations of subsection (a), (b), (c), or (e) are provided in section 49 of title 18, United States Code.”.

Approved May 3, 2007.

LEGISLATIVE HISTORY—H.R. 137 (S. 261):

HOUSE REPORTS: No. 110–27, Pt. 1 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 26, considered and passed House.

Apr. 10, considered and passed Senate.



Public Law 110–23
110th Congress

An Act

May 3, 2007
[H.R. 727]

To amend the Public Health Service Act to add requirements regarding trauma care, and for other purposes.

Trauma Care
Systems
Planning and
Development Act
of 2007.
42 USC 201 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Trauma Care Systems Planning and Development Act of 2007”.

SEC. 2. ESTABLISHMENT.

Section 1201 of the Public Health Service Act (42 U.S.C. 300d) is amended to read as follows:

“SEC. 1201. ESTABLISHMENT.

“(a) IN GENERAL.—The Secretary shall, with respect to trauma care—

“(1) conduct and support research, training, evaluations, and demonstration projects;

“(2) foster the development of appropriate, modern systems of such care through the sharing of information among agencies and individuals involved in the study and provision of such care;

“(3) collect, compile, and disseminate information on the achievements of, and problems experienced by, State and local agencies and private entities in providing trauma care and emergency medical services and, in so doing, give special consideration to the unique needs of rural areas;

“(4) provide to State and local agencies technical assistance to enhance each State’s capability to develop, implement, and sustain the trauma care component of each State’s plan for the provision of emergency medical services;

“(5) sponsor workshops and conferences; and

“(6) promote the collection and categorization of trauma data in a consistent and standardized manner.

“(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants, and enter into cooperative agreements and contracts, for the purpose of carrying out subsection (a).”.

SEC. 3. CLEARINGHOUSE ON TRAUMA CARE AND EMERGENCY MEDICAL SERVICES.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

42 USC 300d–2.
42 USC 300d–3.

(1) by striking section 1202; and

(2) by redesignating section 1203 as section 1202.

SEC. 4. ESTABLISHMENT OF PROGRAMS FOR IMPROVING TRAUMA CARE IN RURAL AREAS.

Section 1202 of the Public Health Service Act, as redesignated by section 3(2), is amended to read as follows:

“SEC. 1202. ESTABLISHMENT OF PROGRAMS FOR IMPROVING TRAUMA CARE IN RURAL AREAS. 42 USC 300d-3.

“(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for the purpose of carrying out research and demonstration projects with respect to improving the availability and quality of emergency medical services in rural areas—

“(1) by developing innovative uses of communications technologies and the use of new communications technology;

“(2) by developing model curricula, such as advanced trauma life support, for training emergency medical services personnel, including first responders, emergency medical technicians, emergency nurses and physicians, and paramedics—

“(A) in the assessment, stabilization, treatment, preparation for transport, and resuscitation of seriously injured patients, with special attention to problems that arise during long transports and to methods of minimizing delays in transport to the appropriate facility; and

“(B) in the management of the operation of the emergency medical services system;

“(3) by making training for original certification, and continuing education, in the provision and management of emergency medical services more accessible to emergency medical personnel in rural areas through telecommunications, home studies, providing teachers and training at locations accessible to such personnel, and other methods;

“(4) by developing innovative protocols and agreements to increase access to prehospital care and equipment necessary for the transportation of seriously injured patients to the appropriate facilities;

“(5) by evaluating the effectiveness of protocols with respect to emergency medical services and systems; and

“(6) by increasing communication and coordination with State trauma systems.

“(b) SPECIAL CONSIDERATION FOR CERTAIN RURAL AREAS.—In making grants under subsection (a), the Secretary shall give special consideration to any applicant for the grant that will provide services under the grant in any rural area identified by a State under section 1214(d)(1).

“(c) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.”.

SEC. 5. COMPETITIVE GRANTS.

Part A of title XII of the Public Health Service Act, as amended by section 3, is amended by adding at the end the following:

42 USC 300d–5. **“SEC. 1203. COMPETITIVE GRANTS FOR THE IMPROVEMENT OF TRAUMA CARE.**

“(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States, political subdivisions, or consortia of States or political subdivisions for the purpose of improving access to and enhancing the development of trauma care systems.

“(b) USE OF FUNDS.—The Secretary may make a grant under this section only if the applicant agrees to use the grant—

“(1) to integrate and broaden the reach of a trauma care system, such as by developing innovative protocols to increase access to prehospital care;

“(2) to strengthen, develop, and improve an existing trauma care system;

“(3) to expand communications between the trauma care system and emergency medical services through improved equipment or a telemedicine system;

“(4) to improve data collection and retention; or

“(5) to increase education, training, and technical assistance opportunities, such as training and continuing education in the management of emergency medical services accessible to emergency medical personnel in rural areas through telehealth, home studies, and other methods.

“(c) PREFERENCE.—In selecting among States, political subdivisions, and consortia of States or political subdivisions for purposes of making grants under this section, the Secretary shall give preference to applicants that—

“(1) have developed a process, using national standards, for designating trauma centers;

“(2) recognize protocols for the delivery of seriously injured patients to trauma centers;

“(3) implement a process for evaluating the performance of the trauma system; and

“(4) agree to participate in information systems described in section 1202 by collecting, providing, and sharing information.

“(d) PRIORITY.—In making grants under this section, the Secretary shall give priority to applicants that will use the grants to focus on improving access to trauma care systems.

“(e) SPECIAL CONSIDERATION.—In awarding grants under this section, the Secretary shall give special consideration to projects that demonstrate strong State or local support, including availability of non-Federal contributions.”.

SEC. 6. REQUIREMENT OF MATCHING FUNDS FOR FISCAL YEARS SUBSEQUENT TO FIRST FISCAL YEAR OF PAYMENTS.

Section 1212 of the Public Health Service Act (42 U.S.C. 300d–12) is amended to read as follows:

“SEC. 1212. REQUIREMENT OF MATCHING FUNDS FOR FISCAL YEARS SUBSEQUENT TO FIRST FISCAL YEAR OF PAYMENTS.

“(a) NON-FEDERAL CONTRIBUTIONS.—

“(1) IN GENERAL.—The Secretary may not make payments under section 1211(a) unless the State involved agrees, with respect to the costs described in paragraph (2), to make available non-Federal contributions (in cash or in kind under subsection (b)(1)) toward such costs in an amount that—

“(A) for the second and third fiscal years of such payments to the State, is not less than \$1 for each \$1 of Federal funds provided in such payments for such fiscal years; and

“(B) for the fourth and subsequent fiscal years of such payments to the State, is not less than \$2 for each \$1 of Federal funds provided in such payments for such fiscal years.

“(2) PROGRAM COSTS.—The costs referred to in paragraph (1) are—

“(A) the costs to be incurred by the State in carrying out the purpose described in section 1211(b); or

“(B) the costs of improving the quality and availability of emergency medical services in rural areas of the State.

“(3) INITIAL YEAR OF PAYMENTS.—The Secretary may not require a State to make non-Federal contributions as a condition of receiving payments under section 1211(a) for the first fiscal year of such payments to the State.

“(b) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—With respect to compliance with subsection (a) as a condition of receiving payments under section 1211(a)—

“(1) a State may make the non-Federal contributions required in such subsection in cash or in kind, fairly evaluated, including plant, equipment, or services; and

“(2) the Secretary may not, in making a determination of the amount of non-Federal contributions, include amounts provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government.”.

SEC. 7. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF ALLOTMENTS.

Section 1213 of the Public Health Service Act (42 U.S.C. 300d-13) is amended to read as follows:

“SEC. 1213. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF ALLOTMENTS.

“(a) TRAUMA CARE MODIFICATIONS TO STATE PLAN FOR EMERGENCY MEDICAL SERVICES.—With respect to the trauma care component of a State plan for the provision of emergency medical services, the modifications referred to in section 1211(b) are such modifications to the State plan as may be necessary for the State involved to ensure that the plan provides for access to the highest possible quality of trauma care, and that the plan—

“(1) specifies that the modifications required pursuant to paragraphs (2) through (11) will be implemented by the principal State agency with respect to emergency medical services or by the designee of such agency;

“(2) specifies a public or private entity that will designate trauma care regions and trauma centers in the State;

“(3) subject to subsection (b), contains national standards and requirements of the American College of Surgeons or another appropriate entity for the designation of level I and level II trauma centers, and in the case of rural areas level III trauma centers (including trauma centers with specified capabilities and expertise in the care of pediatric trauma patients), by such entity, including standards and requirements for—

“(A) the number and types of trauma patients for whom such centers must provide care in order to ensure that such centers will have sufficient experience and expertise to be able to provide quality care for victims of injury;

“(B) the resources and equipment needed by such centers; and

“(C) the availability of rehabilitation services for trauma patients;

“(4) contains standards and requirements for the implementation of regional trauma care systems, including standards and guidelines (consistent with the provisions of section 1867 of the Social Security Act) for medically directed triage and transportation of trauma patients (including patients injured in rural areas) prior to care in designated trauma centers;

“(5) subject to subsection (b), contains national standards and requirements, including those of the American Academy of Pediatrics and the American College of Emergency Physicians, for medically directed triage and transport of severely injured children to designated trauma centers with specified capabilities and expertise in the care of pediatric trauma patients;

“(6) utilizes a program with procedures for the evaluation of designated trauma centers (including trauma centers described in paragraph (5)) and trauma care systems;

“(7) provides for the establishment and collection of data in accordance with data collection requirements developed in consultation with surgical, medical, and nursing specialty groups, State and local emergency medical services directors, and other trained professionals in trauma care, from each designated trauma center in the State of a central data reporting and analysis system—

“(A) to identify the number of severely injured trauma patients and the number of deaths from trauma within trauma care systems in the State;

“(B) to identify the cause of the injury and any factors contributing to the injury;

“(C) to identify the nature and severity of the injury;

“(D) to monitor trauma patient care (including prehospital care) in each designated trauma center within regional trauma care systems in the State (including relevant emergency-department discharges and rehabilitation information) for the purpose of evaluating the diagnosis, treatment, and treatment outcome of such trauma patients;

“(E) to identify the total amount of uncompensated trauma care expenditures for each fiscal year by each designated trauma center in the State; and

“(F) to identify patients transferred within a regional trauma system, including reasons for such transfer and the outcomes of such patients;

“(8) provides for the use of procedures by paramedics and emergency medical technicians to assess the severity of the injuries incurred by trauma patients;

“(9) provides for appropriate transportation and transfer policies to ensure the delivery of patients to designated trauma centers and other facilities within and outside of the jurisdiction

Records.

of such system, including policies to ensure that only individuals appropriately identified as trauma patients are transferred to designated trauma centers, and to provide periodic reviews of the transfers and the auditing of such transfers that are determined to be appropriate;

“(10) conducts public education activities concerning injury prevention and obtaining access to trauma care;

“(11) coordinates planning for trauma systems with State disaster emergency planning and bioterrorism hospital preparedness planning; and

“(12) with respect to the requirements established in this subsection, provides for coordination and cooperation between the State and any other State with which the State shares any standard metropolitan statistical area.

“(b) CERTAIN STANDARDS WITH RESPECT TO TRAUMA CARE CENTERS AND SYSTEMS.—

“(1) IN GENERAL.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees that, in carrying out paragraphs (3) through (5) of subsection (a), the State will adopt standards for the designation of trauma centers, and for triage, transfer, and transportation policies, and that the State will, in adopting such standards—

“(A) take into account national standards that outline resources for optimal care of injured patients;

“(B) consult with medical, surgical, and nursing specialty groups, hospital associations, emergency medical services State and local directors, concerned advocates, and other interested parties;

“(C) conduct hearings on the proposed standards after providing adequate notice to the public concerning such hearing; and

“(D) beginning in fiscal year 2008, take into account the model plan described in subsection (c).

“(2) QUALITY OF TRAUMA CARE.—The highest quality of trauma care shall be the primary goal of State standards adopted under this subsection.

“(3) APPROVAL BY THE SECRETARY.—The Secretary may not make payments under section 1211(a) to a State if the Secretary determines that—

“(A) in the case of payments for fiscal year 2008 and subsequent fiscal years, the State has not taken into account national standards, including those of the American College of Surgeons, the American College of Emergency Physicians, and the American Academy of Pediatrics, in adopting standards under this subsection; or

“(B) in the case of payments for fiscal year 2008 and subsequent fiscal years, the State has not, in adopting such standards, taken into account the model plan developed under subsection (c).

“(c) MODEL TRAUMA CARE PLAN.—

“(1) IN GENERAL.—Not later than 1 year after the date of the enactment of the Trauma Care Systems Planning and Development Act of 2007, the Secretary shall update the model plan for the designation of trauma centers and for triage, transfer, and transportation policies that may be adopted for guidance by the State. Such plan shall—

Notice.

Deadline.

“(A) take into account national standards, including those of the American College of Surgeons, American College of Emergency Physicians, and the American Academy of Pediatrics;

“(B) take into account existing State plans;

“(C) be developed in consultation with medical, surgical, and nursing speciality groups, hospital associations, emergency medical services State directors and associations, and other interested parties; and

“(D) include standards for the designation of rural health facilities and hospitals best able to receive, stabilize, and transfer trauma patients to the nearest appropriate designated trauma center, and for triage, transfer, and transportation policies as they relate to rural areas.

“(2) APPLICABILITY.—Standards described in paragraph (1)(D) shall be applicable to all rural areas in the State, including both non-metropolitan areas and frontier areas that have populations of less than 6,000 per square mile.

“(d) RULE OF CONSTRUCTION WITH RESPECT TO NUMBER OF DESIGNATED TRAUMA CENTERS.—With respect to compliance with subsection (a) as a condition of the receipt of a grant under section 1211(a), such subsection may not be construed to specify the number of trauma care centers designated pursuant to such subsection.”.

SEC. 8. REQUIREMENT OF SUBMISSION TO SECRETARY OF TRAUMA PLAN AND CERTAIN INFORMATION.

Section 1214 of the Public Health Service Act (42 U.S.C. 300d-14) is amended to read as follows:

“SEC. 1214. REQUIREMENT OF SUBMISSION TO SECRETARY OF TRAUMA PLAN AND CERTAIN INFORMATION.

“(a) IN GENERAL.—For each fiscal year, the Secretary may not make payments to a State under section 1211(a) unless, subject to subsection (b), the State submits to the Secretary the trauma care component of the State plan for the provision of emergency medical services, including any changes to the trauma care component and any plans to address deficiencies in the trauma care component.

“(b) INTERIM PLAN OR DESCRIPTION OF EFFORTS.—For each fiscal year, if a State has not completed the trauma care component of the State plan described in subsection (a), the State may provide, in lieu of such completed component, an interim component or a description of efforts made toward the completion of the component.

“(c) INFORMATION RECEIVED BY STATE REPORTING AND ANALYSIS SYSTEM.—The Secretary may not make payments to a State under section 1211(a) unless the State agrees that the State will, not less than once each year, provide to the Secretary the information received by the State pursuant to section 1213(a)(7).

“(d) AVAILABILITY OF EMERGENCY MEDICAL SERVICES IN RURAL AREAS.—The Secretary may not make payments to a State under section 1211(a) unless—

“(1) the State identifies any rural area in the State for which—

“(A) there is no system of access to emergency medical services through the telephone number 911;

“(B) there is no basic life-support system; or

“(C) there is no advanced life-support system; and

“(2) the State submits to the Secretary a list of rural areas identified pursuant to paragraph (1) or, if there are no such areas, a statement that there are no such areas.”.

SEC. 9. RESTRICTIONS ON USE OF PAYMENTS.

Section 1215 of the Public Health Service Act (42 U.S.C. 300d-15) is amended to read as follows:

“SEC. 1215. RESTRICTIONS ON USE OF PAYMENTS.

“(a) **IN GENERAL.**—The Secretary may not, except as provided in subsection (b), make payments under section 1211(a) for a fiscal year unless the State involved agrees that the payments will not be expended—

“(1) for any purpose other than developing, implementing, and monitoring the modifications required by section 1211(b) to be made to the State plan for the provision of emergency medical services;

“(2) to make cash payments to intended recipients of services provided pursuant to this section;

“(3) to purchase or improve real property (other than minor remodeling of existing improvements to real property);

“(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

“(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

“(b) **WAIVER.**—The Secretary may waive a restriction under subsection (a) only if the Secretary determines that the activities outlined by the State plan submitted under section 1214(a) by the State involved cannot otherwise be carried out.”.

SEC. 10. REQUIREMENTS OF REPORTS BY STATES.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by striking section 1216.

42 USC 300d-16.

SEC. 11. REPORT BY SECRETARY.

Section 1222 of the Public Health Service Act (42 U.S.C. 300d-22) is amended to read as follows:

“SEC. 1222. REPORT BY SECRETARY.

“Not later than October 1, 2008, the Secretary shall report to the appropriate committees of Congress on the activities of the States carried out pursuant to section 1211. Such report shall include an assessment of the extent to which Federal and State efforts to develop systems of trauma care and to designate trauma centers have reduced the incidence of mortality, and the incidence of permanent disability, resulting from trauma. Such report may include any recommendations of the Secretary for appropriate administrative and legislative initiatives with respect to trauma care.”.

SEC. 12. FUNDING.

Section 1232 of the Public Health Service Act (42 U.S.C. 300d-32) is amended to read as follows:

“SEC. 1232. FUNDING.

“(a) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out parts A and B, subject to subsections (b) and (c), there are authorized to be appropriated \$12,000,000 for fiscal year

2008, \$10,000,000 for fiscal year 2009, and \$8,000,000 for each of the fiscal years 2010 through 2012.

“(b) **RESERVATION OF FUNDS.**—If the amount appropriated under subsection (a) for a fiscal year is equal to or less than \$1,000,000, such appropriation is available only for the purpose of carrying out part A. If the amount so appropriated is greater than \$1,000,000, 50 percent of such appropriation shall be made available for the purpose of carrying out part A and 50 percent shall be made available for the purpose of carrying out part B.

“(c) **ALLOCATION OF PART A FUNDS.**—Of the amounts appropriated under subsection (a) for a fiscal year to carry out part A—

“(1) 10 percent of such amounts for such year shall be allocated for administrative purposes; and

“(2) 10 percent of such amounts for such year shall be allocated for the purpose of carrying out section 1202.”.

SEC. 13. RESIDENCY TRAINING PROGRAMS IN EMERGENCY MEDICINE.

Section 1251 of the Public Health Service Act (42 U.S.C. 300d–51) is amended to read as follows:

“SEC. 1251. RESIDENCY TRAINING PROGRAMS IN EMERGENCY MEDICINE.

“(a) **IN GENERAL.**—The Secretary may make grants to public and nonprofit private entities for the purpose of planning and developing approved residency training programs in emergency medicine.

“(b) **IDENTIFICATION AND REFERRAL OF DOMESTIC VIOLENCE.**—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that the training programs under subsection (a) will provide education and training in identifying and referring cases of domestic violence.

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there is authorized to be appropriated \$400,000 for each of the fiscal years 2008 through 2012.”.

SEC. 14. STATE GRANTS FOR CERTAIN PROJECTS.

Section 1252 of the Public Health Service Act (42 U.S.C. 300d–52) is amended in the section heading by striking “**DEMONSTRATION**”.

Approved May 3, 2007.

LEGISLATIVE HISTORY—H.R. 727:

HOUSE REPORTS: No. 110–77 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 27, considered and passed House.

Mar. 29, considered and passed Senate.



Public Law 110–24
110th Congress

An Act

May 3, 2007

[H.R. 1130]

Judicial
Disclosure
Responsibility
Act.
5 USC app. 101
note.

To amend the Ethics in Government Act of 1978 to extend the authority to withhold from public availability a financial disclosure report filed by an individual who is a judicial officer or judicial employee, to the extent necessary to protect the safety of that individual or a family member of that individual, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Judicial Disclosure Responsibility Act”.

SEC. 2. PROTECTION OF FAMILY MEMBERS.

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), by inserting “or a family member of that individual” after “that individual”; and

(2) in subparagraph (B)(i), by inserting “or a family member of that individual” after “the report”.

SEC. 3. FINANCIAL DISCLOSURE REPORTS.

(a) **EXTENSION OF AUTHORITY.**—Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking “2005” each place that term appears and inserting “2009”.

(b) **REPORT CONTENTS.**—Section 105(b)(3)(C) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in clause (ii), by striking “and” at the end;

(2) in clause (iii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(iv) the nature or type of information redacted;

“(v) what steps or procedures are in place to ensure that sufficient information is available to litigants to determine if there is a conflict of interest;

“(vi) principles used to guide implementation of redaction authority; and

“(vii) any public complaints received relating to redaction.”.

Approved May 3, 2007.

LEGISLATIVE HISTORY—H.R. 1130:

HOUSE REPORTS: No. 110–59 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 21, considered and passed House.

Apr. 19, considered and passed Senate.



Public Law 110–25
110th Congress

An Act

May 8, 2007
[S. 521]

To designate the Federal building and United States courthouse and customhouse located at 515 West First Street in Duluth, Minnesota, as the “Gerald W. Heaney Federal Building and United States Courthouse and Customhouse”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse and customhouse located at 515 West First Street in Duluth, Minnesota, shall be known and designated as the “Gerald W. Heaney Federal Building and United States Courthouse and Customhouse”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse and customhouse referred to in section 1 shall be deemed to be a reference to the “Gerald W. Heaney Federal Building and United States Courthouse and Customhouse”.

Approved May 8, 2007.

LEGISLATIVE HISTORY—S. 521 (H.R. 187):

CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 10, considered and passed Senate.

Apr. 23, considered and passed House.



Public Law 110–26
110th Congress

An Act

To amend the Congressional Charter of The American National Red Cross to modernize its governance structure, to enhance the ability of the board of governors of The American National Red Cross to support the critical mission of The American National Red Cross in the 21st century, and for other purposes.

May 11, 2007
[H.R. 1681]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “The American National Red Cross Governance Modernization Act of 2007”.

SEC. 2. FINDINGS; SENSE OF CONGRESS.

(a) FINDINGS.—Congress makes the following findings:

(1) Substantive changes to the Congressional Charter of The American National Red Cross have not been made since 1947.

(2) In February 2006, the board of governors of The American National Red Cross (the “Board of Governors”) commissioned an independent review and analysis of the Board of Governors’ role, composition, size, relationship with management, governance relationship with chartered units of The American National Red Cross, and whistle blower and audit functions.

(3) In an October 2006 report of the Board of Governors, entitled “American Red Cross Governance for the 21st Century” (the “Governance Report”), the Board of Governors recommended changes to the Congressional Charter, bylaws, and other governing documents of The American National Red Cross to modernize and enhance the effectiveness of the Board of Governors and governance structure of The American National Red Cross.

(4) It is in the national interest to create a more efficient governance structure of The American National Red Cross and to enhance the Board of Governors’ ability to support the critical mission of The American National Red Cross in the 21st century.

(5) It is in the national interest to clarify the role of the Board of Governors as a governance and strategic oversight board and for The American National Red Cross to amend its bylaws, consistent with the recommendations described in the Governance Report, to clarify the role of the Board of Governors and to outline the areas of its responsibility, including—

The American
National Red
Cross
Governance
Modernization
Act of 2007.
36 USC 101 note.
36 USC 300101
note.

(A) reviewing and approving the mission statement for The American National Red Cross;

(B) approving and overseeing the corporation's strategic plan and maintaining strategic oversight of operational matters;

(C) selecting, evaluating, and determining the level of compensation of the corporation's chief executive officer;

(D) evaluating the performance and establishing the compensation of the senior leadership team and providing for management succession;

(E) overseeing the financial reporting and audit process, internal controls, and legal compliance;

(F) holding management accountable for performance;

(G) providing oversight of the financial stability of the corporation;

(H) ensuring the inclusiveness and diversity of the corporation;

(I) ensuring the chapters of the corporation are geographically and regionally diverse;

(J) providing oversight of the protection of the brand of the corporation; and

(K) assisting with fundraising on behalf of the corporation.

(6)(A) The selection of members of the Board of Governors is a critical component of effective governance for The American National Red Cross, and, as such, it is in the national interest that The American National Red Cross amend its bylaws to provide a method of selection consistent with that described in the Governance Report.

(B) The new method of selection should replace the current process by which—

(i) 30 chartered unit-elected members of the Board of Governors are selected by a non-Board committee which includes 2 members of the Board of Governors and other individuals elected by the chartered units themselves;

(ii) 12 at-large members of the Board of Governors are nominated by a Board committee and elected by the Board of Governors; and

(iii) 8 members of the Board of Governors are appointed by the President of the United States.

(C) The new method of selection described in the Governance Report reflects the single category of members of the Board of Governors that will result from the implementation of this Act:

(i) All Board members (except for the chairman of the Board of Governors) would be nominated by a single committee of the Board of Governors taking into account the criteria outlined in the Governance Report to assure the expertise, skills, and experience of a governing board.

(ii) The nominated members would be considered for approval by the full Board of Governors and then submitted to The American National Red Cross annual meeting of delegates for election, in keeping with the standard corporate practice whereby shareholders of a corporation elect members of a board of directors at its annual meeting.

(7) The United States Supreme Court held The American National Red Cross to be an instrumentality of the United

States, and it is in the national interest that the Congressional Charter confirm that status and that any changes to the Congressional Charter do not affect the rights and obligations of The American National Red Cross to carry out its purposes.

(8) Given the role of The American National Red Cross in carrying out its services, programs, and activities, and meeting its various obligations, the effectiveness of The American National Red Cross will be promoted by the creation of an organizational ombudsman who—

(A) will be a neutral or impartial dispute resolution practitioner whose major function will be to provide confidential and informal assistance to the many internal and external stakeholders of The American National Red Cross;

(B) will report to the chief executive officer and the audit committee of the Board of Governors; and

(C) will have access to anyone and any documents in The American National Red Cross.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) charitable organizations are an indispensable part of American society, but these organizations can only fulfill their important roles by maintaining the trust of the American public;

(2) trust is fostered by effective governance and transparency, which are the principal goals of the recommendations of the Board of Governors in the Governance Report and this Act;

(3) Federal and State action play an important role in ensuring effective governance and transparency by setting standards, rooting out violations, and informing the public;

(4) while The American National Red Cross is and will remain a Federally chartered instrumentality of the United States, and it has the rights and obligations consistent with that status, The American National Red Cross nevertheless should maintain appropriate communications with State regulators of charitable organizations and should cooperate with them as appropriate in specific matters as they arise from time to time; and

(5) while The American National Red Cross is and will remain a Federally chartered instrumentality of the United States, and it has the rights and obligations consistent with that status, The American National Red Cross nevertheless should maintain appropriate communications and collaborations with local, community, and faith-based non-profit organizations, including those organizations that work within minority communities.

SEC. 3. ORGANIZATION.

Section 300101 of title 36, United States Code, is amended—

(1) in subsection (a), by inserting “a Federally chartered instrumentality of the United States and” before “a body corporate and politic”; and

(2) in subsection (b), by inserting at the end the following new sentence: “The corporation may conduct its business and affairs, and otherwise hold itself out, as the ‘American Red Cross’ in any jurisdiction.”.

SEC. 4. PURPOSES.

Section 300102 of title 36, United States Code, is amended—

- (1) by striking “and” at the end of paragraph (3);
- (2) by striking the period at the end of paragraph (4) and inserting “; and”; and
- (3) by adding at the end the following paragraph:
“(5) to conduct other activities consistent with the foregoing purposes.”.

SEC. 5. MEMBERSHIP AND CHAPTERS.

Section 300103 of title 36, United States Code, is amended—

- (1) in subsection (a), by inserting “, or as otherwise provided,” before “in the bylaws”;
- (2) in subsection (b)(1)—
 - (A) by striking “board of governors” and inserting “corporation”; and
 - (B) by inserting “policies and” before “regulations related”; and
- (3) in subsection (b)(2)—
 - (A) by inserting “policies and” before “regulations shall require”; and
 - (B) by striking “national convention” and inserting “annual meeting”.

SEC. 6. BOARD OF GOVERNORS.

Section 300104 of title 36, United States Code, is amended to read as follows:

“§ 300104. Board of governors

“(a) BOARD OF GOVERNORS.—

“(1) IN GENERAL.—The board of governors is the governing body of the corporation with all powers of governing and directing, and of overseeing the management of the business and affairs of, the corporation.

“(2) NUMBER.—The board of governors shall fix by resolution, from time to time, the number of members constituting the entire board of governors, provided that—

“(A) as of March 31, 2009, and thereafter, there shall be no fewer than 12 and no more than 25 members; and

“(B) as of March 31, 2012, and thereafter, there shall be no fewer than 12 and no more than 20 members constituting the entire board.

Procedures to implement the preceding sentence shall be provided in the bylaws.

“(3) APPOINTMENT.—The governors shall be appointed or elected in the following manner:

“(A) CHAIRMAN.—

“(i) IN GENERAL.—The board of governors, in accordance with procedures provided in the bylaws, shall recommend to the President an individual to serve as chairman of the board of governors. If such recommendation is approved by the President, the President shall appoint such individual to serve as chairman of the board of governors.

“(ii) VACANCIES.—Vacancies in the office of the chairman, including vacancies resulting from the resignation, death, or removal by the President of the chairman, shall be filled in the same manner described in clause (i).

“(iii) DUTIES.—The chairman shall be a member of the board of governors and, when present, shall preside at meetings of the board of governors and shall have such other duties and responsibilities as may be provided in the bylaws or a resolution of the board of governors.

“(B) OTHER MEMBERS.—

“(i) IN GENERAL.—Members of the board of governors other than the chairman shall be elected at the annual meeting of the corporation in accordance with such procedures as may be provided in the bylaws.

“(ii) VACANCIES.—Vacancies in any such elected board position and in any newly created board position may be filled by a vote of the remaining members of the board of governors in accordance with such procedures as may be provided in the bylaws.

“(b) TERMS OF OFFICE.—

“(1) IN GENERAL.—The term of office of each member of the board of governors shall be 3 years, except that—

“(A) the board of governors may provide under the bylaws that the terms of office of members of the board of governors elected to the board of governors before March 31, 2012, may be less than 3 years in order to implement the provisions of subparagraphs (A) and (B) of subsection (a)(2); and

“(B) any member of the board of governors elected by the board to fill a vacancy in a board position arising before the expiration of its term may, as determined by the board, serve for the remainder of that term or until the next annual meeting of the corporation.

“(2) STAGGERED TERMS.—The terms of office of members of the board of governors (other than the chairman) shall be staggered such that, by March 31, 2012, and thereafter, $\frac{1}{3}$ of the entire board (or as near to $\frac{1}{3}$ as practicable) shall be elected at each successive annual meeting of the corporation with the term of office of each member of the board of governors elected at an annual meeting expiring at the third annual meeting following the annual meeting at which such member was elected.

“(3) TERM LIMITS.—No person may serve as a member of the board of governors for more than such number of terms of office or years as may be provided in the bylaws.

“(c) COMMITTEES AND OFFICERS.—The board—

“(1) may appoint, from its own members, an executive committee to exercise such powers of the board when the board is not in session as may be provided in the bylaws;

“(2) may appoint such other committees or advisory councils with such powers as may be provided in the bylaws or a resolution of the board of governors;

“(3) shall appoint such officers of the corporation, including a chief executive officer, with such duties, responsibilities, and terms of office as may be provided in the bylaws or a resolution of the board of governors; and

“(4) may remove members of the board of governors (other than the chairman), officers, and employees under such procedures as may be provided in the bylaws or a resolution of the board of governors.

“(d) ADVISORY COUNCIL.—

“(1) ESTABLISHMENT.—There shall be an advisory council to the board of governors.

“(2) MEMBERSHIP; APPOINTMENT BY PRESIDENT.—

“(A) IN GENERAL.—The advisory council shall be composed of no fewer than 8 and no more than 10 members, each of whom shall be appointed by the President from principal officers of the executive departments and senior officers of the Armed Forces whose positions and interests qualify them to contribute to carrying out the programs and purposes of the corporation.

“(B) MEMBERS FROM THE ARMED FORCES.—At least 1, but not more than 3, of the members of the advisory council shall be selected from the Armed Forces.

“(3) DUTIES.—The advisory council shall advise, report directly to, and meet, at least 1 time per year with the board of governors, and shall have such name, functions and be subject to such procedures as may be provided in the bylaws.

“(e) ACTION WITHOUT MEETING.—Any action required or permitted to be taken at any meeting of the board of governors or of any committee thereof may be taken without a meeting if all members of the board or committee, as the case may be, consent thereto in writing, or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

“(f) VOTING BY PROXY.—

“(1) IN GENERAL.—Voting by proxy is not allowed at any meeting of the board, at the annual meeting, or at any meeting of a chapter.

“(2) EXCEPTION.—The board may allow the election of governors by proxy during any emergency.

“(g) BYLAWS.—

“(1) IN GENERAL.—The board of governors may—

“(A) at any time adopt bylaws; and

“(B) at any time adopt bylaws to be effective only in an emergency.

“(2) EMERGENCY BYLAWS.—Any bylaws adopted pursuant to paragraph (1)(B) may provide special procedures necessary for managing the corporation during the emergency. All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency.

“(h) DEFINITIONS.—For purposes of this section—

“(1) the term ‘entire board’ means the total number of members of the board of governors that the corporation would have if there were no vacancies; and

“(2) the term ‘emergency’ shall have such meaning as may be provided in the bylaws.”.

SEC. 7. POWERS.

Subsection (a)(1) of section 300105 of title 36, United States Code, is amended by striking “bylaws” and inserting “policies”.

SEC. 8. ANNUAL MEETING.

Section 300107 of title 36, United States Code, is amended to read as follows:

“§ 300107. Annual meeting

“(a) IN GENERAL.—The annual meeting of the corporation is the annual meeting of delegates of the chapters.

“(b) TIME OF MEETING.—The annual meeting shall be held as determined by the board of governors.

“(c) PLACE OF MEETING.—The board of governors is authorized to determine that the annual meeting shall not be held at any place, but may instead be held solely by means of remote communication subject to such procedures as are provided in the bylaws.

“(d) VOTING.—

“(1) IN GENERAL.—In matters requiring a vote at the annual meeting, each chapter is entitled to at least 1 vote, and voting on all matters may be conducted by mail, telephone, telegram, cablegram, electronic mail, or any other means of electronic or telephone transmission, provided that the person voting shall state, or submit information from which it can be determined, that the method of voting chosen was authorized by such person.

“(2) ESTABLISHMENT OF NUMBER OF VOTES.—

“(A) IN GENERAL.—The board of governors shall determine on an equitable basis the number of votes that each chapter is entitled to cast, taking into consideration the size of the membership of the chapters, the populations served by the chapters, and such other factors as may be determined by the board.

“(B) PERIODIC REVIEW.—The board of governors shall review the allocation of votes at least every 5 years.”.

SEC. 9. ENDOWMENT FUND.

Section 300109 of title 36, United States Code, is amended—

(1) by striking “nine” from the first sentence thereof; and

(2) by striking the second sentence and inserting the following: “The corporation shall prescribe policies and regulations on terms and tenure of office, accountability, and expenses of the board of trustees.”.

SEC. 10. ANNUAL REPORT AND AUDIT.

Subsection (a) of section 300110 of title 36, United States Code, is amended to read as follows:

“(a) SUBMISSION OF REPORT.—As soon as practicable after the end of the corporation’s fiscal year, which may be changed from time to time by the board of governors, the corporation shall submit a report to the Secretary of Defense on the activities of the corporation during such fiscal year, including a complete, itemized report of all receipts and expenditures.”.

SEC. 11. COMPTROLLER GENERAL OF THE UNITED STATES AND OFFICE OF THE OMBUDSMAN.

(a) IN GENERAL.—Chapter 3001 of title 36, United States Code, is amended by redesignating section 300111 as section 300113 and by inserting after section 300110 the following new sections:

“§ 300111. Authority of the Comptroller General of the United States

“The Comptroller General of the United States is authorized to review the corporation’s involvement in any Federal program or activity the Government carries out under law.

“§ 300112. Office of the Ombudsman

“(a) ESTABLISHMENT.—The corporation shall establish an Office of the Ombudsman with such duties and responsibilities as may be provided in the bylaws or a resolution of the board of governors.

“(b) REPORT.—

“(1) IN GENERAL.—The Office of the Ombudsman shall submit annually to the appropriate Congressional committees a report concerning any trends and systemic matters that the Office of the Ombudsman has identified as confronting the corporation.

“(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of paragraph (1), the appropriate Congressional committees are the following committees of Congress:

“(A) SENATE COMMITTEES.—The appropriate Congressional committees of the Senate are—

“(i) the Committee on Finance;

“(ii) the Committee on Foreign Relations;

“(iii) the Committee on Health, Education, Labor, and Pensions;

“(iv) the Committee on Homeland Security and Governmental Affairs; and

“(v) the Committee on the Judiciary.

“(B) HOUSE COMMITTEES.—The appropriate Congressional committees of the House of Representatives are—

“(i) the Committee on Energy and Commerce;

“(ii) the Committee on Foreign Affairs;

“(iii) the Committee on Homeland Security;

“(iv) the Committee on the Judiciary; and

“(v) the Committee on Ways and Means.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 3001 of title 36, United States Code, is amended by striking the item relating to section 300111 and inserting the following:

“300111. Authority of the Comptroller General of the United States.

“300112. Office of the Ombudsman.

“300113. Reservation of right to amend or repeal.”.

Approved May 11, 2007.

LEGISLATIVE HISTORY—H.R. 1681 (S. 655):

HOUSE REPORTS: No. 110–87 (Comm. on Foreign Affairs).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 17, considered and passed House.

Apr. 23, considered and passed Senate.



Public Law 110–27
110th Congress

An Act

To designate the facility of the United States Postal Service located at 5757 Tilton Avenue in Riverside, California, as the “Lieutenant Todd Jason Bryant Post Office”.

May 25, 2007
[H.R. 988]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIEUTENANT TODD JASON BRYANT POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 5757 Tilton Avenue in Riverside, California, shall be known and designated as the “Lieutenant Todd Jason Bryant Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lieutenant Todd Jason Bryant Post Office”.

Approved May 25, 2007.

LEGISLATIVE HISTORY—H.R. 988:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 16, considered and passed House.

May 23, considered and passed Senate.



Public Law 110–28
110th Congress

An Act

May 25, 2007
[H.R. 2206]

Making emergency supplemental appropriations and additional supplemental appropriations for agricultural and other emergency assistance for the fiscal year ending September 30, 2007, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

U.S. Troop
Readiness,
Veterans' Care,
Katrina
Recovery,
and Iraq
Accountability
Appropriations
Act, 2007.

SECTION 1. SHORT TITLE.

This Act may be cited as the “U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—SUPPLEMENTAL APPROPRIATIONS FOR DEFENSE, INTERNATIONAL AFFAIRS, AND OTHER SECURITY-RELATED NEEDS
TITLE II—HURRICANE KATRINA RECOVERY
TITLE III—ADDITIONAL DEFENSE, INTERNATIONAL AFFAIRS, AND HOMELAND SECURITY PROVISIONS
TITLE IV—ADDITIONAL HURRICANE DISASTER RELIEF AND RECOVERY
TITLE V—OTHER EMERGENCY APPROPRIATIONS
TITLE VI—OTHER MATTERS
TITLE VII—ELIMINATION OF SCHIP SHORTFALL AND OTHER HEALTH MATTERS
TITLE VIII—FAIR MINIMUM WAGE AND TAX RELIEF
TITLE IX—AGRICULTURAL ASSISTANCE
TITLE X—GENERAL PROVISIONS

SEC. 3. STATEMENT OF APPROPRIATIONS.

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2007.

TITLE I—SUPPLEMENTAL APPROPRIATIONS FOR DEFENSE, INTERNATIONAL AFFAIRS, AND OTHER SECURITY-RELATED NEEDS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for “Public Law 480 Title II Grants”, during the current fiscal year, not otherwise recoverable, and unrecovered prior years’ costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, \$350,000,000, to remain available until expended.

CHAPTER 2

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for “Salaries and Expenses, General Legal Activities”, \$1,648,000, to remain available until September 30, 2008.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for “Salaries and Expenses, United States Attorneys”, \$5,000,000, to remain available until September 30, 2008.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$6,450,000, to remain available until September 30, 2008.

NATIONAL SECURITY DIVISION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$1,736,000, to remain available until September 30, 2008.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$118,260,000, to remain available until September 30, 2008.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$8,468,000, to remain available until September 30, 2008.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$4,000,000, to remain available until September 30, 2008.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$17,000,000, to remain available until September 30, 2008.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1201. Funds provided in this Act for the “Department of Justice, United States Marshals Service, Salaries and Expenses” shall be made available according to the language relating to such account in the joint explanatory statement accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107).

SEC. 1202. Funds provided in this Act for the “Department of Justice, Legal Activities, Salaries and Expenses, General Legal Activities”, shall be made available according to the language relating to such account in the joint explanatory statement accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107).

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$8,510,270,000.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$692,127,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$1,386,871,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$1,079,287,000.

RESERVE PERSONNEL, ARMY

For an additional amount for “Reserve Personnel, Army”, \$147,244,000.

RESERVE PERSONNEL, NAVY

For an additional amount for “Reserve Personnel, Navy”, \$77,800,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for “Reserve Personnel, Air Force”, \$5,500,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for “National Guard Personnel, Army”, \$436,025,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for “National Guard Personnel, Air Force”, \$24,500,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$20,373,379,000.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Navy”, \$4,652,670,000, of which up to \$120,293,000 shall be transferred to Coast Guard, “Operating Expenses”, for reimbursement for activities which support activities requested by the Navy.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for “Operation and Maintenance, Marine Corps”, \$1,146,594,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$6,650,881,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$2,714,487,000, of which—

Notification.
Deadline.

Reports.
Deadline.

(1) not to exceed \$25,000,000 may be used for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom; and

(2) not to exceed \$200,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided to United States military operations, notwithstanding any other provision of law: *Provided*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for “Operation and Maintenance, Army Reserve”, \$74,049,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for “Operation and Maintenance, Navy Reserve”, \$111,066,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, \$13,591,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for “Operation and Maintenance, Air Force Reserve”, \$10,160,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Army National Guard”, \$83,569,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Air National Guard”, \$38,429,000.

AFGHANISTAN SECURITY FORCES FUND

For an additional amount for “Afghanistan Security Forces Fund”, \$5,906,400,000, to remain available until September 30, 2008.

IRAQ SECURITY FORCES FUND

For an additional amount for “Iraq Security Forces Fund”, \$3,842,300,000, to remain available until September 30, 2008.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Iraq Freedom Fund”, \$355,600,000, to remain available for transfer until September 30, 2008: *Provided*, That up to \$50,000,000 may be obligated and expended for purposes of the Task Force to Improve Business and Stability Operations in Iraq.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

For an additional amount for “Joint Improvised Explosive Device Defeat Fund”, \$2,432,800,000, to remain available until September 30, 2009.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for “Aircraft Procurement, Army”, \$619,750,000, to remain available until September 30, 2009.

MISSILE PROCUREMENT, ARMY

For an additional amount for “Missile Procurement, Army”, \$111,473,000, to remain available until September 30, 2009.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES,
ARMY

For an additional amount for “Procurement of Weapons and Tracked Combat Vehicles, Army”, \$3,404,315,000, to remain available until September 30, 2009.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for “Procurement of Ammunition, Army”, \$681,500,000, to remain available until September 30, 2009.

OTHER PROCUREMENT, ARMY

For an additional amount for “Other Procurement, Army”, \$9,859,137,000, to remain available until September 30, 2009.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for “Aircraft Procurement, Navy”, \$1,090,287,000, to remain available until September 30, 2009.

WEAPONS PROCUREMENT, NAVY

For an additional amount for “Weapons Procurement, Navy”, \$163,813,000, to remain available until September 30, 2009.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for “Procurement of Ammunition, Navy and Marine Corps”, \$159,833,000, to remain available until September 30, 2009.

OTHER PROCUREMENT, NAVY

For an additional amount for “Other Procurement, Navy”, \$618,709,000, to remain available until September 30, 2009.

PROCUREMENT, MARINE CORPS

For an additional amount for “Procurement, Marine Corps”, \$989,389,000, to remain available until September 30, 2009.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for “Aircraft Procurement, Air Force”, \$2,106,468,000, to remain available until September 30, 2009.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for “Missile Procurement, Air Force”, \$94,900,000, to remain available until September 30, 2009.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for “Procurement of Ammunition, Air Force”, \$6,000,000, to remain available until September 30, 2009.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$1,957,160,000, to remain available until September 30, 2009.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for “Procurement, Defense-Wide”, \$721,190,000, to remain available until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for “Research, Development, Test and Evaluation, Army”, \$100,006,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for “Research, Development, Test and Evaluation, Navy”, \$298,722,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for “Research, Development, Test and Evaluation, Air Force”, \$187,176,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for “Research, Development, Test and Evaluation, Defense-Wide”, \$512,804,000, to remain available until September 30, 2008.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for “Defense Working Capital Funds”, \$1,115,526,000.

NATIONAL DEFENSE SEALIFT FUND

For an additional amount for “National Defense Sealift Fund”, \$5,000,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$1,123,147,000.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

For an additional amount for “Drug Interdiction and Counter-Drug Activities, Defense”, \$254,665,000, to remain available until expended.

RELATED AGENCIES

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

For an additional amount for “Intelligence Community Management Account”, \$71,726,000.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. Appropriations provided in this Act are available for obligation until September 30, 2007, unless otherwise provided herein.

(TRANSFER OF FUNDS)

SEC. 1302. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to \$3,500,000,000 of the funds made available to the Department of Defense (except for military construction) in this Act: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further*, That the authority provided in

Notification.

this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2007 (Public Law 109–289; 120 Stat. 1257), except for the fourth proviso: *Provided further*, That funds previously transferred to the “Joint Improvised Explosive Device Defeat Fund” and the “Iraq Security Forces Fund” under the authority of section 8005 of Public Law 109–289 and transferred back to their source appropriations accounts shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under section 8005.

SEC. 1303. Funds appropriated in this Act, or made available by the transfer of funds in or pursuant to this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 1304. None of the funds provided in this Act may be used to finance programs or activities denied by Congress in fiscal years 2006 or 2007 appropriations to the Department of Defense (except for military construction) or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

(TRANSFER OF FUNDS)

SEC. 1305. During fiscal year 2007, the Secretary of Defense may transfer not to exceed \$6,300,000 of the amounts in or credited to the Defense Cooperation Account, pursuant to 10 U.S.C. 2608, to such appropriations or funds of the Department of Defense as he shall determine for use consistent with the purposes for which such funds were contributed and accepted: *Provided*, That such amounts shall be available for the same time period as the appropriation to which transferred: *Provided further*, That the Secretary shall report to the Congress all transfers made pursuant to this authority.

Reports.

SEC. 1306. (a) AUTHORITY TO PROVIDE SUPPORT.—Of the amount appropriated by this Act under the heading, “Drug Interdiction and Counter-Drug Activities, Defense”, not to exceed \$60,000,000 may be used for support for counter-drug activities of the Governments of Afghanistan and Pakistan: *Provided*, That such support shall be in addition to support provided for the counter-drug activities of such Governments under any other provision of the law.

(b) TYPES OF SUPPORT.—

Applicability.

(1) Except as specified in subsection (b)(2) of this section, the support that may be provided under the authority in this section shall be limited to the types of support specified in section 1033(c)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85, as amended by Public Laws 106–398, 108–136, and 109–364) and conditions on the provision of support as contained in section 1033 shall apply for fiscal year 2007.

(2) The Secretary of Defense may transfer vehicles, aircraft, and detection, interception, monitoring and testing equipment to said Governments for counter-drug activities.

SEC. 1307. (a) From funds made available for operation and maintenance in this Act to the Department of Defense, not to

exceed \$456,400,000 may be used, notwithstanding any other provision of law, to fund the Commanders' Emergency Response Program, for the purpose of enabling military commanders in Iraq and Afghanistan to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi and Afghan people.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

SEC. 1308. Section 9010 of division A of Public Law 109–289 is amended by striking “2007” each place it appears and inserting “2008”. 120 Stat. 1307.

SEC. 1309. During fiscal year 2007, supervision and administration costs associated with projects carried out with funds appropriated to “Afghanistan Security Forces Fund” or “Iraq Security Forces Fund” in this Act may be obligated at the time a construction contract is awarded: *Provided*, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 1310. Section 1005(c)(2) of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364) is amended by striking “\$310,277,000” and inserting “\$376,446,000”. 120 Stat. 2372.

SEC. 1311. Section 9007 of Public Law 109–289 is amended by striking “20” and inserting “287”. 120 Stat. 1306.

SEC. 1312. From funds made available for the “Iraq Security Forces Fund” for fiscal year 2007, up to \$155,500,000 may be used, notwithstanding any other provision of law, to provide assistance, with the concurrence of the Secretary of State, to the Government of Iraq to support the disarmament, demobilization, and reintegration of militias and illegal armed groups.

(TRANSFER OF FUNDS)

SEC. 1313. Notwithstanding any other provision of law, not to exceed \$110,000,000 may be transferred to the “Economic Support Fund”, Department of State, for use in programs in Pakistan from amounts appropriated by this Act as follows:

“Military Personnel, Army”, \$70,000,000.

“National Guard Personnel, Army”, \$13,183,000.

“Defense Health Program”, \$26,817,000.

SEC. 1314. (a) FINDINGS REGARDING PROGRESS IN IRAQ, THE ESTABLISHMENT OF BENCHMARKS TO MEASURE THAT PROGRESS, AND REPORTS TO CONGRESS.—Congress makes the following findings:

(1) Over 145,000 American military personnel are currently serving in Iraq, like thousands of others since March 2003, with the bravery and professionalism consistent with the finest traditions of the United States Armed Forces, and are deserving of the strong support of all Americans.

(2) Many American service personnel have lost their lives, and many more have been wounded in Iraq; the American people will always honor their sacrifice and honor their families.

(3) The United States Army and Marine Corps, including their Reserve components and National Guard organizations,

together with components of the other branches of the military, are performing their missions while under enormous strain from multiple, extended deployments to Iraq and Afghanistan. These deployments, and those that will follow, will have a lasting impact on future recruiting, retention, and readiness of our Nation's all volunteer force.

(4) Iraq is experiencing a deteriorating problem of sectarian and intrasectarian violence based upon political distrust and cultural differences among factions of the Sunni and Shia populations.

(5) Iraqis must reach political and economic settlements in order to achieve reconciliation, for there is no military solution. The failure of the Iraqis to reach such settlements to support a truly unified government greatly contributes to the increasing violence in Iraq.

(6) The responsibility for Iraq's internal security and halting sectarian violence rests with the sovereign Government of Iraq.

(7) In December 2006, the bipartisan Iraq Study Group issued a valuable report, suggesting a comprehensive strategy that includes new and enhanced diplomatic and political efforts in Iraq and the region, and a change in the primary mission of U.S. forces in Iraq, that will enable the United States to begin to move its combat forces out of Iraq responsibly.

(8) The President said on January 10, 2007, that "I've made it clear to the Prime Minister and Iraq's other leaders that America's commitment is not open-ended" so as to dispel the contrary impression that exists.

(9) It is essential that the sovereign Government of Iraq set out measurable and achievable benchmarks and President Bush said, on January 10, 2007, that "America will change our approach to help the Iraqi government as it works to meet these benchmarks".

(10) As reported by Secretary of State Rice, Iraq's Policy Committee on National Security agreed upon a set of political, security, and economic benchmarks and an associated timeline in September 2006 that were: (A) reaffirmed by Iraq's Presidency Council on October 6, 2006; (B) referenced by the Iraq Study Group; and (C) posted on the President of Iraq's Web site.

(11) On April 21, 2007, Secretary of Defense Robert Gates stated that "our [American] commitment to Iraq is long-term, but it is not a commitment to have our young men and women patrolling Iraq's streets open-endedly" and that "progress in reconciliation will be an important element of our evaluation".

(12) The President's January 10, 2007, address had three components: political, military, and economic. Given that significant time has passed since his statement, and recognizing the overall situation is ever changing, Congress must have timely reports to evaluate and execute its constitutional oversight responsibilities.

(b) CONDITIONING OF FUTURE UNITED STATES STRATEGY IN IRAQ ON THE IRAQI GOVERNMENT'S RECORD OF PERFORMANCE ON ITS BENCHMARKS.—

(1) IN GENERAL.—

(A) The United States strategy in Iraq, hereafter, shall be conditioned on the Iraqi government meeting benchmarks, as told to members of Congress by the President, the Secretary of State, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, and reflected in the Iraqi Government's commitments to the United States, and to the international community, including:

(i) Forming a Constitutional Review Committee and then completing the constitutional review.

(ii) Enacting and implementing legislation on de-Baathification.

(iii) Enacting and implementing legislation to ensure the equitable distribution of hydrocarbon resources of the people of Iraq without regard to the sect or ethnicity of recipients, and enacting and implementing legislation to ensure that the energy resources of Iraq benefit Sunni Arabs, Shia Arabs, Kurds, and other Iraqi citizens in an equitable manner.

(iv) Enacting and implementing legislation on procedures to form semi-autonomous regions.

(v) Enacting and implementing legislation establishing an Independent High Electoral Commission, provincial elections law, provincial council authorities, and a date for provincial elections.

(vi) Enacting and implementing legislation addressing amnesty.

(vii) Enacting and implementing legislation establishing a strong militia disarmament program to ensure that such security forces are accountable only to the central government and loyal to the Constitution of Iraq.

(viii) Establishing supporting political, media, economic, and services committees in support of the Baghdad Security Plan.

(ix) Providing three trained and ready Iraqi brigades to support Baghdad operations.

(x) Providing Iraqi commanders with all authorities to execute this plan and to make tactical and operational decisions, in consultation with U.S. commanders, without political intervention, to include the authority to pursue all extremists, including Sunni insurgents and Shiite militias.

(xi) Ensuring that the Iraqi Security Forces are providing even handed enforcement of the law.

(xii) Ensuring that, according to President Bush, Prime Minister Maliki said “the Baghdad security plan will not provide a safe haven for any outlaws, regardless of [their] sectarian or political affiliation”.

(xiii) Reducing the level of sectarian violence in Iraq and eliminating militia control of local security.

(xiv) Establishing all of the planned joint security stations in neighborhoods across Baghdad.

(xv) Increasing the number of Iraqi security forces units capable of operating independently.

(xvi) Ensuring that the rights of minority political parties in the Iraqi legislature are protected.

(xvii) Allocating and spending \$10 billion in Iraqi revenues for reconstruction projects, including delivery of essential services, on an equitable basis.

(xviii) Ensuring that Iraq's political authorities are not undermining or making false accusations against members of the Iraqi Security Forces.

President.

(B) The President shall submit reports to Congress on how the sovereign Government of Iraq is, or is not, achieving progress towards accomplishing the aforementioned benchmarks, and shall advise the Congress on how that assessment requires, or does not require, changes to the strategy announced on January 10, 2007.

President.

(2) REPORTS REQUIRED.—

(A) The President shall submit an initial report, in classified and unclassified format, to the Congress, not later than July 15, 2007, assessing the status of each of the specific benchmarks established above, and declaring, in his judgment, whether satisfactory progress toward meeting these benchmarks is, or is not, being achieved.

(B) The President, having consulted with the Secretary of State, the Secretary of Defense, the Commander, Multi-National Forces-Iraq, the United States Ambassador to Iraq, and the Commander of U.S. Central Command, will prepare the report and submit the report to Congress.

(C) If the President's assessment of any of the specific benchmarks established above is unsatisfactory, the President shall include in that report a description of such revisions to the political, economic, regional, and military components of the strategy, as announced by the President on January 10, 2007. In addition, the President shall include in the report, the advisability of implementing such aspects of the bipartisan Iraq Study Group, as he deems appropriate.

(D) The President shall submit a second report to the Congress, not later than September 15, 2007, following the same procedures and criteria outlined above.

Waiver.

(E) The reporting requirement detailed in section 1227 of the National Defense Authorization Act for Fiscal Year 2006 is waived from the date of the enactment of this Act through the period ending September 15, 2007.

(3) TESTIMONY BEFORE CONGRESS.—Prior to the submission of the President's second report on September 15, 2007, and at a time to be agreed upon by the leadership of the Congress and the Administration, the United States Ambassador to Iraq and the Commander, Multi-National Forces Iraq will be made available to testify in open and closed sessions before the relevant committees of the Congress.

(c) LIMITATIONS ON AVAILABILITY OF FUNDS.—

President.
Certification.

(1) LIMITATION.—No funds appropriated or otherwise made available for the "Economic Support Fund" and available for Iraq may be obligated or expended unless and until the President of the United States certifies in the report outlined in subsection (b)(2)(A) and makes a further certification in the report outlined in subsection (b)(2)(D) that Iraq is making progress on each of the benchmarks set forth in subsection (b)(1)(A).

(2) **WAIVER AUTHORITY.**—The President may waive the requirements of this section if he submits to Congress a written certification setting forth a detailed justification for the waiver, which shall include a detailed report describing the actions being taken by the United States to bring the Iraqi government into compliance with the benchmarks set forth in subsection (b)(1)(A). The certification shall be submitted in unclassified form, but may include a classified annex. Certification.

(d) **REDEPLOYMENT OF U.S. FORCES FROM IRAQ.**—The President of the United States, in respecting the sovereign rights of the nation of Iraq, shall direct the orderly redeployment of elements of U.S. forces from Iraq, if the components of the Iraqi government, acting in strict accordance with their respective powers given by the Iraqi Constitution, reach a consensus as recited in a resolution, directing a redeployment of U.S. forces. President.

(e) **INDEPENDENT ASSESSMENTS.**—

(1) **ASSESSMENT BY THE COMPTROLLER GENERAL.**—

(A) Not later than September 1, 2007, the Comptroller General of the United States shall submit to Congress an independent report setting forth—

(i) the status of the achievement of the benchmarks specified in subsection (b)(1)(A); and

(ii) the Comptroller General’s assessment of whether or not each such benchmark has been met.

(2) **ASSESSMENT OF THE CAPABILITIES OF IRAQI SECURITY FORCES.**—

(A) **IN GENERAL.**—There is hereby authorized to be appropriated for the Department of Defense, \$750,000, that the Department, in turn, will commission an independent, private sector entity, which operates as a 501(c)(3), with recognized credentials and expertise in military affairs, to prepare an independent report assessing the following:

(i) The readiness of the Iraqi Security Forces (ISF) to assume responsibility for maintaining the territorial integrity of Iraq, denying international terrorists a safe haven, and bringing greater security to Iraq’s 18 provinces in the next 12 to 18 months, and bringing an end to sectarian violence to achieve national reconciliation.

(ii) The training, equipping, command, control and intelligence capabilities, and logistics capacity of the ISF.

(iii) The likelihood that, given the ISF’s record of preparedness to date, following years of training and equipping by U.S. forces, the continued support of U.S. troops will contribute to the readiness of the ISF to fulfill the missions outlined in clause (i).

(B) **REPORT.**—Not later than 120 days after the enactment of this Act, the designated private sector entity shall provide an unclassified report, with a classified annex, containing its findings, to the House and Senate Committees on Armed Services, Appropriations, Foreign Relations/International Relations, and Intelligence.

CHAPTER 4

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for “Defense Nuclear Nonproliferation”, \$63,000,000, to remain available until expended.

CHAPTER 5

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For an additional amount for “Military Construction, Army”, \$1,255,890,000, to remain available until September 30, 2008: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed \$173,700,000 shall be available for study, planning, design, and architect and engineer services: *Provided further*, That of the funds made available under this heading, \$369,690,000 shall not be obligated or expended until the Secretary of Defense submits a detailed report explaining how military road construction is coordinated with NATO and coalition nations: *Provided further*, That of the funds made available under this heading, \$401,700,000 shall not be obligated or expended until the Secretary of Defense submits a detailed stationing plan to support Army end-strength growth to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That of the funds provided under this heading, \$274,800,000 shall not be obligated or expended until the Secretary of Defense certifies that none of the funds are to be used for the purpose of providing facilities for the permanent basing of United States military personnel in Iraq.

Reports.

Stationing plan.

Certification.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for “Military Construction, Navy and Marine Corps”, \$370,990,000, to remain available until September 30, 2008: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed \$49,600,000 shall be available for study, planning, design, and architect and engineer services: *Provided further*, That of the funds made available under this heading, \$324,270,000 shall not be obligated or expended until the Secretary of Defense submits a detailed stationing plan to support Marine Corps end-strength growth to the Committees on Appropriations of the House of Representatives and the Senate.

Stationing plan.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$43,300,000, to remain available until September 30, 2008: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed \$3,000,000 shall be available for study, planning, design, and architect and engineer services.

GENERAL PROVISION—THIS CHAPTER

SEC. 1501. (a) Funds provided in this Act for the following accounts shall be made available for programs under the conditions contained in the language of the joint explanatory statement of managers accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107):

“Military Construction, Army”.

“Military Construction, Navy and Marine Corps”.

“Military Construction, Air Force”.

(b) The Secretary of Defense shall submit all reports requested in House Report 110–60 and Senate Report 110–37 to the Committees on Appropriations of both Houses of Congress.

Reports.

CHAPTER 6

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Diplomatic and Consular Programs”, \$836,555,000, to remain available until September 30, 2008, of which \$64,655,000 for World Wide Security Upgrades is available until expended: *Provided*, That of the funds appropriated under this heading, not more than \$20,000,000 shall be made available for public diplomacy programs: *Provided further*, That prior to the obligation of funds pursuant to the previous proviso, the Secretary of State shall submit a report to the Committees on Appropriations describing a comprehensive public diplomacy strategy, with goals and expected results, for fiscal years 2007 and 2008: *Provided further*, That 20 percent of the amount available for Iraq operations shall not be obligated until the Committees on Appropriations receive and approve a detailed plan for expenditure, prepared by the Secretary of State, and submitted within 60 days after the date of enactment of this Act: *Provided further*, That of the amount made available under this heading for Iraq, not to exceed \$20,000,000 may be transferred to, and merged with, funds in the “Emergencies in the Diplomatic and Consular Service” appropriations account, to be available only for terrorism rewards.

Reports.

Expenditure
plan.
Deadline.

OFFICE OF THE INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of Inspector General”, \$35,000,000, to remain available until December 31, 2008: *Provided*, That such amount shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for “Educational and Cultural Exchange Programs”, \$20,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for “Contributions for International Peacekeeping Activities”, \$283,000,000, to remain available until September 30, 2008.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for “International Broadcasting Operations” for activities related to broadcasting to the Middle East, \$10,000,000, to remain available until September 30, 2008.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

(INCLUDING TRANSFER OF FUNDS)

President.
Reports.
Avian influenza.

Notification.

For an additional amount for “Child Survival and Health Programs Fund”, \$161,000,000, to remain available until September 30, 2008: *Provided*, That notwithstanding any other provision of law, if the President determines and reports to the Committees on Appropriations that the human-to-human transmission of the avian influenza virus is efficient and sustained, and is spreading internationally, funds made available under the heading “Millennium Challenge Corporation” and “Global HIV/AIDS Initiative” in prior Acts making appropriations for foreign operations, export financing, and related programs may be transferred to, and merged with, funds made available under this heading to combat avian influenza: *Provided further*, That funds made available pursuant to the authority of the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for “International Disaster and Famine Assistance”, \$105,000,000, to remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$5,700,000, to remain available until September 30, 2008.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for “Economic Support Fund”, \$2,502,000,000, to remain available until September 30, 2008: *Provided*, That of the funds appropriated under this heading, \$57,400,000 shall be made available to nongovernmental organizations in Iraq for economic and social development programs and activities in areas of conflict: *Provided further*, That the responsibility for policy decisions and justifications for the use of funds appropriated by the previous proviso shall be the responsibility of the United States Chief of Mission in Iraq: *Provided further*, That none of the funds appropriated under this heading in this Act or in prior Acts making appropriations for foreign operations, export financing, and related programs may be made available for the Political Participation Fund and the National Institutions Fund: *Provided further*, That of the funds made available under the heading “Economic Support Fund” in Public Law 109–234 for Iraq to promote democracy, rule of law and reconciliation, \$2,000,000 should be made available for the United States Institute of Peace for programs and activities in Afghanistan to remain available until September 30, 2008.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

For an additional amount for “Assistance for Eastern Europe and the Baltic States”, \$214,000,000, to remain available until September 30, 2008, for assistance for Kosovo.

DEPARTMENT OF STATE

DEMOCRACY FUND

For an additional amount for “Democracy Fund”, \$255,000,000, to remain available until September 30, 2008: *Provided*, That of the funds appropriated under this heading, not less than \$190,000,000 shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights, and Labor, Department of State, and not less than \$60,000,000 shall be made available for the United States Agency for International Development, for democracy, human rights and rule of law programs in Iraq: *Provided further*, That not later than 60 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations describing a comprehensive,

Deadline.
Reports.

long-term strategy, with goals and expected results, for strengthening and advancing democracy in Iraq.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement”, \$210,000,000, to remain available until September 30, 2008.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for “Migration and Refugee Assistance”, \$71,500,000, to remain available until September 30, 2008, of which not less than \$5,000,000 shall be made available to rescue Iraqi scholars.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE
FUND

For an additional amount for “United States Emergency Refugee and Migration Assistance Fund”, \$30,000,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED
PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, \$27,500,000, to remain available until September 30, 2008.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For an additional amount for “International Affairs Technical Assistance”, \$2,750,000, to remain available until September 30, 2008.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for “Foreign Military Financing Program”, \$220,000,000, to remain available until September 30, 2008.

PEACEKEEPING OPERATIONS

For an additional amount for “Peacekeeping Operations”, \$190,000,000, to remain available until September 30, 2008: *Provided*, That not later than 30 days after enactment of this Act and every 30 days thereafter until September 30, 2008, the Secretary of State shall submit a report to the Committees on Appropriations detailing the obligation and expenditure of funds made available under this heading in this Act and in prior Acts making appropriations for foreign operations, export financing, and related programs.

Deadline.
Reports.

GENERAL PROVISION—THIS CHAPTER

AUTHORIZATION OF FUNDS

SEC. 1601. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

TITLE II—HURRICANE KATRINA RECOVERY

DEPARTMENT OF HOMELAND SECURITY

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for “Disaster Relief”, \$3,400,000,000, to remain available until expended.

TITLE III—ADDITIONAL DEFENSE, INTERNATIONAL AFFAIRS, AND HOMELAND SECURITY PROVISIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for “Public Law 480 Title II Grants”, during the current fiscal year, not otherwise recoverable, and unrecovered prior years’ costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, \$100,000,000, to remain available until expended.

GENERAL PROVISION—THIS CHAPTER

SEC. 3101. There is hereby appropriated \$10,000,000 to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1): *Provided*, That any such funds made available to reimburse the Commodity Credit Corporation shall only be used to replenish the Bill Emerson Humanitarian Trust.

CHAPTER 2

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$139,740,000, of which \$129,740,000 is to remain available until September 30, 2008 and \$10,000,000 is to remain available until expended to implement corrective actions in response to the findings and recommendations in the Department of Justice Office of Inspector General report entitled, “A Review of the Federal Bureau of Investigation’s Use of National Security Letters”, of which \$500,000 shall be transferred to and merged with “Department of Justice, Office of the Inspector General”.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$3,698,000, to remain available until September 30, 2008.

GENERAL PROVISION—THIS CHAPTER

SEC. 3201. Funds provided in this Act for the “Department of Justice, Federal Bureau of Investigation, Salaries and Expenses”, shall be made available according to the language relating to such account in the joint explanatory statement accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107).

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$343,080,000.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$408,283,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$108,956,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$139,300,000.

RESERVE PERSONNEL, NAVY

For an additional amount for “Reserve Personnel, Navy”, \$8,223,000.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for “Reserve Personnel, Marine Corps”, \$5,660,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for “Reserve Personnel, Air Force”, \$6,073,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for “National Guard Personnel, Army”, \$109,261,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for “National Guard Personnel, Air Force”, \$19,533,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for “Operation and Maintenance, Navy”, \$24,000,000.

STRATEGIC RESERVE READINESS FUND

(INCLUDING TRANSFER OF FUNDS)

In addition to amounts provided in this or any other Act, for training, operations, repair of equipment, purchases of equipment, and other expenses related to improving the readiness of non-deployed United States military forces, \$1,615,000,000, to remain available until September 30, 2009; of which \$1,000,000,000 shall be transferred to “National Guard and Reserve Equipment” for the purchase of equipment for the Army National Guard; and of which \$615,000,000 shall be transferred by the Secretary of Defense only to appropriations for military personnel, operation and maintenance, procurement, and defense working capital funds to accomplish the purposes provided herein: *Provided*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the Secretary of Defense shall, not fewer than 30 days prior to making transfers under this authority, notify the congressional defense committees in writing of the details of any such transfers made pursuant to this authority: *Provided further*, That funds shall be transferred to the appropriation accounts not later than 120 days after the enactment of this Act: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred

Deadline.
Notification.

Deadline.

from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

PROCUREMENT

OTHER PROCUREMENT, ARMY

For an additional amount for “Other Procurement, Army”, \$1,217,000,000, to remain available until September 30, 2009: *Provided*, That the amount provided under this heading shall be available only for the purchase of mine resistant ambush protected vehicles.

OTHER PROCUREMENT, NAVY

For an additional amount for “Other Procurement, Navy”, \$130,040,000, to remain available until September 30, 2009: *Provided*, That the amount provided under this heading shall be available only for the purchase of mine resistant ambush protected vehicles.

PROCUREMENT, MARINE CORPS

For an additional amount for “Procurement, Marine Corps”, \$1,263,360,000, to remain available until September 30, 2009: *Provided*, That the amount provided under this heading shall be available only for the purchase of mine resistant ambush protected vehicles.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$139,040,000, to remain available until September 30, 2009: *Provided*, That the amount provided under this heading shall be available only for the purchase of mine resistant ambush protected vehicles.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for “Procurement, Defense-Wide”, \$258,860,000, to remain available until September 30, 2009: *Provided*, That the amount provided under this heading shall be available only for the purchase of mine resistant ambush protected vehicles.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Defense Health Program”, \$1,878,706,000; of which \$1,429,006,000 shall be for operation and maintenance, including \$600,000,000 which shall be available for the treatment of traumatic brain injury and post-traumatic stress disorder and remain available until September 30, 2008; of which \$118,000,000 shall be for procurement, to remain available until September 30, 2009; and of which \$331,700,000 shall be for research, development, test and evaluation, to remain available

until September 30, 2008: *Provided*, That if the Secretary of Defense determines that funds made available in this paragraph for the treatment of traumatic brain injury and post-traumatic stress disorder are in excess of the requirements of the Department of Defense, the Secretary may transfer amounts in excess of that requirement to the Department of Veterans Affairs to be available only for the same purpose.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3301. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control over any oil resource of Iraq.

SEC. 3302. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984)—

(1) section 2340A of title 18, United States Code;

(2) section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231 note) and regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations; and

(3) sections 1002 and 1003 of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148).

SEC. 3303. (a) REPORT BY SECRETARY OF DEFENSE.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that contains individual transition readiness assessments by unit of Iraq and Afghan security forces. The Secretary of Defense shall submit to the congressional defense committees updates of the report required by this subsection every 90 days after the date of the submission of the report until October 1, 2008. The report and updates of the report required by this subsection shall be submitted in classified form.

(b) REPORT BY OMB.—

(1) The Director of the Office of Management and Budget, in consultation with the Secretary of Defense; the Commander, Multi-National Security Transition Command—Iraq; and the Commander, Combined Security Transition Command—Afghanistan, shall submit to the congressional defense committees not later than 120 days after the date of the enactment of this Act and every 90 days thereafter a report on the proposed use of all funds under each of the headings “Iraq Security Forces Fund” and “Afghanistan Security Forces Fund” on a project-by-project basis, for which the obligation of funds is anticipated during the three-month period from such date,

including estimates by the commanders referred to in this paragraph of the costs required to complete each such project.

(2) The report required by this subsection shall include the following:

(A) The use of all funds on a project-by-project basis for which funds appropriated under the headings referred to in paragraph (1) were obligated prior to the submission of the report, including estimates by the commanders referred to in paragraph (1) of the costs to complete each project.

(B) The use of all funds on a project-by-project basis for which funds were appropriated under the headings referred to in paragraph (1) in prior appropriations Acts, or for which funds were made available by transfer, reprogramming, or allocation from other headings in prior appropriations Acts, including estimates by the commanders referred to in paragraph (1) of the costs to complete each project.

(C) An estimated total cost to train and equip the Iraq and Afghan security forces, disaggregated by major program and sub-elements by force, arrayed by fiscal year.

(c) NOTIFICATION.—The Secretary of Defense shall notify the congressional defense committees of any proposed new projects or transfers of funds between sub-activity groups in excess of \$15,000,000 using funds appropriated by this Act under the headings “Iraq Security Forces Fund” and “Afghanistan Security Forces Fund”.

SEC. 3304. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364).

Reports.

SEC. 3305. Not more than 85 percent of the funds appropriated to the Department of Defense in this Act for operation and maintenance shall be available for obligation unless and until the Secretary of Defense submits to the congressional defense committees a report detailing the use of Department of Defense funded service contracts conducted in the theater of operations in support of United States military and reconstruction activities in Iraq and Afghanistan: *Provided*, That the report shall provide detailed information specifying the number of contracts and contract costs used to provide services in fiscal year 2006, with sub-allocations by major service categories: *Provided further*, That the report also shall include estimates of the number of contracts to be executed in fiscal year 2007: *Provided further*, That the report shall include the number of contractor personnel in Iraq and Afghanistan funded by the Department of Defense: *Provided further*, That the report shall be submitted to the congressional defense committees not later than August 1, 2007.

Contracts.

Deadline.

SEC. 3306. Section 1477 of title 10, United States Code, is amended—

(1) in subsection (a), by striking “A death gratuity” and inserting “Subject to subsection (d), a death gratuity”;

(2) by redesignating subsection (d) as subsection (e) and, in such subsection, by striking “If an eligible survivor dies before he” and inserting “If a person entitled to all or a portion

of a death gratuity under subsection (a) or (d) dies before the person”; and

(3) by inserting after subsection (c) the following new subsection (d):

“(d) During the period beginning on the date of the enactment of this subsection and ending on September 30, 2007, a person covered by section 1475 or 1476 of this title may designate another person to receive not more than 50 percent of the amount payable under section 1478 of this title. The designation shall indicate the percentage of the amount, to be specified only in 10 percent increments up to the maximum of 50 percent, that the designated person may receive. The balance of the amount of the death gratuity shall be paid to or for the living survivors of the person concerned in accordance with paragraphs (1) through (5) of subsection (a).”.

SEC. 3307. (a) INSPECTION OF MILITARY MEDICAL TREATMENT FACILITIES, MILITARY QUARTERS HOUSING MEDICAL HOLD PERSONNEL, AND MILITARY QUARTERS HOUSING MEDICAL HOLDOVER PERSONNEL.—

10 USC 1073
note.

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall inspect each facility of the Department of Defense as follows:

Deadline.

(A) Each military medical treatment facility.

(B) Each military quarters housing medical hold personnel.

(C) Each military quarters housing medical holdover personnel.

(2) PURPOSE.—The purpose of an inspection under this subsection is to ensure that the facility or quarters concerned meets acceptable standards for the maintenance and operation of medical facilities, quarters housing medical hold personnel, or quarters housing medical holdover personnel, as applicable.

(b) ACCEPTABLE STANDARDS.—For purposes of this section, acceptable standards for the operation and maintenance of military medical treatment facilities, military quarters housing medical hold personnel, or military quarters housing medical holdover personnel are each of the following:

(1) Generally accepted standards for the accreditation of medical facilities, or for facilities used to quarter individuals with medical conditions that may require medical supervision, as applicable, in the United States.

(2) Where appropriate, standards under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(c) ADDITIONAL INSPECTIONS ON IDENTIFIED DEFICIENCIES.—

(1) IN GENERAL.—In the event a deficiency is identified pursuant to subsection (a) at a facility or quarters described in paragraph (1) of that subsection—

(A) the commander of such facility or quarters, as applicable, shall submit to the Secretary a detailed plan to correct the deficiency; and

(B) the Secretary shall reinspect such facility or quarters, as applicable, not less often than once every 180 days until the deficiency is corrected.

(2) CONSTRUCTION WITH OTHER INSPECTIONS.—An inspection of a facility or quarters under this subsection is in addition to any inspection of such facility or quarters under subsection (a).

(d) **REPORTS ON INSPECTIONS.**—A complete copy of the report on each inspection conducted under subsections (a) and (c) shall be submitted in unclassified form to the applicable military medical command and to the congressional defense committees.

(e) **REPORT ON STANDARDS.**—In the event no standards for the maintenance and operation of military medical treatment facilities, military quarters housing medical hold personnel, or military quarters housing medical holdover personnel exist as of the date of the enactment of this Act, or such standards as do exist do not meet acceptable standards for the maintenance and operation of such facilities or quarters, as the case may be, the Secretary shall, not later than 30 days after that date, submit to the congressional defense committees a report setting forth the plan of the Secretary to ensure—

(1) the adoption by the Department of standards for the maintenance and operation of military medical facilities, military quarters housing medical hold personnel, or military quarters housing medical holdover personnel, as applicable, that meet—

(A) acceptable standards for the maintenance and operation of such facilities or quarters, as the case may be; and

(B) where appropriate, standards under the Americans with Disabilities Act of 1990; and

(2) the comprehensive implementation of the standards adopted under paragraph (1) at the earliest date practicable.

SEC. 3308. (a) AWARD OF MEDAL OF HONOR TO WOODROW W. KEEBLE FOR VALOR DURING KOREAN WAR.—Notwithstanding any applicable time limitation under section 3744 of title 10, United States Code, or any other time limitation with respect to the award of certain medals to individuals who served in the Armed Forces, the President may award to Woodrow W. Keeble the Medal of Honor under section 3741 of that title for the acts of valor described in subsection (b).

(b) **ACTS OF VALOR.**—The acts of valor referred to in subsection (a) are the acts of Woodrow W. Keeble, then-acting platoon leader, carried out on October 20, 1951, during the Korean War.

(TRANSFER OF FUNDS)

SEC. 3309. Of the amount appropriated under the heading “Other Procurement, Army”, in title III of division A of Public Law 109–148, \$6,250,000 shall be transferred to “Military Construction, Army”.

SEC. 3310. The Secretary of Defense, notwithstanding any other provision of law, acting through the Office of Economic Adjustment or the Office of Dependents Education of the Department of Defense, shall use not less than \$10,000,000 of funds made available in this Act under the heading “Operation and Maintenance, Defense-Wide” to make grants and supplement other Federal funds to provide special assistance to local education agencies.

SEC. 3311. Congress finds that United States military units should not enter into combat unless they are fully capable of performing their assigned mission. Congress further finds that this is the policy of the Department of Defense. The Secretary of Defense shall notify Congress of any changes to this policy.

CHAPTER 4

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for “Defense Nuclear Nonproliferation”, \$72,000,000 is provided for the International Nuclear Materials Protection and Cooperation Program, to remain available until expended.

GENERAL PROVISION—THIS CHAPTER

(TRANSFER OF FUNDS)

SEC. 3401. The Administrator of the National Nuclear Security Administration is authorized to transfer up to \$1,000,000 from Defense Nuclear Nonproliferation to the Office of the Administrator during fiscal year 2007 supporting nuclear nonproliferation activities.

CHAPTER 5

DEPARTMENT OF HOMELAND SECURITY

ANALYSIS AND OPERATIONS

For an additional amount for “Analysis and Operations”, \$8,000,000, to remain available until September 30, 2008, to be used for support of the State and Local Fusion Center program: *Provided*, That starting July 1, 2007, the Secretary of Homeland Security shall submit quarterly reports to the Committees on Appropriations of the Senate and the House of Representatives detailing the information required in House Report 110–107.

Effective date.
Reports.
6 USC 481 note.

UNITED STATES CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Salaries and Expenses”, \$75,000,000, to remain available until September 30, 2008, to support hiring not less than 400 additional United States Customs and Border Protection Officers, as well as additional intelligence analysts, trade specialists, and support staff to target and screen U.S.-bound cargo on the Northern Border, at overseas locations, and at the National Targeting Center; to support hiring additional staffing required for Northern Border Air and Marine operations; to implement Security and Accountability For Every Port Act of 2006 (Public Law 109–347) requirements; to advance the goals of the Secure Freight Initiative to improve significantly the ability of United States Customs and Border Protection to target and analyze U.S.-bound cargo containers; to expand overseas screening and physical inspection capacity for U.S.-bound cargo; to procure

and integrate non-intrusive inspection equipment into inspection and radiation detection operations; and to improve supply chain security, to include enhanced analytic and targeting systems using data collected via commercial and government technologies and databases: *Provided*, That up to \$3,000,000 shall be transferred to Federal Law Enforcement Training Center “Salaries and Expenses”, for basic training costs associated with the additional personnel funded under this heading: *Provided further*, That the Secretary shall submit an expenditure plan for the use of these funds to the Committees on Appropriations of the Senate and the House of Representatives no later than 30 days after enactment of this Act: *Provided further*, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives immediately if United States Customs and Border Protection does not expect to achieve its plan of having at least 1,158 Border Patrol agents permanently deployed to the Northern Border by the end of fiscal year 2007, and explain in detail the reasons for any shortfall.

Expenditure
plan.
Deadline.

Notification.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for “Air and Marine Interdiction, Operations, Maintenance, and Procurement”, for air and marine operations on the Northern Border, including the final Northern Border air wing, \$75,000,000, to remain available until September 30, 2008, to accelerate planned deployment of Northern Border Air and Marine operations, including establishment of the final Northern Border airwing, procurement of assets such as fixed wing aircraft, helicopters, unmanned aerial systems, marine and riverine vessels, and other equipment, relocation of aircraft, site acquisition, and the design and building of facilities: *Provided*, That the Secretary shall submit an expenditure plan for the use of these funds to the Committees on Appropriations of the Senate and the House of Representatives no later than 30 days after enactment of this Act.

Expenditure
plan.
Deadline.

UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$6,000,000, to remain available until September 30, 2008; of which \$5,000,000 shall be for the creation of a security advisory opinion unit within the Visa Security Program; and of which \$1,000,000 shall be for the Human Smuggling and Trafficking Center.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For an additional amount for “Aviation Security”, \$390,000,000; of which \$285,000,000 shall be for procurement and installation of checked baggage explosives detection systems, to remain available until expended; of which \$25,000,000 shall be for checkpoint explosives detection equipment and pilot screening technologies, to remain available until expended; and of which \$80,000,000 shall be for air cargo security, to remain available until September 30, 2009: *Provided*, That of the air cargo funding made available under

this heading, the Transportation Security Administration shall hire no fewer than 150 additional air cargo inspectors to establish a more robust enforcement and compliance program; complete air cargo vulnerability assessments for all Category X airports; expand the National Explosives Detection Canine Program by no fewer than 170 additional canine teams, including the use of agency led teams; pursue canine screening methods utilized internationally that focus on air samples; and procure and install explosive detection systems, explosive trace machines, and other technologies to screen air cargo: *Provided further*, That no later than 90 days after the date of enactment of this Act, the Secretary shall provide the Committees on Appropriations of the Senate and the House of Representatives an expenditure plan detailing how the Transportation Security Administration will utilize funding provided under this heading.

Deadline.
Expenditure
plan.

FEDERAL AIR MARSHALS

For an additional amount for “Federal Air Marshals”, \$5,000,000, to remain available until September 30, 2008: *Provided*, That no later than 30 days after enactment of this Act, the Secretary shall provide the Committees on Appropriations of the Senate and the House of Representatives a report on how these additional funds will be allocated.

Deadline.
Reports.

NATIONAL PROTECTION AND PROGRAMS

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For an additional amount for “Infrastructure Protection and Information Security”, \$24,000,000, to remain available until September 30, 2008; of which \$12,000,000 shall be for development of State and local interoperability plans as discussed in House Report 110–107; and of which \$12,000,000 shall be for implementation of chemical facility security regulations: *Provided*, That within 30 days of the date of enactment of this Act the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives detailed expenditure plans for execution of these funds: *Provided further*, That within 30 days of the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on the computer forensics training center detailing the information required in House Report 110–107.

Deadline.
Expenditure
plan.

Deadline.
Reports.

OFFICE OF HEALTH AFFAIRS

For expenses for the “Office of Health Affairs”, \$8,000,000, to remain available until September 30, 2008: *Provided*, That of the amount made available under this heading, \$5,500,000 is for nuclear event public health assessment and planning: *Provided further*, That the Office of Health Affairs shall conduct a nuclear event public health assessment as described in House Report 110–107: *Provided further*, That none of the funds made available under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure.

Assessment.

FEDERAL EMERGENCY MANAGEMENT AGENCY

MANAGEMENT AND ADMINISTRATION

For expenses for management and administration of the Federal Emergency Management Agency (“FEMA”), \$14,000,000, to remain available until September 30, 2008: *Provided*, That of the amount made available under this heading, \$6,000,000 shall be for financial and information systems, \$2,500,000 shall be for interstate mutual aid agreements, \$2,500,000 shall be for FEMA Regional Office communication equipment, \$2,500,000 shall be for FEMA strike teams, and \$500,000 shall be for the Law Enforcement Liaison Office, the Disability Coordinator and the National Advisory Council: *Provided further*, That none of such funds made available under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure: *Provided further*, That unobligated amounts in the “Administrative and Regional Operations” and “Readiness, Mitigation, Response, and Recovery” accounts shall be transferred to “Management and Administration” and may be used for any purpose authorized for such amounts and subject to limitation on the use of such amounts.

STATE AND LOCAL PROGRAMS

For an additional amount for “State and Local Programs”, \$247,000,000; of which \$110,000,000 shall be for port security grants pursuant to section 70107(l) of title 46, United States Code to be awarded by September 30, 2007, to tier 1, 2, 3, and 4 ports; of which \$100,000,000 shall be for intercity rail passenger transportation, freight rail, and transit security grants to be awarded by September 30, 2007; of which \$35,000,000 shall be for regional grants and regional technical assistance to tier one Urban Area Security Initiative cities and other participating governments for the purpose of developing all-hazard regional catastrophic event plans and preparedness, as described in House Report 110–107; and of which \$2,000,000 shall be for technical assistance for operation and maintenance training on detection and response equipment that must be competitively awarded: *Provided*, That none of the funds made available under this heading may be obligated for such regional grants and regional technical assistance until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure: *Provided further*, That the Federal Emergency Management Agency shall provide the regional grants and regional technical assistance expenditure plan to the Committees on Appropriations of the Senate and the House of Representatives on or before August 1, 2007: *Provided further*, That funds for such regional grants and regional technical assistance shall remain available until September 30, 2008.

Expenditure
plan.
Deadline.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For an additional amount for “Emergency Management Performance Grants”, \$50,000,000.

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For an additional amount for expenses of “United States Citizenship and Immigration Services” to address backlogs of security checks associated with pending applications and petitions, \$8,000,000, to remain available until September 30, 2008: *Provided*, That none of the funds made available under this heading shall be available for obligation until the Secretary of Homeland Security, in consultation with the United States Attorney General, submits to the Committees on Appropriations of the Senate and the House of Representatives a plan to eliminate the backlog of security checks that establishes information sharing protocols to ensure United States Citizenship and Immigration Services has the information it needs to carry out its mission.

SCIENCE AND TECHNOLOGY

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For an additional amount for “Research, Development, Acquisition, and Operations” for air cargo security research, \$5,000,000, to remain available until expended.

DOMESTIC NUCLEAR DETECTION OFFICE

RESEARCH, DEVELOPMENT, AND OPERATIONS

For an additional amount for “Research, Development, and Operations” for non-container, rail, aviation and intermodal radiation detection activities, \$35,000,000, to remain available until expended: *Provided*, That \$5,000,000 is to enhance detection links between seaports and railroads as authorized in section 121(i) of the Security and Accountability For Every Port Act of 2006 (Public Law 109–347); \$8,000,000 is to accelerate development and deployment of detection systems at international rail border crossings; and \$22,000,000 is for development and deployment of a variety of screening technologies at aviation facilities.

SYSTEMS ACQUISITION

For an additional amount for “Systems Acquisition”, \$100,000,000, to remain available until expended: *Provided*, That none of the funds appropriated under this heading shall be obligated for full scale procurement of Advanced Spectroscopic Portal Monitors until the Secretary of Homeland Security has certified through a report to the Committees on Appropriations of the Senate and the House of Representatives that a significant increase in operational effectiveness will be achieved.

Certification.
Reports.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3501. None of the funds provided in this Act, or Public Law 109–295, shall be available to carry out section 872 of Public Law 107–296.

SEC. 3502. The Secretary of Homeland Security shall require that all contracts of the Department of Homeland Security that provide award fees link such fees to successful acquisition outcomes (which outcomes shall be specified in terms of cost, schedule, and performance).

Contracts.

CHAPTER 6

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$6,437,000, as follows:

ALLOWANCES AND EXPENSES

For an additional amount for allowances and expenses as authorized by House resolution or law, \$6,437,000 for business continuity and disaster recovery, to remain available until expended.

GOVERNMENT ACCOUNTABILITY OFFICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” of the Government Accountability Office, \$374,000, to remain available until September 30, 2008.

CHAPTER 7

DEPARTMENT OF DEFENSE

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

Deadline.
Spending plan.

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$3,136,802,000, to remain available until expended: *Provided*, That within 30 days of the enactment of this Act, the Secretary of Defense shall submit a detailed spending plan to the Committees on Appropriations of the House of Representatives and the Senate.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3701. Notwithstanding any other provision of law, none of the funds in this or any other Act may be used to close Walter Reed Army Medical Center until equivalent medical facilities at the Walter Reed National Military Medical Center at Naval Medical Center, Bethesda, Maryland, and/or the Fort Belvoir, Virginia, Community Hospital have been constructed and equipped: *Provided*, That to ensure that the quality of care provided by the Military Health System is not diminished during this transition, the Walter Reed Army Medical Center shall be adequately funded, to include necessary renovation and maintenance of existing facilities, to maintain the maximum level of inpatient and outpatient services.

Deadline.
Reorganization
and relocation
plan.

SEC. 3702. Notwithstanding any other provision of law, none of the funds in this or any other Act shall be used to reorganize or relocate the functions of the Armed Forces Institute of Pathology (AFIP) until the Secretary of Defense has submitted, not later than December 31, 2007, a detailed plan and timetable for the

proposed reorganization and relocation to the Committees on Appropriations and Armed Services of the Senate and House of Representatives. The plan shall take into consideration the recommendations of a study being prepared by the Government Accountability Office (GAO), provided that such study is available not later than 45 days before the date specified in this section, on the impact of dispersing selected functions of AFIP among several locations, and the possibility of consolidating those functions at one location. The plan shall include an analysis of the options for the location and operation of the Program Management Office for second opinion consults that are consistent with the recommendations of the Base Realignment and Closure Commission, together with the rationale for the option selected by the Secretary.

SEC. 3703. The Secretary of the Navy shall, notwithstanding any other provision of law, transfer to the Secretary of the Air Force, at no cost, all lands, easements, Air Installation Compatible Use Zones, and facilities at NASJRB Willow Grove designated for operation as a Joint Interagency Installation for use by the Pennsylvania National Guard and other Department of Defense components, government agencies, and associated users to perform national defense, homeland security, and emergency preparedness missions.

Land transfer.

CHAPTER 8

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Diplomatic and Consular Programs”, \$34,103,000, to remain available until September 30, 2008, of which \$31,845,000 for World Wide Security Upgrades is available until expended: *Provided*, That of the amount available under this heading, \$258,000 shall be transferred to, and merged with, funds available in fiscal year 2007 for expenses for the United States Commission on International Religious Freedom: *Provided further*, That within 15 days of enactment of this Act, the Office of Management and Budget shall apportion \$15,000,000 from amounts appropriated or otherwise made available by chapter 8 of title II of division B of Public Law 109–148 under the heading “Emergencies in the Diplomatic and Consular Service” to reimburse expenditures from that account in facilitating the evacuation of persons from Lebanon between July 16, 2006, and the date of enactment of this Act.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for “Office of Inspector General”, \$1,500,000, to remain available until December 31, 2008.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for “Contributions to International Organizations”, \$50,000,000, to remain available until September 30, 2008.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for “International Disaster and Famine Assistance”, \$60,000,000, to remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$3,000,000, to remain available until September 30, 2008.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for “Operating Expenses of the United States Agency for International Development Office of Inspector General”, \$3,500,000, to remain available until September 30, 2008.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for “Economic Support Fund”, \$122,300,000, to remain available until September 30, 2008.

DEPARTMENT OF STATE

DEMOCRACY FUND

For an additional amount for “Democracy Fund”, \$5,000,000, to remain available until September 30, 2008.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for “International Narcotics Control and Law Enforcement”, \$42,000,000, to remain available until September 30, 2008.

Of the amounts made available for procurement of a maritime patrol aircraft for the Colombian Navy under this heading in Public Law 109–234, \$13,000,000 are rescinded.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for “Migration and Refugee Assistance”, \$59,000,000, to remain available until September 30, 2008.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE
FUND

For an additional amount for “United States Emergency Refugee and Migration Assistance Fund”, \$25,000,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED
PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, \$30,000,000, to remain available until September 30, 2008.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for “Foreign Military Financing Program”, \$45,000,000, to remain available until September 30, 2008.

PEACEKEEPING OPERATIONS

For an additional amount for “Peacekeeping Operations”, \$40,000,000, to remain available until September 30, 2008: *Provided*, That funds appropriated under this heading shall be made available, notwithstanding section 660 of the Foreign Assistance Act of 1961, for assistance for Liberia for security sector reform. Liberia.

GENERAL PROVISIONS—THIS CHAPTER

EXTENSION OF OVERSIGHT AUTHORITY

SEC. 3801. Section 3001(o)(1)(B) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1238; 5 U.S.C. App., note to section 8G of Public Law 95–452), as amended by section 1054(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2397) and section 2 of the Iraq Reconstruction Accountability Act of 2006 (Public Law 109–440), is amended by inserting “or fiscal year 2007” after “fiscal year 2006”.

5 USC app. 8G
note.

LEBANON

SEC. 3802. (a) LIMITATION ON ECONOMIC SUPPORT FUND ASSISTANCE FOR LEBANON.—None of the funds made available in this Act under the heading “Economic Support Fund” for cash transfer assistance for the Government of Lebanon may be made available for obligation until the Secretary of State reports to the Committees on Appropriations on Lebanon’s economic reform plan and on the specific conditions and verifiable benchmarks that have been agreed

upon by the United States and the Government of Lebanon pursuant to the Memorandum of Understanding on cash transfer assistance for Lebanon.

(b) LIMITATION ON FOREIGN MILITARY FINANCING PROGRAM AND INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT ASSISTANCE FOR LEBANON.—None of the funds made available in this Act under the heading “Foreign Military Financing Program” or “International Narcotics Control and Law Enforcement” for military or police assistance to Lebanon may be made available for obligation until the Secretary of State submits to the Committees on Appropriations a report on procedures established to determine eligibility of members and units of the armed forces and police forces of Lebanon to participate in United States training and assistance programs and on the end use monitoring of all equipment provided under such programs to the Lebanese armed forces and police forces.

(c) CERTIFICATION REQUIRED.—Prior to the initial obligation of funds made available in this Act for assistance for Lebanon under the headings “Foreign Military Financing Program” and “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, the Secretary of State shall certify to the Committees on Appropriations that all practicable efforts have been made to ensure that such assistance is not provided to or through any individual, or private or government entity, that advocates, plans, sponsors, engages in, or has engaged in, terrorist activity.

(d) REPORT REQUIRED.—Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a report on the Government of Lebanon’s actions to implement section 14 of United Nations Security Council Resolution 1701 (August 11, 2006).

(e) SPECIAL AUTHORITY.—This section shall be effective notwithstanding section 534(a) of Public Law 109–102, which is made applicable to funds appropriated for fiscal year 2007 by the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5).

DEBT RESTRUCTURING

SEC. 3803. Amounts appropriated for fiscal year 2007 for “Bilateral Economic Assistance—Department of the Treasury—Debt Restructuring” may be used to assist Liberia in retiring its debt arrearages to the International Monetary Fund, the International Bank for Reconstruction and Development, and the African Development Bank.

GOVERNMENT ACCOUNTABILITY OFFICE

SEC. 3804. To facilitate effective oversight of programs and activities in Iraq by the Government Accountability Office (GAO), the Department of State shall provide GAO staff members the country clearances, life support, and logistical and security support necessary for GAO personnel to establish a presence in Iraq for periods of not less than 45 days.

HUMAN RIGHTS AND DEMOCRACY FUND

SEC. 3805. The Assistant Secretary of State for Democracy, Human Rights, and Labor shall be responsible for all policy,

funding, and programming decisions regarding funds made available under this Act and prior Acts making appropriations for foreign operations, export financing and related programs for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights, and Labor.

INSPECTOR GENERAL OVERSIGHT OF IRAQ AND AFGHANISTAN

SEC. 3806. (a) IN GENERAL.—Subject to paragraph (2), the Inspector General of the Department of State and the Broadcasting Board of Governors (referred to in this section as the “Inspector General”) may use personal services contracts to engage citizens of the United States to facilitate and support the Office of the Inspector General’s oversight of programs and operations related to Iraq and Afghanistan. Individuals engaged by contract to perform such services shall not, by virtue of such contract, be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management. The Secretary of State may determine the applicability to such individuals of any law administered by the Secretary concerning the performance of such services by such individuals. Contracts.

(b) CONDITIONS.—The authority under paragraph (1) is subject to the following conditions:

(1) The Inspector General determines that existing personnel resources are insufficient.

(2) The contract length for a personal services contractor, including options, may not exceed 1 year, unless the Inspector General makes a finding that exceptional circumstances justify an extension of up to 1 additional year.

(3) Not more than 10 individuals may be employed at any time as personal services contractors under the program.

(c) TERMINATION OF AUTHORITY.—The authority to award personal services contracts under this section shall terminate on December 31, 2007. A contract entered into prior to the termination date under this paragraph may remain in effect until not later than December 31, 2009.

(d) OTHER AUTHORITIES NOT AFFECTED.—The authority under this section is in addition to any other authority of the Inspector General to hire personal services contractors.

FUNDING TABLES, REPORTS AND DIRECTIVES

SEC. 3807. (a) Funds provided in this Act for the following accounts shall be made available for countries, programs and activities in the amounts contained in the respective tables and should be expended consistent with the reporting requirements and directives included in the joint explanatory statement accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107):

“Diplomatic and Consular Programs”.

“Office of the Inspector General”.

“Educational and Cultural Exchange Programs”.

“Contributions to International Organizations”.

“Contributions for International Peacekeeping Activities”.

“Child Survival and Health Programs Fund”.

“International Disaster and Famine Assistance”.

“Operating Expenses of the United States Agency for International Development”.

“Operating Expenses of the United States Agency for International Development Office of Inspector General”.

“Economic Support Fund”.

“Assistance for Eastern Europe and the Baltic States”.

“Democracy Fund”.

“International Narcotics Control and Law Enforcement”.

“Migration and Refugee Assistance”.

“Nonproliferation, Anti-Terrorism, Demining and Related Programs”.

“Foreign Military Financing Program”.

“Peacekeeping Operations”.

(b) Any proposed increases or decreases to the amounts contained in the tables in the joint explanatory statement shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

SPENDING PLAN AND NOTIFICATION PROCEDURES

Deadline.
Reports.

SEC. 3808. Not later than 45 days after enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated under the headings in this chapter and under the headings in chapter 6 of title I, except for funds appropriated under the heading “International Disaster and Famine Assistance”: *Provided*, That funds appropriated under the headings in this chapter and in chapter 6 of title I, except for funds appropriated under the heading named in this section, shall be subject to the regular notification procedures of the Committees on Appropriations.

CONDITIONS ON ASSISTANCE FOR PAKISTAN

Reports.

Notification.

SEC. 3809. None of the funds made available for assistance for the central Government of Pakistan under the heading “Economic Support Fund” in this Act may be made available for non-project assistance until the Secretary of State submits to the Committees on Appropriations a report on the oversight mechanisms, performance benchmarks, and implementation processes for such funds: *Provided*, That notwithstanding any other provision of law, funds made available for non-project assistance pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the funds made available for assistance for Pakistan under the heading “Economic Support Fund” in this Act, \$5,000,000 shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights, and Labor, Department of State, for political party development and election observation programs.

CIVILIAN RESERVE CORPS

Notification.

SEC. 3810. Of the funds appropriated by this Act under the heading “Diplomatic and Consular Programs”, up to \$50,000,000 may be made available to support and maintain a civilian reserve corps: *Provided*, That none of the funds for a civilian reserve corps may be obligated without specific authorization in a subsequent Act of Congress: *Provided further*, That funds made available for

this purpose shall be subject to the regular notification procedures of the Committees on Appropriations.

EXTENSION OF AVAILABILITY OF FUNDS

SEC. 3811. Section 1302(a) of Public Law 109–234 is amended by striking “one additional year” and inserting “two additional years”. 120 Stat. 435.

SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS SERVING AS
TRANSLATORS OR INTERPRETERS WITH FEDERAL AGENCIES

SEC. 3812. (a) INCREASE IN NUMBERS ADMITTED.—Section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by striking “as a translator” and inserting “, or under Chief of Mission authority, as a translator or interpreter”;

(B) in subparagraph (C), by inserting “the Chief of Mission or” after “recommendation from”; and

(C) in subparagraph (D), by inserting “the Chief of Mission or” after “as determined by”; and

(2) in subsection (c)(1), by striking “section during any fiscal year shall not exceed 50.” and inserting the following: “section—

“(A) during each of the fiscal years 2007 and 2008, shall not exceed 500; and

“(B) during any other fiscal year shall not exceed 50.”.

(b) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—Section 1059(c)(2) of such Act is amended—

(1) by amending the paragraph designation and heading to read as follows:

“(2) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—”; and

(2) by inserting “and shall not be counted against the numerical limitations under sections 201(d), 202(a), and 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4))” before the period at the end.

(c) ADJUSTMENT OF STATUS.—Section 1059 of such Act is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

“(d) ADJUSTMENT OF STATUS.—Notwithstanding paragraphs (2), (7) and (8) of section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), the Secretary of Homeland Security may adjust the status of an alien to that of a lawful permanent resident under section 245(a) of such Act if the alien—

“(1) was paroled or admitted as a nonimmigrant into the United States; and

“(2) is otherwise eligible for special immigrant status under this section and under the Immigration and Nationality Act.”.

TITLE IV—ADDITIONAL HURRICANE DISASTER RELIEF AND RECOVERY

CHAPTER 1

DEPARTMENT OF AGRICULTURE

GENERAL PROVISION—THIS CHAPTER

SEC. 4101. Section 1231(k)(2) of the Food Security Act of 1985 (16 U.S.C. 3831(k)(2)) is amended by striking “During calendar year 2006, the” and inserting “The”.

CHAPTER 2

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for “State and Local Law Enforcement Assistance”, for discretionary grants authorized by subpart 2 of part E, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as in effect on September 30, 2006, notwithstanding the provisions of section 511 of said Act, \$50,000,000, to remain available until expended: *Provided*, That the amount made available under this heading shall be for local law enforcement initiatives in the Gulf Coast region related to the aftermath of Hurricane Katrina: *Provided further*, That these funds shall be apportioned among the States in quotient to their level of violent crime as estimated by the Federal Bureau of Investigation’s Uniform Crime Report for the year 2005.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for “Operations, Research, and Facilities”, for necessary expenses related to the consequences of Hurricanes Katrina and Rita on the shrimp and fishing industries, \$110,000,000, to remain available until September 30, 2008.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

EXPLORATION CAPABILITIES

For an additional amount for “Exploration Capabilities” for necessary expenses related to the consequences of Hurricane Katrina, \$20,000,000, to remain available until September 30, 2009.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 4201. Funds provided in this Act for the “Department of Commerce, National Oceanic and Atmospheric Administration, Operations, Research, and Facilities”, shall be made available

according to the language relating to such account in the joint explanatory statement accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107).

SEC. 4202. Up to \$48,000,000 of amounts made available to the National Aeronautics and Space Administration in Public Law 109–148 and Public Law 109–234 for emergency hurricane and other natural disaster-related expenses may be used to reimburse hurricane-related costs incurred by NASA in fiscal year 2005.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for “Construction” for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, \$25,300,000, to remain available until expended, which may be used to continue construction of projects related to interior drainage for the greater New Orleans metropolitan area.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for “Flood Control and Coastal Emergencies”, as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of Hurricanes Katrina and Rita and for other purposes, \$1,407,700,000, to remain available until expended: *Provided*, That \$1,300,000,000 of the amount provided may be used by the Secretary of the Army to carry out projects and measures for the West Bank and Vicinity and Lake Ponchartrain and Vicinity, Louisiana, projects, as described under the heading “Flood Control and Coastal Emergencies”, in chapter 3 of Public Law 109–148: *Provided further*, That \$107,700,000 of the amount provided may be used to implement the projects for hurricane storm damage reduction, flood damage reduction, and ecosystem restoration within Hancock, Harrison, and Jackson Counties, Mississippi substantially in accordance with the Report of the Chief of Engineers dated December 31, 2006, and entitled “Mississippi, Coastal Improvements Program Interim Report, Hancock, Harrison, and Jackson Counties, Mississippi”: *Provided further*, That projects authorized for implementation under this Chief’s report shall be carried out at full Federal expense, except that the non-Federal interests shall be responsible for providing for all costs associated with operation and maintenance of the project: *Provided further*, That any project using funds appropriated under this heading shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors:

Reports.
Deadline.

Provided further, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 4301. The Secretary is authorized and directed to determine the value of eligible reimbursable expenses incurred by local governments in storm-proofing pumping stations, constructing safe houses for operators, and other interim flood control measures in and around the New Orleans metropolitan area that the Secretary determines to be integral to the overall plan to ensure operability of the stations during hurricanes, storms and high water events and the flood control plan for the area.

SEC. 4302. (a) The Secretary of the Army is authorized and directed to utilize funds remaining available for obligation from the amounts appropriated in chapter 3 of Public Law 109-234 under the heading “Flood Control and Coastal Emergencies” for projects in the greater New Orleans metropolitan area to prosecute these projects in a manner which promotes the goal of continuing work at an optimal pace, while maximizing, to the greatest extent practicable, levels of protection to reduce the risk of storm damage to people and property.

(b) The expenditure of funds as provided in subsection (a) may be made without regard to individual amounts or purposes specified in chapter 3 of Public Law 109-234.

(c) Any reallocation of funds that are necessary to accomplish the goal established in subsection (a) are authorized, subject to the approval of the House and Senate Committees on Appropriation.

SEC. 4303. The Chief of Engineers shall investigate the overall technical advantages, disadvantages and operational effectiveness of operating the new pumping stations at the mouths of the 17th Street, Orleans Avenue and London Avenue canals in the New Orleans area directed for construction in Public Law 109-234 concurrently or in series with existing pumping stations serving these canals and the advantages, disadvantages and technical operational effectiveness of removing the existing pumping stations and configuring the new pumping stations and associated canals to handle all needed discharges to the lakefront or in combination with discharges directly to the Mississippi River in Jefferson Parish; and the advantages, disadvantages and technical operational effectiveness of replacing or improving the floodwalls and levees adjacent to the three outfall canals: *Provided*, That the analysis should be conducted at Federal expense: *Provided further*, That the analysis shall be completed and furnished to the Congress not later than three months after enactment of this Act.

Reports.
Deadline.

SEC. 4304. Using funds made available in Chapter 3 under title II of Public Law 109-234, under the heading “Investigations”, the Secretary of the Army, in consultation with other agencies and the State of Louisiana shall accelerate completion as practicable the final report of the Chief of Engineers recommending a comprehensive plan to deauthorize deep draft navigation on the Mississippi River Gulf Outlet: *Provided*, That the plan shall incorporate and build upon the Interim Mississippi River Gulf Outlet Deep-

Draft De-Authorization Report submitted to Congress in December 2006 pursuant to Public Law 109–234.

CHAPTER 4

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

Of the unobligated balances under the heading “Small Business Administration, Disaster Loans Program Account”, \$181,069,000, to remain available until expended, shall be used for administrative expenses to carry out the disaster loan program, which may be transferred to and merged with “Small Business Administration, Salaries and Expenses”, of which \$500,000 is for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program and shall be paid to appropriations for the Office of Inspector General; of which \$171,569,000 is for direct administrative expenses of loan making and servicing to carry out the direct loan program; and of which \$9,000,000 is for indirect administrative expenses.

Of the unobligated balances under the heading “Small Business Administration, Disaster Loans Program Account”, \$25,000,000 shall be made available for loans under section 7(b)(2) of the Small Business Act to pre-existing businesses located in an area for which the President declared a major disaster because of the hurricanes in the Gulf of Mexico in calendar year 2005, of which not to exceed \$8,750,000 is for direct administrative expenses and may be transferred to and merged with “Small Business Administration, Salaries and Expenses” to carry out the disaster loan program of the Small Business Administration.

Of the unobligated balances under the heading “Small Business Administration, Disaster Loans Program Account”, \$150,000,000 is transferred to the “Federal Emergency Management Agency, Disaster Relief” account.

CHAPTER 5

DEPARTMENT OF HOMELAND SECURITY

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Disaster Relief”, \$710,000,000, to remain available until expended: *Provided*, That \$4,000,000 shall be transferred to “Office of Inspector General”: *Provided further*, That the Government Accountability Office shall review how the Federal Emergency Management Agency develops its estimates of the funds needed to respond to any given disaster as described in House Report 110–60.

Review.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 4501. (a) IN GENERAL.—Notwithstanding any other provision of law, including any agreement, the Federal share of assistance, including direct Federal assistance, provided for the States of Louisiana, Mississippi, Florida, Alabama, and Texas in connection with Hurricanes Katrina, Wilma, Dennis, and Rita under sections 403, 406, 407, and 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173, and 5174) shall be 100 percent of the eligible costs under such sections.

(b) APPLICABILITY.—

(1) IN GENERAL.—The Federal share provided by subsection (a) shall apply to disaster assistance applied for before the date of enactment of this Act.

(2) LIMITATION.—In the case of disaster assistance provided under sections 403, 406, and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Federal share provided by subsection (a) shall be limited to assistance provided for projects for which a “request for public assistance form” has been submitted.

SEC. 4502. (a) COMMUNITY DISASTER LOAN ACT.—

119 Stat. 2061.

(1) IN GENERAL.—Section 2(a) of the Community Disaster Loan Act of 2005 (Public Law 109–88) is amended by striking “*Provided further*, That notwithstanding section 417(c)(1) of the Stafford Act, such loans may not be canceled:”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on the date of enactment of the Community Disaster Loan Act of 2005 (Public Law 109–88).

(b) EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT.—

120 Stat. 459.

(1) IN GENERAL.—Chapter 4 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234) is amended under Federal Emergency Management Agency, “Disaster Assistance Direct Loan Program Account” by striking “*Provided further*, That notwithstanding section 417(c)(1) of such Act, such loans may not be canceled:”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on the date of enactment of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234).

120 Stat. 460.

SEC. 4503. (a) IN GENERAL.—Section 2401 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234) is amended by striking “12 months” and inserting “24 months”.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on the date of enactment of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234).

CHAPTER 6**DEPARTMENT OF THE INTERIOR****NATIONAL PARK SERVICE****HISTORIC PRESERVATION FUND**

For an additional amount for the “Historic Preservation Fund” for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, \$10,000,000, to remain available until September 30, 2008: *Provided*, That the funds provided under this heading shall be provided to the State Historic Preservation Officer, after consultation with the National Park Service, for grants for disaster relief in areas of Louisiana impacted by Hurricanes Katrina or Rita: *Provided further*, That grants shall be for the preservation, stabilization, rehabilitation, and repair of historic properties listed in or eligible for the National Register of Historic Places, for planning and technical assistance: *Provided further*, That grants shall only be available for areas that the President determines to be a major disaster under section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) due to Hurricanes Katrina or Rita: *Provided further*, That individual grants shall not be subject to a non-Federal matching requirement: *Provided further*, That no more than 5 percent of funds provided under this heading for disaster relief grants may be used for administrative expenses.

GENERAL PROVISION—THIS CHAPTER**(INCLUDING TRANSFER OF FUNDS)**

SEC. 4601. Of the disaster relief funds from Public Law 109–234, 120 Stat. 418, 461, (June 30, 2006), chapter 5, “National Park Service—Historic Preservation Fund”, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season that were allocated to the State of Mississippi by the National Park Service, \$500,000 is hereby transferred to the “National Park Service—National Recreation and Preservation” appropriation: *Provided*, That these funds may be used to reconstruct destroyed properties that at the time of destruction were listed in the National Register of Historic Places and are otherwise qualified to receive these funds: *Provided further*, That the State Historic Preservation Officer certifies that, for the community where that destroyed property was located, the property is iconic to or essential to illustrating that community’s historic identity, that no other property in that community with the same associative historic value has survived, and that sufficient historical documentation exists to ensure an accurate reproduction.

Certification.

CHAPTER 7**DEPARTMENT OF EDUCATION****HIGHER EDUCATION**

For an additional amount under part B of title VII of the Higher Education Act of 1965 (“HEA”) for institutions of higher

Criteria.
Public
information.

Deadline.

education (as defined in section 101 or section 102(c) of that Act) that are located in an area in which a major disaster was declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act related to Hurricanes Katrina or Rita, \$30,000,000: *Provided*, That such funds shall be available to the Secretary of Education only for payments to help defray the expenses (which may include lost revenue, reimbursement for expenses already incurred, and construction) incurred by such institutions of higher education that were forced to close, relocate or significantly curtail their activities as a result of damage directly caused by such hurricanes and for payments to enable such institutions to provide grants to students who attend such institutions for academic years beginning on or after July 1, 2006: *Provided further*, That such payments shall be made in accordance with criteria established by the Secretary and made publicly available without regard to section 437 of the General Education Provisions Act, section 553 of title 5, United States Code, or part B of title VII of the HEA: *Provided further*, That the Secretary shall award funds available under this paragraph not later than 60 days after the date of the enactment of this Act.

HURRICANE EDUCATION RECOVERY

For carrying out activities authorized by subpart 1 of part D of title V of the Elementary and Secondary Education Act of 1965, \$30,000,000, to remain available until expended, for use by the States of Louisiana, Mississippi, and Alabama primarily for recruiting, retaining, and compensating new and current teachers, school principals, assistant principals, principal resident directors, assistant directors, and other educators, who commit to work for at least three years in school-based positions in public elementary and secondary schools located in an area with respect to which a major disaster was declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) by reason of Hurricane Katrina or Hurricane Rita, including through such mechanisms as paying salary premiums, performance bonuses, housing subsidies, signing bonuses, and relocation costs and providing loan forgiveness, with priority given to teachers and school-based school principals, assistant principals, principal resident directors, assistant directors, and other educators who previously worked or lived in one of the affected areas, are currently employed (or become employed) in such a school in any of the affected areas after those disasters, and commit to continue that employment for at least 3 years, *Provided*, That funds available under this heading to such States may also be used for 1 or more of the following activities: (1) to build the capacity, knowledge, and skill of teachers and school-based school principals, assistant principals, principal resident directors, assistant directors, and other educators in such public elementary and secondary schools to provide an effective education, including the design, adaptation, and implementation of high-quality formative assessments; (2) the establishment of partnerships with nonprofit entities with a demonstrated track record in recruiting and retaining outstanding teachers and other school-based school principals, assistant principals, principal resident directors, and assistant directors; and (3) paid release time for teachers and principals to identify and replicate successful practices from the fastest-improving and

highest-performing schools: *Provided further*, That the Secretary of Education shall allocate amounts available under this heading among such States that submit applications; that such allocation shall be based on the number of public elementary and secondary schools in each State that were closed for 19 days or more during the period beginning on August 29, 2005, and ending on December 31, 2005, due to Hurricane Katrina or Hurricane Rita; and that such States shall in turn allocate funds to local educational agencies, with priority given first to such agencies with the highest percentages of public elementary and secondary schools that are closed as a result of such hurricanes as of the date of enactment of this Act and then to such agencies with the highest percentages of public elementary and secondary schools with a student-teacher ratio of at least 25 to 1, and with any remaining amounts to be distributed to such agencies with demonstrated need, as determined by the State Superintendent of Education: *Provided further*, That, in the case of any State that chooses to use amounts available under this heading for performance bonuses, not later than 60 days after the date of enactment of this Act, and in collaboration with local educational agencies, teachers' unions, local principals' organizations, local parents' organizations, local business organizations, and local charter schools organizations, the State educational agency shall develop a plan for a rating system for performance bonuses, and if no agreement has been reached that is satisfactory to all consulting entities by such deadline, the State educational agency shall immediately send a letter notifying Congress and shall, not later than 30 days after such notification, establish and implement a rating system that shall be based on classroom observation and feedback more than once annually, conducted by multiple sources (including, but not limited to, principals and master teachers), and evaluated against research-based rubrics that use planning, instructional, and learning environment standards to measure teacher performance, except that the requirements of this proviso shall not apply to a State that has enacted a State law in 2006 authorizing performance pay for teachers.

Deadlines.
Performance
plan.
Notification.

PROGRAMS TO RESTART SCHOOL OPERATIONS

Funds made available under section 102 of the Hurricane Education Recovery Act (title IV of division B of Public Law 109-148) may be used by the States of Louisiana, Mississippi, Alabama, and Texas, in addition to the uses of funds described in section 102(e), for the following costs: (1) recruiting, retaining, and compensating new and current teachers, school principals, assistant principals, principal resident directors, assistant directors, and other educators for school-based positions in public elementary and secondary schools impacted by Hurricane Katrina or Hurricane Rita, including through such mechanisms as paying salary premiums, performance bonuses, housing subsidies, signing bonuses, and relocation costs and providing loan forgiveness; (2) activities to build the capacity, knowledge, and skills of teachers and school-based school principals, assistant principals, principal resident directors, assistant directors, and other educators in such public elementary and secondary schools to provide an effective education, including the design, adaptation, and implementation of high-quality formative assessments; (3) the establishment of partnerships with nonprofit entities with a demonstrated track record in

recruiting and retaining outstanding teachers and school-based school principals, assistant principals, principal resident directors, and assistant directors; and (4) paid release time for teachers and principals to identify and replicate successful practices from the fastest-improving and highest-performing schools.

GENERAL PROVISIONS—THIS CHAPTER

119 Stat. 2797. SEC. 4701. Section 105(b) of title IV of division B of Public Law 109–148 is amended by adding at the end the following new sentence: “With respect to the program authorized by section 102 of this Act, the waiver authority in subsection (a) of this section shall be available until the end of fiscal year 2008.”.

SEC. 4702. Notwithstanding section 2002(c) of the Social Security Act (42 U.S.C. 1397a(c)), funds made available under the heading “Social Services Block Grant” in division B of Public Law 109–148 shall be available for expenditure by the States through the end of fiscal year 2009.

State listing.
Waiver authority.

SEC. 4703. (a) In the event that Louisiana, Mississippi, Alabama, or Texas fails to meet its match requirement with funds appropriated in fiscal year 2006 or 2007, for fiscal years 2008 and 2009, the Secretary of Health and Human Services may waive the application of section 2617(d)(4) of the Public Health Service Act for Louisiana, Mississippi, Alabama, and Texas.

(b) The Secretary may not exercise the waiver authority available under subsection (a) to allow a grantee to provide less than a 25 percent matching grant.

(c) For grant years beginning in 2008, Louisiana, Mississippi, Alabama, and Texas and any eligible metropolitan area in Louisiana, Mississippi, Alabama, and Texas shall comply with each of the applicable requirements under title XXVI of the Public Health Service Act (42 U.S.C. 300ff–11 et seq.).

CHAPTER 8

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for the Emergency Relief Program as authorized under section 125 of title 23, United States Code, \$871,022,000, to remain available until expended: *Provided*, That section 125(d)(1) of title 23, United States Code, shall not apply to emergency relief projects that respond to damage caused by the 2005–2006 winter storms in the State of California: *Provided further*, That of the unobligated balances of funds apportioned to each State under chapter 1 of title 23, United States Code, \$871,022,000 are rescinded: *Provided further*, That such rescission shall not apply to the funds distributed in accordance with sections 130(f) and 104(b)(5) of title 23, United States Code; sections 133(d)(1) and 163 of such title, as in effect on the day before

the date of enactment of Public Law 109–59; and the first sentence of section 133(d)(3)(A) of such title.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

For an additional amount to be allocated by the Secretary to recipients of assistance under chapter 53 of title 49, United States Code, directly affected by Hurricanes Katrina and Rita, \$35,000,000, for the operating and capital costs of transit services, to remain available until expended: *Provided*, That the Federal share for any project funded from this amount shall be 100 percent.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of Inspector General, for the necessary costs related to the consequences of Hurricanes Katrina and Rita, \$7,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 4801. The third proviso under the heading “Department of Housing and Urban Development—Public and Indian Housing—Tenant-Based Rental Assistance” in chapter 9 of title I of division B of Public Law 109–148 (119 Stat. 2779) is amended by striking “for up to 18 months” and inserting “until December 31, 2007”.

SEC. 4802. Section 21033 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by adding after the third proviso: “: *Provided further*, That notwithstanding the previous proviso, except for applying the 2007 Annual Adjustment Factor and making any other specified adjustments, public housing agencies specified in category 1 below shall receive funding for calendar year 2007 based on the higher of the amounts the agencies would receive under the previous proviso or the amounts the agencies received in calendar year 2006, and public housing agencies specified in categories 2 and 3 below shall receive funding for calendar year 2007 equal to the amounts the agencies received in calendar year 2006, except that public housing agencies specified in categories 1 and 2 below shall receive funding under this proviso only if, and to the extent that, any such public housing agency submits a plan, approved by the Secretary, that demonstrates that the agency can effectively use within 12 months the funding that the agency would receive under this proviso that is in addition to the funding that the agency would receive under the previous proviso: (1) public housing agencies that are eligible for assistance under section 901 in Public Law 109–148 (119 Stat. 2781) or are located in the same counties as those eligible under section 901 and operate voucher programs under section 8(o) of the United States Housing Act of 1937 but do not operate public housing under section 9 of such Act, and any public housing agency that otherwise qualifies under this category must demonstrate that they have experienced a loss of rental housing stock as a result of the 2005 hurricanes; (2) public housing agencies that would receive less funding under the previous proviso than they would receive

Ante, p. 51.

under this proviso and that have been placed in receivership or the Secretary has declared to be in breach of an Annual Contributions Contract by June 1, 2007; and (3) public housing agencies that spent more in calendar year 2006 than the total of the amounts of any such public housing agency's allocation amount for calendar year 2006 and the amount of any such public housing agency's available housing assistance payments undesignated funds balance from calendar year 2005 and the amount of any such public housing agency's available administrative fees undesignated funds balance through calendar year 2006".

119 Stat. 2781.

SEC. 4803. Section 901 of Public Law 109–148 is amended by deleting "calendar year 2006" and inserting "calendar years 2006 and 2007".

CHAPTER 9

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MINOR PROJECTS

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for Department of Veterans Affairs, "Construction, Minor Projects", \$14,484,754, to remain available until September 30, 2008, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season.

Of the funds available until September 30, 2007, for the "Construction, Minor Projects" account of the Department of Veterans Affairs, pursuant to section 2702 of Public Law 109–234, \$14,484,754 are hereby rescinded.

TITLE V—OTHER EMERGENCY APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

GENERAL PROVISION—THIS CHAPTER

SEC. 5101. In addition to any other available funds, there is hereby appropriated \$40,000,000 to the Secretary of Agriculture, to remain available until expended, for programs and activities of the Department of Agriculture, as determined by the Secretary, to provide recovery assistance in response to damage in conjunction with the Presidential declaration of a major disaster (FEMA–1699–DR) dated May 6, 2007, for needs not met by the Federal Emergency Management Agency or private insurers: *Provided*, That, in addition, the Secretary may use funds provided under this section, consistent with the provisions of this section, to respond to any other Presidential declaration of a major disaster issued under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), declared during fiscal year 2007 for events occurring before the

date of the enactment of this Act or a Secretary of Agriculture declaration of a natural disaster, declared during fiscal year 2007 for events occurring before the date of the enactment of this Act.

CHAPTER 2

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for “Operations, Research, and Facilities”, \$60,400,000, to remain available until September 30, 2008: *Provided*, That the National Marine Fisheries Service shall cause such amounts to be distributed among eligible recipients of assistance for the commercial fishery failure designated under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) and declared by the Secretary of Commerce on August 10, 2006.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INVESTIGATIONS

For an additional amount for “Investigations” for flood damage reduction studies to address flooding associated with disasters covered by Presidential Disaster Declaration FEMA–1692–DR, \$8,165,000, to remain available until expended.

CONSTRUCTION

For an additional amount for “Construction” for flood damage reduction activities associated with disasters covered by Presidential Disaster Declarations FEMA–1692–DR and FEMA–1694–DR, \$11,200,000, to remain available until expended.

OPERATION AND MAINTENANCE

For an additional amount for “Operation and Maintenance” to dredge navigation channels related to the consequences of hurricanes of the 2005 season, \$3,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for “Flood Control and Coastal Emergencies”, as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), to support emergency operations, repairs and other activities in response to flood, drought and earthquake emergencies as authorized by law, \$153,300,000, to remain available until expended: *Provided*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall

Reports.
Deadline.

provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act: *Provided further*, That of the funds provided under this heading, \$7,000,000 shall be available for drought emergency assistance.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for “Water and Related Resources”, \$18,000,000, to remain available until expended for drought assistance: *Provided*, That drought assistance may be provided under the Reclamation States Drought Emergency Act or other applicable Reclamation authorities to assist drought plagued areas of the West.

CHAPTER 4

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

Notification.

For an additional amount for “Wildland Fire Management”, \$95,000,000, to remain available until expended, for urgent wildland fire suppression activities: *Provided*, That such funds shall only become available if funds previously provided for wildland fire suppression will be exhausted imminently and the Secretary of the Interior notifies the House and Senate Committees on Appropriations in writing of the need for these additional funds: *Provided further*, That such funds are also available for repayment to other appropriations accounts from which funds were transferred for wild-fire suppression.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for “Resource Management” for the detection of highly pathogenic avian influenza in wild birds, including the investigation of morbidity and mortality events, targeted surveillance in live wild birds, and targeted surveillance in hunter-taken birds, \$7,398,000, to remain available until September 30, 2008.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for “Operation of the National Park System” for the detection of highly pathogenic avian influenza in

wild birds, including the investigation of morbidity and mortality events, \$525,000, to remain available until September 30, 2008.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for “Surveys, Investigations, and Research” for the detection of highly pathogenic avian influenza in wild birds, including the investigation of morbidity and mortality events, targeted surveillance in live wild birds, and targeted surveillance in hunter-taken birds, \$5,270,000, to remain available until September 30, 2008.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

NATIONAL FOREST SYSTEM

For an additional amount for “National Forest System” for the implementation of a nationwide initiative to increase protection of national forest lands from drug-trafficking organizations, including funding for additional law enforcement personnel, training, equipment and cooperative agreements, \$12,000,000, to remain available until expended.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Wildland Fire Management”, \$370,000,000, to remain available until expended, for urgent wildland fire suppression activities: *Provided*, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and the Secretary of Agriculture notifies the House and Senate Committees on Appropriations in writing of the need for these additional funds: *Provided further*, That such funds are also available for repayment to other appropriation accounts from which funds were transferred for wild-fire suppression.

Notification.

GENERAL PROVISION—THIS CHAPTER

SEC. 5401. (a) For fiscal year 2007, payments shall be made from any revenues, fees, penalties, or miscellaneous receipts described in sections 102(b)(3) and 103(b)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note), not to exceed \$100,000,000, and the payments shall be made, to the maximum extent practicable, in the same amounts, for the same purposes, and in the same manner as were made to States and counties in 2006 under that Act.

(b) There is appropriated \$425,000,000, to remain available until December 31, 2007, to be used to cover any shortfall for payments made under this section from funds not otherwise appropriated.

Effective date.
16 USC 500 and
note.

(c) Titles II and III of Public Law 106–393 are amended, effective September 30, 2006, by striking “2006” and “2007” each place they appear and inserting “2007” and “2008”, respectively.

CHAPTER 5

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH AND TRAINING

Reports.
Deadline.

For an additional amount for “Department of Health and Human Services, Centers for Disease Control and Prevention, Disease Control, Research and Training”, to carry out section 501 of the Federal Mine Safety and Health Act of 1977 and section 6 of the Mine Improvement and New Emergency Response Act of 2006, \$13,000,000 for research to develop mine safety technology, including necessary repairs and improvements to leased laboratories: *Provided*, That progress reports on technology development shall be submitted to the House and Senate Committees on Appropriations and the Committee on Health, Education, Labor and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives on a quarterly basis: *Provided further*, That the amount provided under this heading shall remain available until September 30, 2008.

For an additional amount for “Department of Health and Human Services, Centers for Disease Control and Prevention, Disease Control, Research and Training”, to carry out activities under section 5011(b) of the Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006 (Public Law 109–148), \$50,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

(INCLUDING RESCISSIONS)

SEC. 5501. (a). From unexpended balances available for the Training and Employment Services account under the Department of Labor, the following amounts are hereby rescinded—

(1) \$3,589,000 transferred pursuant to the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38);

(2) \$834,000 transferred pursuant to the Emergency Supplemental Appropriations Act of 1994 (Public Law 103–211); and

(3) \$71,000 for the Consortium for Worker Education pursuant to the Emergency Supplemental Act, 2002 (Public Law 107–117).

(b) From unexpended balances available for the State Unemployment Insurance and Employment Service Operations account under the Department of Labor pursuant to the Emergency Supplemental Act, 2002 (Public Law 107–117), \$4,100,000 are hereby rescinded.

SEC. 5502. (a) For an additional amount under “Department of Education, Safe Schools and Citizenship Education”, \$8,594,000

shall be available for Safe and Drug-Free Schools National Programs for competitive grants to local educational agencies to address youth violence and related issues.

(b) The competition under subsection (a) shall be limited to local educational agencies that operate schools currently identified as persistently dangerous under section 9532 of the Elementary and Secondary Education Act of 1965.

SEC. 5503. Unobligated balances from funds appropriated in the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107–117) to the Department of Health and Human Services under the heading “Public Health and Social Services Emergency Fund” that are available for bioterrorism preparedness and disaster response activities in the Office of the Secretary shall also be available for the construction, renovation and improvement of facilities on federally-owned land as necessary for continuity of operations activities.

CHAPTER 6

LEGISLATIVE BRANCH

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for “Capitol Police, General Expenses”, \$10,000,000 for a radio modernization program, to remain available until expended: *Provided*, That the Chief of the Capitol Police may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and the House of Representatives.

Obligation plan.

ARCHITECT OF THE CAPITOL

CAPITOL POWER PLANT

For an additional amount for “Capitol Power Plant”, \$50,000,000, for utility tunnel repairs and asbestos abatement, to remain available until September 30, 2011: *Provided*, That the Architect of the Capitol may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and House of Representatives.

Obligation plan.

CHAPTER 7

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For an additional amount for “Medical Services”, \$466,778,000, to remain available until expended, of which \$30,000,000 shall be for the establishment of at least one new Level I comprehensive polytrauma center; \$9,440,000 shall be for the establishment of

polytrauma residential transitional rehabilitation programs; \$10,000,000 shall be for additional transition caseworkers; \$20,000,000 shall be for substance abuse treatment programs; \$20,000,000 shall be for readjustment counseling; \$10,000,000 shall be for blind rehabilitation services; \$100,000,000 shall be for enhancements to mental health services; \$8,000,000 shall be for polytrauma support clinic teams; \$5,356,000 shall be for additional polytrauma points of contact; \$228,982,000 shall be for treatment of Operation Enduring Freedom and Operation Iraqi Freedom veterans; and \$25,000,000 shall be for prosthetics.

MEDICAL ADMINISTRATION

For an additional amount for “Medical Administration”, \$250,000,000, to remain available until expended.

MEDICAL FACILITIES

For an additional amount for “Medical Facilities”, \$595,000,000, to remain available until expended, of which \$45,000,000 shall be used for facility and equipment upgrades at the Department of Veterans Affairs polytrauma network sites; and \$550,000,000 shall be for non-recurring maintenance as identified in the Department of Veterans Affairs Facility Condition Assessment report: *Provided*, That the amount provided under this heading for non-recurring maintenance shall be allocated in a manner not subject to the Veterans Equitable Resource Allocation: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan, by project, for non-recurring maintenance prior to obligation: *Provided further*, That semi-annually, on October 1 and April 1, the Secretary shall submit to the Committees on Appropriations of both Houses of Congress a report on the status of funding for non-recurring maintenance, including obligations and unobligated balances for each project identified in the expenditure plan.

Deadline.
Expenditure
plan.

Deadlines.
Reports.

MEDICAL AND PROSTHETIC RESEARCH

For an additional amount for “Medical and Prosthetic Research”, \$32,500,000, to remain available until expended, which shall be used for research related to the unique medical needs of returning Operation Enduring Freedom and Operation Iraqi Freedom veterans.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “General Operating Expenses”, \$83,200,000, to remain available until expended, of which \$1,250,000 shall be for digitization of military records; \$60,750,000 shall be for expenses related to hiring and training new claims processing personnel; up to \$1,200,000 shall be for an independent study of the organizational structure, management and coordination processes, including seamless transition, utilized by the Department of Veterans Affairs to provide health care and benefits to active

duty personnel and veterans, including those returning Operation Enduring Freedom and Operation Iraqi Freedom veterans; and \$20,000,000 shall be for disability examinations: *Provided*, That not to exceed \$1,250,000 of the amount appropriated under this heading may be transferred to the Department of Defense for the digitization of military records used to verify stressors for benefits claims.

INFORMATION TECHNOLOGY SYSTEMS

For an additional amount for “Information Technology Systems”, \$35,100,000, to remain available until expended, of which \$20,000,000 shall be for information technology support and improvements for processing of Operation Enduring Freedom and Operation Iraqi Freedom veterans benefits claims, including making electronic Department of Defense medical records available for claims processing and enabling electronic benefits applications by veterans; and \$15,100,000 shall be for electronic data breach remediation and prevention.

CONSTRUCTION, MINOR PROJECTS

For an additional amount for “Construction, Minor Projects”, \$326,000,000, to remain available until expended, of which up to \$36,000,000 shall be for construction costs associated with the establishment of polytrauma residential transitional rehabilitation programs.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 5701. The Director of the Congressional Budget Office shall, not later than November 15, 2007, submit to the Committees on Appropriations of the House of Representatives and the Senate a report projecting appropriations necessary for the Departments of Defense and Veterans Affairs to continue providing necessary health care to veterans of the conflicts in Iraq and Afghanistan. The projections should span several scenarios for the duration and number of forces deployed in Iraq and Afghanistan, and more generally, for the long-term health care needs of deployed troops engaged in the global war on terrorism over the next 10 years.

Deadline.
Reports.

SEC. 5702. Notwithstanding any other provision of law, appropriations made by Public Law 110–5, which the Secretary of Veterans Affairs contributes to the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund under the authority of section 8111(d) of title 38, United States Code, shall remain available until expended for any purpose authorized by section 8111 of title 38, United States Code.

SEC. 5703. (a)(1) The Secretary of Veterans Affairs (referred to in this section as the “Secretary”) may convey to the State of Texas, without consideration, all rights, title, and interest of the United States in and to the parcel of real property comprising the location of the Marlin, Texas, Department of Veterans Affairs Medical Center.

(2) The property conveyed under paragraph (1) shall be used by the State of Texas for the purposes of a prison.

(b) In carrying out the conveyance under subsection (a), the Secretary shall conduct environmental cleanup on the parcel to be conveyed, at a cost not to exceed \$500,000, using amounts

made available for environmental cleanup of sites under the jurisdiction of the Secretary.

(c) Nothing in this section may be construed to affect or limit the application of or obligation to comply with any environmental law, including section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

SEC. 5704. (a) Funds provided in this Act for the following accounts shall be made available for programs under the conditions contained in the language of the joint explanatory statement of managers accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107):

“Medical Services”.

“Medical Administration”.

“Medical Facilities”.

“Medical and Prosthetic Research”.

“General Operating Expenses”.

“Information Technology Systems”.

“Construction, Minor Projects”.

Reports.

(b) The Secretary of Veterans Affairs shall submit all reports requested in House Report 110–60 and Senate Report 110–37, to the Committees on Appropriations of both Houses of Congress.

SEC. 5705. Subsection (d) of section 2023 of title 38, United States Code, is amended by striking “shall cease” and all that follows through “program” and inserting “shall cease on September 30, 2007”.

TITLE VI—OTHER MATTERS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” of the Farm Service Agency, \$37,500,000, to remain available until September 30, 2008: *Provided*, That this amount shall only be available for network and database/application stabilization.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 6101. Of the funds made available through appropriations to the Food and Drug Administration for fiscal year 2007, not less than \$4,000,000 shall be for the Office of Women’s Health of such Administration.

SEC. 6102. None of the funds made available to the Department of Agriculture for fiscal year 2007 may be used to implement the risk-based inspection program in the 30 prototype locations announced on February 22, 2007, by the Under Secretary for Food Safety, or at any other locations, until the USDA Office of Inspector General has provided its findings to the Food Safety and Inspection Service and the Committees on Appropriations of the House of Representatives and the Senate on the data used in support of

the development and design of the risk-based inspection program and FSIS has addressed and resolved issues identified by OIG.

CHAPTER 2

GENERAL PROVISIONS—THIS CHAPTER

SEC. 6201. Hereafter, Federal employees at the National Energy Technology Laboratory shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

Government employees.
31 USC 501 note.
Bond payments.

SEC. 6202. None of the funds made available under this or any other Act shall be used during fiscal year 2007 to make, or plan or prepare to make, any payment on bonds issued by the Administrator of the Bonneville Power Administration (referred in this section as the “Administrator”) or for an appropriated Federal Columbia River Power System investment, if the payment is both—

(1) greater, during any fiscal year, than the payments calculated in the rate hearing of the Administrator to be made during that fiscal year using the repayment method used to establish the rates of the Administrator as in effect on October 1, 2006; and

(2) based or conditioned on the actual or expected net secondary power sales receipts of the Administrator.

CHAPTER 3

GENERAL PROVISIONS—THIS CHAPTER

SEC. 6301. (a) Section 102(a)(3)(B) of the Help America Vote Act of 2002 (42 U.S.C. 15302(a)(3)(B)) is amended by striking “January 1, 2006” and inserting “March 1, 2008”.

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of the Help America Vote Act of 2002.

Effective date.
42 USC 15302 note.

SEC. 6302. The structure of any of the offices or components within the Office of National Drug Control Policy shall remain as they were on October 1, 2006. None of the funds appropriated or otherwise made available in the Continuing Appropriations Resolution, 2007 (Public Law 110–5) may be used to implement a reorganization of offices within the Office of National Drug Control Policy without the explicit approval of the Committees on Appropriations of the House of Representatives and the Senate.

Government organization.

SEC. 6303. From the amount provided by section 21067 of the Continuing Appropriations Resolution, 2007 (Public Law 110–5), the National Archives and Records Administration may obligate monies necessary to carry out the activities of the Public Interest Declassification Board.

SEC. 6304. Notwithstanding the notice requirement of the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006, 119 Stat. 2509 (Public Law 109–115), as continued in section 104 of the Continuing Appropriations Resolution, 2007 (Public Law 110–5), the District of Columbia Courts may reallocate not more than \$1,000,000 of the funds provided for fiscal year 2007 under the Federal Payment to the District

of Columbia Courts for facilities among the items and entities funded under that heading for operations.

Deadline.
Reports.

SEC. 6305. (a) Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury, in coordination with the Securities and Exchange Commission and in consultation with the Departments of State and Energy, shall prepare and submit to the Senate Committee on Appropriations, the House Committee on Appropriations, the Senate Committee on Banking, Housing, and Urban Affairs, the House Committee on Financial Services, the Senate Foreign Relations Committee, and the House Foreign Affairs Committee a written report, which may include a classified annex, containing the names of companies which either directly or through a parent or subsidiary company, including partly-owned subsidiaries, are known to conduct significant business operations in Sudan relating to natural resource extraction, including oil-related activities and mining of minerals. The reporting provision shall not apply to companies operating under licenses from the Office of Foreign Assets Control or otherwise expressly exempted under United States law from having to obtain such licenses in order to operate in Sudan.

Deadline.
Contracts.
Notification.

(b) Not later than 45 days following the submission to Congress of the list of companies conducting business operations in Sudan relating to natural resource extraction as required above, the General Services Administration shall determine whether the United States Government has an active contract for the procurement of goods or services with any of the identified companies, and provide notification to the appropriate committees of Congress, which may include a classified annex, regarding the companies, nature of the contract, and dollar amounts involved.

(INCLUDING RESCISSION)

SEC. 6306. (a) Of the funds provided for the General Services Administration, “Office of Inspector General” in section 21061 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5), \$4,500,000 are rescinded.

(b) For an additional amount for the General Services Administration, “Office of Inspector General”, \$4,500,000, to remain available until September 30, 2008.

(c) With the additional amount of \$9,336,000 appropriated in Public Law 110–5 and in this Act, above the amount appropriated in Public Law 109–115, of which \$4,500,000 remains available for obligation in fiscal year 2008, the Office of Inspector General shall hire additional staff for internal audits and investigations, and the remaining funds shall be for one-time associated needs such as information technology and other such administrative support.

Ante, p. 58.

SEC. 6307. Section 21073 of the Continuing Appropriations Resolution, 2007 (Public Law 110–5) is amended by adding a new subsection (j) as follows:

District of
Columbia.
Expenditure
plan.
Deadline.

“(j) Notwithstanding section 101, any appropriation or funds made available to the District of Columbia pursuant to this Act for ‘Federal Payment for Foster Care Improvement in the District of Columbia’ shall be available in accordance with an expenditure plan submitted by the Mayor of the District of Columbia not later than 60 days after the enactment of this section which details the activities to be carried out with such Federal Payment.”.

SEC. 6308. It is the sense of Congress that the Small Business Administration will provide, through funds available within amounts already appropriated for Small Business Administration disaster assistance, physical and economic injury disaster loans to Kansas businesses and homeowners devastated by the severe tornadoes, storms, and flooding that occurred beginning on May 4, 2007.

CHAPTER 4

DEPARTMENT OF HOMELAND SECURITY

GENERAL PROVISIONS—THIS CHAPTER

SEC. 6401. Not to exceed \$30,000,000 from unobligated balances remaining from prior appropriations for United States Coast Guard, “Retired Pay”, shall remain available until expended in the account and for the purposes for which the appropriations were provided, including the payment of obligations otherwise chargeable to lapsed or current appropriations for this purpose: *Provided*, That within 45 days after the date of enactment of this Act, the United States Coast Guard shall submit to the Committees on Appropriations of the Senate and the House of Representatives the following: (1) a report on steps being taken to improve the accuracy of its estimates for the “Retired Pay” appropriation; and (2) quarterly reports on the use of unobligated balances made available by this Act to address the projected shortfall in the “Retired Pay” appropriation, as well as updated estimates for fiscal year 2008.

Deadline.
Reports.

SEC. 6402. (a) IN GENERAL.—Any contract, subcontract, task or delivery order described in subsection (b) shall contain the following:

Contracts.

(1) A requirement for a technical review of all designs, design changes, and engineering change proposals, and a requirement to specifically address all engineering concerns identified in the review before the obligation of further funds may occur.

(2) A requirement that the Coast Guard maintain technical warrant holder authority, or the equivalent, for major assets.

(3) A requirement that no procurement subject to subsection (b) for lead asset production or the implementation of a major design change shall be entered into unless an independent third party with no financial interest in the development, construction, or modification of any component of the asset, selected by the Commandant, determines that such action is advisable.

(4) A requirement for independent life-cycle cost estimates of lead assets and major design and engineering changes.

(5) A requirement for the measurement of contractor and subcontractor performance based on the status of all work performed. For contracts under the Integrated Deepwater Systems program, such requirement shall include a provision that links award fees to successful acquisition outcomes (which shall be defined in terms of cost, schedule, and performance).

(6) A requirement that the Commandant of the Coast Guard assign an appropriate officer or employee of the Coast Guard to act as chair of each integrated product team and

higher-level team assigned to the oversight of each integrated product team.

(7) A requirement that the Commandant of the Coast Guard may not award or issue any contract, task or delivery order, letter contract modification thereof, or other similar contract, for the acquisition or modification of an asset under a procurement subject to subsection (b) unless the Coast Guard and the contractor concerned have formally agreed to all terms and conditions or the head of contracting activity for the Coast Guard determines that a compelling need exists for the award or issue of such instrument.

(b) CONTRACTS, SUBCONTRACTS, TASK AND DELIVERY ORDERS COVERED.—Subsection (a) applies to—

(1) any major procurement contract, first-tier subcontract, delivery or task order entered into by the Coast Guard;

(2) any first-tier subcontract entered into under such a contract; and

(3) any task or delivery order issued pursuant to such a contract or subcontract.

(c) EXPENDITURE OF DEEPWATER FUNDS.—Of the funds available for the Integrated Deepwater Systems program, \$650,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan directly from the Coast Guard that—

(1) defines activities, milestones, yearly costs, and life-cycle costs for each procurement of a major asset;

(2) identifies life-cycle staffing and training needs of Coast Guard project managers and of procurement and contract staff;

(3) identifies competition to be conducted in each procurement;

(4) describes procurement plans that do not rely on a single industry entity or contract;

(5) contains very limited indefinite delivery/indefinite quantity contracts and explains the need for any indefinite delivery/indefinite quantity contracts;

(6) complies with all applicable acquisition rules, requirements, and guidelines, and incorporates the best systems acquisition management practices of the Federal Government;

(7) complies with the capital planning and investment control requirements established by the Office of Management and Budget, including circular A-11, part 7;

Certification. (8) includes a certification by the head of contracting activity for the Coast Guard and the Chief Procurement Officer of the Department of Homeland Security that the Coast Guard has established sufficient controls and procedures and has sufficient staffing to comply with all contracting requirements, and that any conflicts of interest have been sufficiently addressed;

(9) includes a description of the process used to act upon deviations from the contractually specified performance requirements and clearly explains the actions taken on such deviations;

Certification. (10) includes a certification that the Assistant Commandant of the Coast Guard for Engineering and Logistics is designated as the technical authority for all engineering, design, and logistics decisions pertaining to the Integrated Deepwater Systems program; and

(11) identifies progress in complying with the requirements of subsection (a).

(d) REPORTS.—(1) Not later than 30 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science and Transportation of the Senate; and the Committee on Transportation and Infrastructure of the House of Representatives: (i) a report on the resources (including training, staff, and expertise) required by the Coast Guard to provide appropriate management and oversight of the Integrated Deepwater Systems program; and (ii) a report on how the Coast Guard will utilize full and open competition for any contract that provides for the acquisition or modification of assets under, or in support of, the Integrated Deepwater Systems program, entered into after the date of enactment of this Act.

(2) Within 30 days following the submission of the expenditure plan required under subsection (c), the Government Accountability Office shall review the plan and brief the Committees on Appropriations of the Senate and the House of Representatives on its findings.

Expenditure
plan.

SEC. 6403. None of the funds provided in this Act or any other Act may be used to alter or reduce operations within the Civil Engineering Program of the Coast Guard nationwide, including the civil engineering units, facilities, design and construction centers, maintenance and logistics command centers, and the Coast Guard Academy, except as specifically authorized by a statute enacted after the date of enactment of this Act.

(INCLUDING RESCISSIONS OF FUNDS)

SEC. 6404. (a) RESCISSIONS.—The following unobligated balances made available pursuant to section 505 of Public Law 109–90 are rescinded: \$1,200,962 from the “Office of the Secretary and Executive Management”; \$512,855 from the “Office of the Under Secretary for Management”; \$461,874 from the “Office of the Chief Information Officer”; \$45,080 from the “Office of the Chief Financial Officer”; \$968,211 from Preparedness “Management and Administration”; \$1,215,486 from Science and Technology “Management and Administration”; \$450,000 from United States Secret Service “Salaries and Expenses”; \$450,000 from Federal Emergency Management Agency “Administrative and Regional Operations”; and \$25,595,532 from United States Coast Guard “Operating Expenses”.

(b) ADDITIONAL APPROPRIATIONS.—

(1) For an additional amount for United States Coast Guard “Acquisition, Construction, and Improvements”, \$30,000,000, to remain available until September 30, 2009, to mitigate the Service’s patrol boat operational gap.

(2) For an additional amount for the “Office of the Under Secretary for Management”, \$900,000 for an independent study to compare the Department of Homeland Security senior career and political staffing levels and senior career training programs with those of similarly structured cabinet-level agencies as detailed in House Report 110–107: *Provided*, That the Department of Homeland Security shall provide to the Committees on Appropriations of the Senate and the House of Representatives by July 20, 2007, a report on senior staffing, as detailed in Senate Report 110–37, and the Government Accountability Office shall report on the strengths and weakness of this report within 90 days after its submission.

Deadlines.
Reports.

Contracts.
6 USC 396.

SEC. 6405. (a) IN GENERAL.—With respect to contracts entered into after July 1, 2007, and except as provided in subsection (b), no entity performing lead system integrator functions in the acquisition of a major system by the Department of Homeland Security may have any direct financial interest in the development or construction of any individual system or element of any system of systems.

(b) EXCEPTION.—An entity described in subsection (a) may have a direct financial interest in the development or construction of an individual system or element of a system of systems if—

Certification.

(1) the Secretary of Homeland Security certifies to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Commerce, Science and Transportation of the Senate that—

(A) the entity was selected by the Department of Homeland Security as a contractor to develop or construct the system or element concerned through the use of competitive procedures; and

(B) the Department took appropriate steps to prevent any organizational conflict of interest in the selection process; or

(2) the entity was selected by a subcontractor to serve as a lower-tier subcontractor, through a process over which the entity exercised no control.

(c) CONSTRUCTION.—Nothing in this section shall be construed to preclude an entity described in subsection (a) from performing work necessary to integrate two or more individual systems or elements of a system of systems with each other.

Deadline.

(d) REGULATIONS UPDATE.—Not later than July 1, 2007, the Secretary of Homeland Security shall update the acquisition regulations of the Department of Homeland Security in order to specify fully in such regulations the matters with respect to lead system integrators set forth in this section. Included in such regulations shall be: (1) a precise and comprehensive definition of the term “lead system integrator”, modeled after that used by the Department of Defense; and (2) a specification of various types of contracts and fee structures that are appropriate for use by lead system integrators in the production, fielding, and sustainment of complex systems.

CHAPTER 5

GENERAL PROVISIONS—THIS CHAPTER

Ante, p. 27.

SEC. 6501. Section 20515 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by inserting before the period: “; and of which, not to exceed \$143,628,000 shall be available for contract support costs under the terms and conditions contained in Public Law 109–54”.

Ante, p. 27.

SEC. 6502. Section 20512 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by inserting after the first dollar

amount: “, of which not to exceed \$7,300,000 shall be transferred to the ‘Indian Health Facilities’ account; the amount in the second proviso shall be \$18,000,000; the amount in the third proviso shall be \$525,099,000; the amount in the ninth proviso shall be \$269,730,000; and the \$15,000,000 allocation of funding under the eleventh proviso shall not be required”.

SEC. 6503. Section 20501 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by inserting after “\$55,663,000” the following: “of which \$13,000,000 shall be for Save America’s Treasures”.

Ante, p. 26.

SEC. 6504. Funds made available to the United States Fish and Wildlife Service for fiscal year 2007 under the heading “Land Acquisition” may be used for land conservation partnerships authorized by the Highlands Conservation Act of 2004.

CHAPTER 6

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(TRANSFER OF FUNDS)

Of the amount provided by the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) for “National Institute of Allergy and Infectious Diseases”, \$49,500,000 shall be transferred to “Public Health and Social Services Emergency Fund” to carry out activities relating to advanced research and development as provided by section 319L of the Public Health Service Act.

OFFICE OF THE DIRECTOR

(TRANSFER OF FUNDS)

Of the amount provided by the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) for “Office of the Director”, \$49,500,000 shall be transferred to “Public Health and Social Services Emergency Fund” to carry out activities relating to advanced research and development as provided by section 319L of the Public Health Service Act.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$300,000, to remain available until expended, for necessary expenses related to the requirements of the Post-Katrina Emergency Management Reform Act of 2006, as enacted by the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295).

GENERAL PROVISIONS—THIS CHAPTER

(INCLUDING TRANSFERS OF FUNDS AND RESCISSIONS)

Ante, p. 29. SEC. 6601. Section 20602 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by inserting the following after “\$5,000,000”: “(together with an additional \$7,000,000 which shall be transferred by the Pension Benefit Guaranty Corporation as an authorized administrative cost), to remain available through September 30, 2008,”.

SEC. 6602. (a) None of the funds available to the Mine Safety and Health Administration under the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) shall be used to enter into or carry out a contract for the performance by a contractor of any operations or services pursuant to the public-private competitions conducted under Office of Management and Budget Circular A–76.

Government employees.
31 USC 501 note. (b) Hereafter, Federal employees at the Mine Safety and Health Administration shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

Ante, p. 30. SEC. 6603. Section 20607 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by inserting “of which \$9,666,000 shall be for the Women’s Bureau,” after “for child labor activities,”.

SEC. 6604. Of the amount provided for “Department of Health and Human Services, Health Resources and Services Administration, Health Resources and Services” in the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5), \$23,000,000 shall be for Poison Control Centers.

SEC. 6605. From the amounts made available by the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) for the Office of the Secretary, General Departmental Management under the Department of Health and Human Services, \$500,000 are rescinded.

Ante, p. 34. SEC. 6606. Section 20625(b)(1) of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by—

(1) striking “\$7,172,994,000” and inserting “\$7,176,431,000”;

(2) amending subparagraph (A) to read as follows: “(A) \$5,454,824,000 shall be for basic grants under section 1124 of the Elementary and Secondary Education Act of 1965 (ESEA), of which up to \$3,437,000 shall be available to the Secretary of Education on October 1, 2006, to obtain annually updated educational-agency-level census poverty data from the Bureau of the Census;”;

(3) amending subparagraph (C) to read as follows: “(C) not to exceed \$2,352,000 may be available for section 1608 of the ESEA and for a clearinghouse on comprehensive school reform under part D of title V of the ESEA;”.

SEC. 6607. The provision in the first proviso under the heading “Rehabilitation Services and Disability Research” in the Department of Education Appropriations Act, 2006, relating to alternative

financing programs under section 4(b)(2)(D) of the Assistive Technology Act of 1998 shall not apply to funds appropriated by the Continuing Appropriations Resolution, 2007.

SEC. 6608. From the amounts made available by the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) for administrative expenses of the Department of Education, \$500,000 are rescinded: *Provided*, That such reduction shall not apply to funds available to the Office for Civil Rights and the Office of the Inspector General.

SEC. 6609. Notwithstanding sections 20639 and 20640 of the Continuing Appropriations Resolution, 2007, as amended by section 2 of the Revised Continuing Appropriations Resolution, 2007 (Public Law 110–5), the Chief Executive Officer of the Corporation for National and Community Service may transfer an amount of not more than \$1,360,000 from the account under the heading “National and Community Service Programs, Operating Expenses” under the heading “Corporation for National and Community Service”, to the account under the heading “Salaries and Expenses” under the heading “Corporation for National and Community Service”.

SEC. 6610. (a) Section 1310.12(a) of title 45, Code of Federal Regulations, shall take effect 30 days after the date of enactment of this Act.

Effective date.

(b)(1) Not later than 60 days after the National Highway Traffic Safety Administration of the Department of Transportation submits its study on occupant protection on Head Start transit vehicles (related to Government Accountability Office report GAO–06–767R), the Secretary of Health and Human Services shall review and shall revise as necessary the allowable alternate vehicle standards described in that part 1310 (or any corresponding similar regulation or ruling) relating to allowable alternate vehicles used to transport children for a Head Start program. In making any such revision, the Secretary shall revise the standards to be consistent with the findings contained in such study, including making a determination on the exemption of such a vehicle from Federal seat spacing requirements, and Federal supporting seating requirements related to compartmentalization, if such vehicle meets all other applicable Federal motor vehicle safety standards, including standards for seating systems, occupant crash protection, seat belt assemblies, and child restraint anchorage systems consistent with that part 1310 (or any corresponding similar regulation or ruling).

Deadline.
Motor vehicles.
Safety standards.

(2) Notwithstanding subsection (a), until such date as the Secretary of Health and Human Services completes the review and any necessary revision specified in paragraph (1), the provisions of section 1310.12(a) relating to Federal seat spacing requirements, and Federal supporting seating requirements related to compartmentalization, for allowable alternate vehicles used to transport children for a Head Start program, shall not apply to such a vehicle if such vehicle meets all other applicable Federal motor vehicle safety standards, as described in paragraph (1).

SEC. 6611. (a)(1) Section 3(37)(G) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)(G)) (as amended by section 1106(a) of the Pension Protection Act of 2006) is amended—

(A) in clause (i)(II)(aa), by striking “for each of the 3 plan years immediately before the date of the enactment of the Pension Protection Act of 2006,” and inserting “for each of the 3 plan years immediately preceding the first plan year

for which the election under this paragraph is effective with respect to the plan,”;

(B) in clause (ii), by striking “starting with the first plan year ending after the date of the enactment of the Pension Protection Act of 2006” and inserting “starting with any plan year beginning on or after January 1, 1999, and ending before January 1, 2008, as designated by the plan in the election made under clause (i)(II)”;

(C) by adding at the end the following new clause:

“(vii) For purposes of this Act and the Internal Revenue Code of 1986, a plan making an election under this subparagraph shall be treated as maintained pursuant to a collective bargaining agreement if a collective bargaining agreement, expressly or otherwise, provides for or permits employer contributions to the plan by one or more employers that are signatory to such agreement, or participation in the plan by one or more employees of an employer that is signatory to such agreement, regardless of whether the plan was created, established, or maintained for such employees by virtue of another document that is not a collective bargaining agreement.”

(2) Paragraph (6) of section 414(f) of the Internal Revenue Code of 1986 (relating to election with regard to multiemployer status) (as amended by section 1106(b) of the Pension Protection Act of 2006) is amended—

(A) in subparagraph (A)(ii)(I), by striking “for each of the 3 plan years immediately before the date of enactment of the Pension Protection Act of 2006,” and inserting “for each of the 3 plan years immediately preceding the first plan year for which the election under this paragraph is effective with respect to the plan,”;

(B) in subparagraph (B), by striking “starting with the first plan year ending after the date of the enactment of the Pension Protection Act of 2006” and inserting “starting with any plan year beginning on or after January 1, 1999, and ending before January 1, 2008, as designated by the plan in the election made under subparagraph (A)(ii)”;

(C) by adding at the end the following new subparagraph:

“(F) MAINTENANCE UNDER COLLECTIVE BARGAINING AGREEMENT.—For purposes of this title and the Employee Retirement Income Security Act of 1974, a plan making an election under this paragraph shall be treated as maintained pursuant to a collective bargaining agreement if a collective bargaining agreement, expressly or otherwise, provides for or permits employer contributions to the plan by one or more employers that are signatory to such agreement, or participation in the plan by one or more employees of an employer that is signatory to such agreement, regardless of whether the plan was created, established, or maintained for such employees by virtue of another document that is not a collective bargaining agreement.”

(b)(1) Clause (vi) of section 3(37)(G) of the Employee Retirement Income Security Act of 1974 (as amended by section 1106(a) of the Pension Protection Act of 2006) is amended by striking “if it is a plan—” and all that follows and inserting the following: “if it is a plan sponsored by an organization which is described in section 501(c)(5) of the Internal Revenue Code of 1986 and

26 USC 414.

29 USC 1002.

exempt from tax under section 501(a) of such Code and which was established in Chicago, Illinois, on August 12, 1881.”.

(2) Subparagraph (E) of section 414(f)(6) of the Internal Revenue Code of 1986 (as amended by section 1106(b) of the Pension Protection Act of 2006) is amended by striking “if it is a plan—” and all that follows and inserting the following: “if it is a plan sponsored by an organization which is described in section 501(c)(5) and exempt from tax under section 501(a) and which was established in Chicago, Illinois, on August 12, 1881.”.

26 USC 414.

(c) The amendments made by this section shall take effect as if included in section 1106 of the Pension Protection Act of 2006.

Effective date.
26 USC 414 note.

SEC. 6612. (a) Subclause (III) of section 420(f)(2)(E)(i) of the Internal Revenue Code of 1986 is amended by striking “subsection (c)(2)(E)(ii)(II)” and inserting “subsection (c)(3)(E)(ii)(II)”.

26 USC 420.

(b) Section 420(e)(2)(B) of the Internal Revenue Code of 1986 is amended by striking “funding shortfall” and inserting “funding target”.

(c) The amendments made by this section shall take effect as if included in the provisions of the Pension Protection Act of 2006 to which they relate.

Effective date.
26 USC 420 note.

SEC. 6613. (a) Subparagraph (A) of section 420(c)(3) of the Internal Revenue Code of 1986 is amended by striking “transfer.” and inserting “transfer or, in the case of a transfer which involves a plan maintained by an employer described in subsection (f)(2)(E)(i)(III), if the plan meets the requirements of subsection (f)(2)(D)(i)(II).”.

(b) The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

Applicability.
26 USC 420 note.

SEC. 6614. (a) Section 402(i)(1) of the Pension Protection Act of 2006 is amended by striking “December 28, 2007” and inserting “January 1, 2008”.

26 USC 430 note.

(b) The amendment made by subsection (a) shall take effect as if included in section 402 of the Pension Protection Act of 2006.

Effective date.
26 USC 430 note.

SEC. 6615. (a) Section 402(a)(2) of the Pension Protection Act of 2006 is amended by inserting “and by using, in determining the funding target for each of the 10 plan years during such period, an interest rate of 8.25 percent (rather than the segment rates calculated on the basis of the corporate bond yield curve)” after “such plan year”.

(b) The amendment made by this section shall take effect as if included in the provisions of the Pension Protection Act of 2006 to which such amendment relates.

Effective date.
26 USC 430 note.

CHAPTER 7

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Gloria W. Norwood, widow of Charles W. Norwood, Jr., late a Representative from the State of Georgia, \$165,200.

For payment to James McDonald, Jr., widower of Juanita Millender-McDonald, late a Representative from the State of California, \$165,200.

GENERAL PROVISION—THIS CHAPTER

Establishment.
2 USC 1806.

SEC. 6701. (a) There is established in the Office of the Architect of the Capitol the position of Chief Executive Officer for Visitor Services (in this section referred to as the “Chief Executive Officer”), who shall be appointed by the Architect of the Capitol.

(b) The Chief Executive Officer shall be responsible for the operation and management of the Capitol Visitor Center, subject to the direction of the Architect of the Capitol. In carrying out these responsibilities, the Chief Executive Officer shall report directly to the Architect of the Capitol and shall be subject to policy review and oversight by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

(c) The Chief Executive Officer shall be paid at an annual rate equal to the annual rate of pay for the Chief Operating Officer of the Office of the Architect of the Capitol.

Applicability.

(d) This section shall apply with respect to fiscal year 2007 and each succeeding fiscal year.

CHAPTER 8

GENERAL PROVISIONS—THIS CHAPTER

TECHNICAL AMENDMENT

SEC. 6801. (a) Notwithstanding any other provision of law, subsection (c) under the heading “Assistance for the Independent States of the Former Soviet Union” in Public Law 109–102, shall not apply to funds appropriated by the Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) as amended by Public Laws 109–369, 109–383, and 110–5.

119 Stat. 2208.

(b) Section 534(k) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109–102) is amended, in the second proviso, by inserting after “subsection (b) of that section” the following: “and the requirement that a majority of the members of the board of directors be United States citizens provided in subsection (d)(3)(B) of that section”.

(c) Subject to section 101(c)(2) of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5), the amount of funds appropriated for “Foreign Military Financing Program” pursuant to such Resolution shall be construed to be the total of the amount appropriated for such program by section 20401 of that Resolution and the amount made available for such program by section 591 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109–102) which is made applicable to the fiscal year 2007 by the provisions of such Resolution.

SEC. 6802. Notwithstanding any provision of title I of division B of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Laws 109–369, 109–383, and 110–5), the dollar amount limitation of the first proviso under the heading, “Administration of Foreign Affairs, Diplomatic and Consular Programs”, in title IV of the Science, State, Justice,

Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2319) shall not apply to funds appropriated under such heading for fiscal year 2007.

CHAPTER 9

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to carry out the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, \$6,150,000, to remain available until expended, to be derived from the Federal Housing Enterprises Oversight Fund and to be subject to the same terms and conditions pertaining to funds provided under this heading in Public Law 109–115: *Provided*, That not to exceed the total amount provided for these activities for fiscal year 2007 shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: *Provided further*, That the general fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the general fund estimated at not more than \$0.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 6901. (a) Hereafter, funds limited or appropriated for the Department of Transportation may be obligated or expended to grant authority to a Mexico-domiciled motor carrier to operate beyond United States municipalities and commercial zones on the United States-Mexico border only to the extent that—

Mexico.
Motor carrier.
49 USC 13902
note.

(1) granting such authority is first tested as part of a pilot program;

(2) such pilot program complies with the requirements of section 350 of Public Law 107–87 and the requirements of section 31315(c) of title 49, United States Code, related to pilot programs; and

(3) simultaneous and comparable authority to operate within Mexico is made available to motor carriers domiciled in the United States.

(b) Prior to the initiation of the pilot program described in subsection (a) in any fiscal year—

(1) the Inspector General of the Department of Transportation shall transmit to Congress and the Secretary of Transportation a report verifying compliance with each of the requirements of subsection (a) of section 350 of Public Law 107–87, including whether the Secretary of Transportation has established sufficient mechanisms to apply Federal motor carrier safety laws and regulations to motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border and to ensure compliance with such laws and regulations; and

Reports.

(2) the Secretary of Transportation shall—

Reports.

(A) take such action as may be necessary to address any issues raised in the report of the Inspector General under subsection (b)(1) and submit a report to Congress detailing such actions; and

Federal Register,
publication.

(B) publish in the Federal Register, and provide sufficient opportunity for public notice and comment—

(i) comprehensive data and information on the pre-authorization safety audits conducted before and after the date of enactment of this Act of motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border;

(ii) specific measures to be required to protect the health and safety of the public, including enforcement measures and penalties for noncompliance;

(iii) specific measures to be required to ensure compliance with section 391.11(b)(2) and section 365.501(b) of title 49, Code of Federal Regulations;

(iv) specific standards to be used to evaluate the pilot program and compare any change in the level of motor carrier safety as a result of the pilot program; and

(v) a list of Federal motor carrier safety laws and regulations, including the commercial drivers license requirements, for which the Secretary of Transportation will accept compliance with a corresponding Mexican law or regulation as the equivalent to compliance with the United States law or regulation, including for each law or regulation an analysis as to how the corresponding United States and Mexican laws and regulations differ.

Reports.
Deadlines.

(c) During and following the pilot program described in subsection (a), the Inspector General of the Department of Transportation shall monitor and review the conduct of the pilot program and submit to Congress and the Secretary of Transportation an interim report, 6 months after the commencement of the pilot program, and a final report, within 60 days after the conclusion of the pilot program. Such reports shall address whether—

(1) the Secretary of Transportation has established sufficient mechanisms to determine whether the pilot program is having any adverse effects on motor carrier safety;

(2) Federal and State monitoring and enforcement activities are sufficient to ensure that participants in the pilot program are in compliance with all applicable laws and regulations; and

(3) the pilot program consists of a representative and adequate sample of Mexico-domiciled carriers likely to engage in cross-border operations beyond United States municipalities and commercial zones on the United States-Mexico border.

(d) In the event that the Secretary of Transportation in any fiscal year seeks to grant operating authority for the purpose of initiating cross-border operations beyond United States municipalities and commercial zones on the United States-Mexico border either with Mexico-domiciled motor coaches or Mexico-domiciled commercial motor vehicles carrying placardable quantities of hazardous materials, such activities shall be initiated only after the conclusion of a separate pilot program limited to vehicles of the

pertinent type. Each such separate pilot program shall follow the same requirements and processes stipulated under subsections (a) through (c) of this section and shall be planned, conducted and evaluated in concert with the Department of Homeland Security or its Inspector General, as appropriate, so as to address any and all security concerns associated with such cross-border operations.

SEC. 6902. Funds provided for the “National Transportation Safety Board, Salaries and Expenses” in section 21031 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) include amounts necessary to make lease payments due in fiscal year 2007 only, on an obligation incurred in 2001 under a capital lease.

SEC. 6903. Section 21033 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by adding after the second proviso:

Ante, p. 51.

“: *Provided further*, That paragraph (2) under such heading in Public Law 109–115 (119 Stat. 2441) shall be funded at \$149,300,000, but additional section 8 tenant protection rental assistance costs may be funded in 2007 by using unobligated balances, notwithstanding the purposes for which such amounts were appropriated, including recaptures and carryover, remaining from funds appropriated to the Department of Housing and Urban Development under this heading, the heading ‘Annual Contributions for Assisted Housing’, the heading ‘Housing Certificate Fund’, and the heading ‘Project-Based Rental Assistance’ for fiscal year 2006 and prior fiscal years: *Provided further*, That paragraph (3) under such heading in Public Law 109–115 (119 Stat. 2441) shall be funded at \$47,500,000: *Provided further*, That paragraph (4) under such heading in Public Law 109–115 (119 Stat. 2441) shall be funded at \$5,900,000: *Provided further*, That paragraph (5) under such heading in Public Law 109–115 (119 Stat. 2441) shall be funded at \$1,281,100,000, of which \$1,251,100,000 shall be allocated for the calendar year 2007 funding cycle on a pro rata basis to public housing agencies based on the amount public housing agencies were eligible to receive in calendar year 2006, and of which up to \$30,000,000 shall be available to the Secretary to allocate to public housing agencies that need additional funds to administer their section 8 programs, with up to \$20,000,000 to be for fees associated with section 8 tenant protection rental assistance”.

SEC. 6904. Section 232(b) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 (Public Law 106–377) is amended to read as follows:

42 USC 1437f
note.

“(b) APPLICABILITY.—In the case of any dwelling unit that, upon the date of the enactment of this Act, is assisted under a housing assistance payment contract under section 8(o)(13) as in effect before such enactment, or under section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) as in effect before the enactment of the Quality Housing and Work Responsibility Act of 1998 (title V of Public Law 105–276), assistance may be renewed or extended under such section 8(o)(13), as amended by subsection (a), provided that the initial contract term and rent of such renewed or extended assistance shall be determined pursuant to subparagraphs (F) and (H), and subparagraphs (C) and (D) of such section shall not apply to such extensions or renewals.”.

TITLE VII—ELIMINATION OF SCHIP SHORTFALL AND OTHER HEALTH MATTERS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR MEDICARE AND MEDICAID SERVICES STATE CHILDREN'S HEALTH INSURANCE FUND

For an additional amount to provide additional allotments to remaining shortfall States under section 2104(h)(4) of the Social Security Act, as inserted by section 6001, such sums as may be necessary, but not to exceed \$650,000,000 for fiscal year 2007, to remain available until expended.

GENERAL PROVISIONS—THIS TITLE

SEC. 7001. (a) ELIMINATION OF REMAINDER OF SCHIP FUNDING SHORTFALLS, TIERED MATCH, AND OTHER LIMITATION ON EXPENDITURES.—Section 2104(h) of the Social Security Act (42 U.S.C. 1397dd(h)), as added by section 201(a) of the National Institutes of Health Reform Act of 2006 (Public Law 109–482), is amended—

(1) in the heading for paragraph (2), by striking “REMAINDER OF REDUCTION” and inserting “PART”; and

(2) by striking paragraph (4) and inserting the following:

“(4) ADDITIONAL AMOUNTS TO ELIMINATE REMAINDER OF FISCAL YEAR 2007 FUNDING SHORTFALLS.—

“(A) IN GENERAL.—From the amounts provided in advance in appropriations Acts, the Secretary shall allot to each remaining shortfall State described in subparagraph (B) such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for the State for fiscal year 2007.

“(B) REMAINING SHORTFALL STATE DESCRIBED.—For purposes of subparagraph (A), a remaining shortfall State is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of the date of the enactment of this paragraph, that the projected Federal expenditures under such plan for the State for fiscal year 2007 will exceed the sum of—

“(i) the amount of the State's allotments for each of fiscal years 2005 and 2006 that will not be expended by the end of fiscal year 2006;

“(ii) the amount of the State's allotment for fiscal year 2007; and

“(iii) the amounts, if any, that are to be redistributed to the State during fiscal year 2007 in accordance with paragraphs (1) and (2).”.

(b) CONFORMING AMENDMENTS.—Section 2104(h) of such Act (42 U.S.C. 1397dd(h)) (as so added), is amended—

(1) in paragraph (1)(B), by striking “subject to paragraph (4)(B) and”;

(2) in paragraph (2)(B), by striking “subject to paragraph (4)(B) and”;

(3) in paragraph (5)(A), by striking “and (3)” and inserting “(3), and (4)”; and

(4) in paragraph (6)—

(A) in the first sentence—

(i) by inserting “or allotted” after “redistributed”; and

(ii) by inserting “or allotments” after “redistributions”; and

(B) by striking “and (3)” and inserting “(3), and (4)”.

SEC. 7002. (a) PROHIBITION.—

(1) LIMITATION ON SECRETARIAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to the date that is 1 year after the date of enactment of this Act, take any action (through promulgation of regulation, issuance of regulatory guidance, or other administrative action) to—

(A) finalize or otherwise implement provisions contained in the proposed rule published on January 18, 2007, on pages 2236 through 2248 of volume 72, Federal Register (relating to parts 433, 447, and 457 of title 42, Code of Federal Regulations);

(B) promulgate or implement any rule or provisions similar to the provisions described in subparagraph (A) pertaining to the Medicaid program established under title XIX of the Social Security Act or the State Children’s Health Insurance Program established under title XXI of such Act; or

(C) promulgate or implement any rule or provisions restricting payments for graduate medical education under the Medicaid program.

(2) CONTINUATION OF OTHER SECRETARIAL AUTHORITY.—

The Secretary of Health and Human Service shall not be prohibited during the period described in paragraph (1) from taking any action (through promulgation of regulation, issuance of regulatory guidance, or other administrative action) to enforce a provision of law in effect as of the date of enactment of this Act with respect to the Medicaid program or the State Children’s Health Insurance Program, or to promulgate or implement a new rule or provision during such period with respect to such programs, other than a rule or provision described in paragraph (1) and subject to the prohibition set forth in that paragraph.

(b) REQUIREMENT FOR USE OF TAMPER-RESISTANT PRESCRIPTION PADS UNDER THE MEDICAID PROGRAM.—

(1) IN GENERAL.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended—

(A) by striking “or” at the end of paragraph (21);

(B) by striking the period at the end of paragraph

(22) and inserting “; or”; and

(C) by inserting after paragraph (22) the following new paragraph:

“(23) with respect to amounts expended for medical assistance for covered outpatient drugs (as defined in section 1927(k)(2)) for which the prescription was executed in written (and non-electronic) form unless the prescription was executed on a tamper-resistant pad.”.

42 USC 1396b
note.

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall apply to prescriptions executed after September 30, 2007.

(c) **EXTENSION OF CERTAIN PHARMACY PLUS WAIVERS.**—

(1) **AUTHORITY TO CONTINUE TO OPERATE WAIVERS.**—Notwithstanding any other provision of law, any State that is operating a Pharmacy Plus waiver described in paragraph (2) which would otherwise expire on June 30, 2007, may elect to continue to operate the waiver through December 31, 2009, and if a State elects to continue to operate such a waiver, the Secretary of Health and Human Services shall approve the continuation of the waiver through December 31, 2009.

(2) **PHARMACY PLUS WAIVER DESCRIBED.**—For purposes of paragraph (1), a Pharmacy Plus waiver described in this paragraph is a waiver approved by the Secretary of Health and Human Services under the authority of section 1115 of the Social Security Act (42 U.S.C. 1315) that provides coverage for prescription drugs for individuals who have attained age 65 and whose family income does not exceed 200 percent of the poverty line (as defined in section 2110(c)(5) of such Act (42 U.S.C. 1397jj(c)(5))).

TITLE VIII—FAIR MINIMUM WAGE AND TAX RELIEF

Subtitle A—Fair Minimum Wage

Fair Minimum
Wage Act of
2007.
29 USC 201 note.

SEC. 8101. SHORT TITLE.

This subtitle may be cited as the “Fair Minimum Wage Act of 2007”.

SEC. 8102. MINIMUM WAGE.

(a) **IN GENERAL.**—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

“(1) except as otherwise provided in this section, not less than—

“(A) \$5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2007;

“(B) \$6.55 an hour, beginning 12 months after that 60th day; and

“(C) \$7.25 an hour, beginning 24 months after that 60th day;”.

29 USC 206 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

SEC. 8103. APPLICABILITY OF MINIMUM WAGE TO AMERICAN SAMOA AND THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

29 USC 206 note.

(a) **IN GENERAL.**—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to American Samoa and the Commonwealth of the Northern Mariana Islands.

(b) **TRANSITION.**—Notwithstanding subsection (a)—

(1) the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the

Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(A) \$3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(B) increased by \$0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 1 year after the date of enactment of this Act and each year thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this paragraph is equal to the minimum wage set forth in such section; and

(2) the minimum wage applicable to American Samoa under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(A) the applicable wage rate in effect for each industry and classification under section 697 of title 29, Code of Federal Regulations, on the date of enactment of this Act;

(B) increased by \$0.50 an hour, beginning on the 60th day after the date of enactment of this Act; and

(C) increased by \$0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 1 year after the date of enactment of this Act and each year thereafter until the minimum wage applicable to American Samoa under this paragraph is equal to the minimum wage set forth in such section.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended—

(A) by striking sections 5 and 8; and

29 USC 205, 208.

(B) in section 6(a), by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

29 USC 206.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 60 days after the date of enactment of this Act.

29 USC 206 note.

SEC. 8104. STUDY ON PROJECTED IMPACT.

(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, the Secretary of Labor shall, through the Bureau of Labor Statistics, conduct a study to—

Effective date.

(1) assess the impact of the wage increases required by this Act through such date; and

(2) project the impact of any further wage increase, on living standards and rates of employment in American Samoa and the Commonwealth of the Northern Mariana Islands.

(b) REPORT.—Not later than the date that is 8 months after the date of enactment of this Act, the Secretary of Labor shall transmit to Congress a report on the findings of the study required by subsection (a).

Small Business
and Work
Opportunity
Tax Act of 2007.

26 USC 1 note.

26 USC 1 *et seq.*

Subtitle B—Small Business Tax Incentives

SEC. 8201. SHORT TITLE; AMENDMENT OF CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the “Small Business and Work Opportunity Tax Act of 2007”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 8201. Short title; amendment of Code; table of contents.

PART 1—SMALL BUSINESS TAX RELIEF PROVISIONS

SUBPART A—GENERAL PROVISIONS

- Sec. 8211. Extension and modification of work opportunity tax credit.
- Sec. 8212. Extension and increase of expensing for small business.
- Sec. 8213. Determination of credit for certain taxes paid with respect to employee cash tips.
- Sec. 8214. Waiver of individual and corporate alternative minimum tax limits on work opportunity credit and credit for taxes paid with respect to employee cash tips.
- Sec. 8215. Family business tax simplification.

SUBPART B—GULF OPPORTUNITY ZONE TAX INCENTIVES

- Sec. 8221. Extension of increased expensing for qualified section 179 Gulf Opportunity Zone property.
- Sec. 8222. Extension and expansion of low-income housing credit rules for buildings in the GO Zones.
- Sec. 8223. Special tax-exempt bond financing rule for repairs and reconstructions of residences in the GO Zones.
- Sec. 8224. GAO study of practices employed by State and local governments in allocating and utilizing tax incentives provided pursuant to the Gulf Opportunity Zone Act of 2005.

SUBPART C—SUBCHAPTER S PROVISIONS

- Sec. 8231. Capital gain of S corporation not treated as passive investment income.
- Sec. 8232. Treatment of bank director shares.
- Sec. 8233. Special rule for bank required to change from the reserve method of accounting on becoming S corporation.
- Sec. 8234. Treatment of the sale of interest in a qualified subchapter S subsidiary.
- Sec. 8235. Elimination of all earnings and profits attributable to pre-1983 years for certain corporations.
- Sec. 8236. Deductibility of interest expense on indebtedness incurred by an electing small business trust to acquire S corporation stock.

PART 2—REVENUE PROVISIONS

- Sec. 8241. Increase in age of children whose unearned income is taxed as if parent's income.
- Sec. 8242. Suspension of certain penalties and interest.
- Sec. 8243. Modification of collection due process procedures for employment tax liabilities.
- Sec. 8244. Permanent extension of IRS user fees.
- Sec. 8245. Increase in penalty for bad checks and money orders.
- Sec. 8246. Understatement of taxpayer liability by return preparers.
- Sec. 8247. Penalty for filing erroneous refund claims.
- Sec. 8248. Time for payment of corporate estimated taxes.

PART 1—SMALL BUSINESS TAX RELIEF PROVISIONS

Subpart A—General Provisions

SEC. 8211. EXTENSION AND MODIFICATION OF WORK OPPORTUNITY TAX CREDIT.

(a) EXTENSION.—Section 51(c)(4)(B) (relating to termination) is amended by striking “December 31, 2007” and inserting “August 31, 2011”. 26 USC 51.

(b) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

“(5) DESIGNATED COMMUNITY RESIDENTS.—

“(A) IN GENERAL.—The term ‘designated community resident’ means any individual who is certified by the designated local agency—

“(i) as having attained age 18 but not age 40 on the hiring date, and

“(ii) as having his principal place of abode within an empowerment zone, enterprise community, renewal community, or rural renewal county.

“(B) INDIVIDUAL MUST CONTINUE TO RESIDE IN ZONE, COMMUNITY, OR COUNTY.—In the case of a designated community resident, the term ‘qualified wages’ shall not include wages paid or incurred for services performed while the individual’s principal place of abode is outside an empowerment zone, enterprise community, renewal community, or rural renewal county.

“(C) RURAL RENEWAL COUNTY.—For purposes of this paragraph, the term ‘rural renewal county’ means any county which—

“(i) is outside a metropolitan statistical area (defined as such by the Office of Management and Budget), and

“(ii) during the 5-year periods 1990 through 1994 and 1995 through 1999 had a net population loss.”.

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

“(D) a designated community resident.”.

(c) CLARIFICATION OF TREATMENT OF INDIVIDUALS UNDER INDIVIDUAL WORK PLANS.—Subparagraph (B) of section 51(d)(6) (relating to vocational rehabilitation referral) is amended by striking “or” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “, or”, and by adding at the end the following new clause:

“(iii) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with respect to which the requirements of such subsection are met.”.

(d) TREATMENT OF DISABLED VETERANS UNDER THE WORK OPPORTUNITY TAX CREDIT.—

(1) DISABLED VETERANS TREATED AS MEMBERS OF TARGETED GROUP.—

(A) IN GENERAL.—Subparagraph (A) of section 51(d)(3) (relating to qualified veteran) is amended by striking “agency as being a member of a family” and all that follows and inserting “agency as—

“(i) being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date, or

“(ii) entitled to compensation for a service-connected disability, and—

“(I) having a hiring date which is not more than 1 year after having been discharged or released from active duty in the Armed Forces of the United States, or

“(II) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.”.

(B) DEFINITIONS.—Paragraph (3) of section 51(d) is amended by adding at the end the following new subparagraph:

“(C) OTHER DEFINITIONS.—For purposes of subparagraph (A), the terms ‘compensation’ and ‘service-connected’ have the meanings given such terms under section 101 of title 38, United States Code.”.

(2) INCREASE IN AMOUNT OF WAGES TAKEN INTO ACCOUNT FOR DISABLED VETERANS.—Paragraph (3) of section 51(b) is amended—

(A) by inserting “(\$12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii))” before the period at the end, and

(B) by striking “ONLY FIRST \$6,000 OF” in the heading and inserting “LIMITATION ON”.

26 USC 51 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 8212. EXTENSION AND INCREASE OF EXPENSING FOR SMALL BUSINESS.

26 USC 179.

(a) EXTENSION.—Subsections (b)(1), (b)(2), (b)(5), (c)(2), and (d)(1)(A)(ii) of section 179 (relating to election to expense certain depreciable business assets) are each amended by striking “2010” and inserting “2011”.

(b) INCREASE IN LIMITATIONS.—Subsection (b) of section 179 is amended—

(1) by striking “\$100,000 in the case of taxable years beginning after 2002” in paragraph (1) and inserting “\$125,000 in the case of taxable years beginning after 2006”, and

(2) by striking “\$400,000 in the case of taxable years beginning after 2002” in paragraph (2) and inserting “\$500,000 in the case of taxable years beginning after 2006”.

(c) INFLATION ADJUSTMENT.—Subparagraph (A) of section 179(b)(5) is amended—

(1) by striking “2003” and inserting “2007”,

(2) by striking “\$100,000 and \$400,000” and inserting “\$125,000 and \$500,000”, and

(3) by striking “2002” in clause (ii) and inserting “2006”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2006. 26 USC 179 note.

SEC. 8213. DETERMINATION OF CREDIT FOR CERTAIN TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) **IN GENERAL.**—Subparagraph (B) of section 45B(b)(1) is amended by inserting “as in effect on January 1, 2007, and” before “determined without regard to”. 26 USC 45B.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to tips received for services performed after December 31, 2006. 26 USC 45B note.

SEC. 8214. WAIVER OF INDIVIDUAL AND CORPORATE ALTERNATIVE MINIMUM TAX LIMITS ON WORK OPPORTUNITY CREDIT AND CREDIT FOR TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) **ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.**—Subparagraph (B) of section 38(c)(4) is amended by striking “and” at the end of clause (i), by inserting a comma at the end of clause (ii), and by adding at the end the following new clauses:

“(iii) the credit determined under section 45B, and
“(iv) the credit determined under section 51.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to credits determined under sections 45B and 51 of the Internal Revenue Code of 1986 in taxable years beginning after December 31, 2006, and to carrybacks of such credits. 26 USC 38 note.

SEC. 8215. FAMILY BUSINESS TAX SIMPLIFICATION.

(a) **IN GENERAL.**—Section 761 (defining terms for purposes of partnerships) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) **QUALIFIED JOINT VENTURE.**—

“(1) **IN GENERAL.**—In the case of a qualified joint venture conducted by a husband and wife who file a joint return for the taxable year, for purposes of this title—

“(A) such joint venture shall not be treated as a partnership,

“(B) all items of income, gain, loss, deduction, and credit shall be divided between the spouses in accordance with their respective interests in the venture, and

“(C) each spouse shall take into account such spouse’s respective share of such items as if they were attributable to a trade or business conducted by such spouse as a sole proprietor.

“(2) **QUALIFIED JOINT VENTURE.**—For purposes of paragraph (1), the term ‘qualified joint venture’ means any joint venture involving the conduct of a trade or business if—

“(A) the only members of such joint venture are a husband and wife,

“(B) both spouses materially participate (within the meaning of section 469(h) without regard to paragraph (5) thereof) in such trade or business, and

“(C) both spouses elect the application of this subsection.”.

(b) **NET EARNINGS FROM SELF-EMPLOYMENT.**—

(1) Subsection (a) of section 1402 (defining net earnings from self-employment) is amended by striking “, and” at the

end of paragraph (15) and inserting a semicolon, by striking the period at the end of paragraph (16) and inserting “; and”, and by inserting after paragraph (16) the following new paragraph:

“(17) notwithstanding the preceding provisions of this subsection, each spouse’s share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) in determining net earnings from self-employment of such spouse.”.

42 USC 411.

(2) Subsection (a) of section 211 of the Social Security Act (defining net earnings from self-employment) is amended by striking “and” at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting “; and”, and by inserting after paragraph (15) the following new paragraph:

“(16) Notwithstanding the preceding provisions of this subsection, each spouse’s share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) of the Internal Revenue Code of 1986 in determining net earnings from self-employment of such spouse.”.

26 USC 1761 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

Subpart B—Gulf Opportunity Zone Tax Incentives

SEC. 8221. EXTENSION OF INCREASED EXPENSING FOR QUALIFIED SECTION 179 GULF OPPORTUNITY ZONE PROPERTY.

26 USC 1400N.

Paragraph (2) of section 1400N(e) (relating to qualified section 179 Gulf Opportunity Zone property) is amended—

(1) by striking “this subsection, the term” and inserting: “this subsection—

“(A) IN GENERAL.—The term”, and

(2) by adding at the end the following new subparagraph:

“(B) EXTENSION FOR CERTAIN PROPERTY.—In the case of property substantially all of the use of which is in one or more specified portions of the GO Zone (as defined by subsection (d)(6)), such term shall include section 179 property (as so defined) which is described in subsection (d)(2), determined—

“(i) without regard to subsection (d)(6), and

“(ii) by substituting ‘2008’ for ‘2007’ in subparagraph (A)(v) thereof.”.

SEC. 8222. EXTENSION AND EXPANSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN THE GO ZONES.

(a) TIME FOR MAKING LOW-INCOME HOUSING CREDIT ALLOCATIONS.—Subsection (c) of section 1400N (relating to low-income housing credit) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) TIME FOR MAKING LOW-INCOME HOUSING CREDIT ALLOCATIONS.—Section 42(h)(1)(B) shall not apply to an allocation of housing credit dollar amount to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone, if such allocation is made in 2006, 2007, or 2008, and such building is placed in service before January 1, 2011.”.

(b) EXTENSION OF PERIOD FOR TREATING GO ZONES AS DIFFICULT DEVELOPMENT AREAS.—

(1) IN GENERAL.—Subparagraph (A) of section 1400N(c)(3) is amended by striking “2006, 2007, or 2008” and inserting “the period beginning on January 1, 2006, and ending on December 31, 2010”.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 1400N(c)(3)(B) is amended by striking “such period” and inserting “the period described in subparagraph (A)”.

(c) COMMUNITY DEVELOPMENT BLOCK GRANTS NOT TAKEN INTO ACCOUNT IN DETERMINING IF BUILDINGS ARE FEDERALLY SUBSIDIZED.—Subsection (c) of section 1400N (relating to low-income housing credit), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

“(6) COMMUNITY DEVELOPMENT BLOCK GRANTS NOT TAKEN INTO ACCOUNT IN DETERMINING IF BUILDINGS ARE FEDERALLY SUBSIDIZED.—For purpose of applying section 42(i)(2)(D) to any building which is placed in service in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone during the period beginning on January 1, 2006, and ending on December 31, 2010, a loan shall not be treated as a below market Federal loan solely by reason of any assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974 by reason of section 122 of such Act or any provision of the Department of Defense Appropriations Act, 2006, or the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.”.

SEC. 8223. SPECIAL TAX-EXEMPT BOND FINANCING RULE FOR REPAIRS AND RECONSTRUCTIONS OF RESIDENCES IN THE GO ZONES.

Subsection (a) of section 1400N (relating to tax-exempt bond financing) is amended by adding at the end the following new paragraph:

“(7) SPECIAL RULE FOR REPAIRS AND RECONSTRUCTIONS.—

“(A) IN GENERAL.—For purposes of section 143 and this subsection, any qualified GO Zone repair or reconstruction shall be treated as a qualified rehabilitation.

“(B) QUALIFIED GO ZONE REPAIR OR RECONSTRUCTION.—For purposes of subparagraph (A), the term ‘qualified GO Zone repair or reconstruction’ means any repair of damage caused by Hurricane Katrina, Hurricane Rita, or Hurricane Wilma to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone (or reconstruction of such building in the case of damage constituting destruction) if the expenditures for such repair or reconstruction are 25 percent or more of the mortgagor’s adjusted basis in the residence. For purposes of the preceding sentence, the mortgagor’s adjusted basis shall be determined as of the completion of the repair or reconstruction or, if later, the date on which the mortgagor acquires the residence.

“(C) TERMINATION.—This paragraph shall apply only to owner-financing provided after the date of the enactment of this paragraph and before January 1, 2011.”.

Applicability.

SEC. 8224. GAO STUDY OF PRACTICES EMPLOYED BY STATE AND LOCAL GOVERNMENTS IN ALLOCATING AND UTILIZING TAX INCENTIVES PROVIDED PURSUANT TO THE GULF OPPORTUNITY ZONE ACT OF 2005.

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study of the practices employed by State and local governments, and subdivisions thereof, in allocating and utilizing tax incentives provided pursuant to the Gulf Opportunity Zone Act of 2005 and this Act.

(b) **SUBMISSION OF REPORT.**—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit a report on the findings of the study conducted under subsection (a) and shall include therein recommendations (if any) relating to such findings. The report shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

Deadline.

(c) **CONGRESSIONAL HEARINGS.**—In the case that the report submitted under this section includes findings of significant fraud, waste or abuse, each Committee specified in subsection (b) shall, within 60 days after the date the report is submitted under subsection (b), hold a public hearing to review such findings.

Subpart C—Subchapter S Provisions

SEC. 8231. CAPITAL GAIN OF S CORPORATION NOT TREATED AS PASSIVE INVESTMENT INCOME.

26 USC 1362.

(a) **IN GENERAL.**—Section 1362(d)(3) is amended by striking subparagraphs (B), (C), (D), (E), and (F) and inserting the following new subparagraphs:

“(B) **GROSS RECEIPTS FROM THE SALES OF CERTAIN ASSETS.**—For purposes of this paragraph—

“(i) in the case of dispositions of capital assets (other than stock and securities), gross receipts from such dispositions shall be taken into account only to the extent of the capital gain net income therefrom, and

“(ii) in the case of sales or exchanges of stock or securities, gross receipts shall be taken into account only to the extent of the gains therefrom.

“(C) **PASSIVE INVESTMENT INCOME DEFINED.**—

“(i) **IN GENERAL.**—Except as otherwise provided in this subparagraph, the term ‘passive investment income’ means gross receipts derived from royalties, rents, dividends, interest, and annuities.

“(ii) **EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.**—The term ‘passive investment income’ shall not include interest on any obligation acquired in the ordinary course of the corporation’s trade or business from its sale of property described in section 1221(a)(1).

“(iii) **TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.**—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term ‘passive investment income’ shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a

lending or finance business (as defined in section 542(d)(1)).

“(iv) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term ‘passive investment income’ shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

“(v) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1))), the term ‘passive investment income’ shall not include—

“(I) interest income earned by such bank or company, or

“(II) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 1362 note.

SEC. 8232. TREATMENT OF BANK DIRECTOR SHARES.

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection: 26 USC 1361.

“(f) RESTRICTED BANK DIRECTOR STOCK.—

“(1) IN GENERAL.—Restricted bank director stock shall not be taken into account as outstanding stock of the S corporation in applying this subchapter (other than section 1368(f)).

“(2) RESTRICTED BANK DIRECTOR STOCK.—For purposes of this subsection, the term ‘restricted bank director stock’ means stock in a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1))), if such stock—

“(A) is required to be held by an individual under applicable Federal or State law in order to permit such individual to serve as a director, and

“(B) is subject to an agreement with such bank or company (or a corporation which controls (within the meaning of section 368(c)) such bank or company) pursuant to which the holder is required to sell back such stock (at the same price as the individual acquired such stock) upon ceasing to hold the office of director.

“(3) CROSS REFERENCE.—

“For treatment of certain distributions with respect to restricted bank director stock, see section 1368(f).”.

(b) DISTRIBUTIONS.—Section 1368 (relating to distributions) is amended by adding at the end the following new subsection:

“(f) RESTRICTED BANK DIRECTOR STOCK.—If a director receives a distribution (not in part or full payment in exchange for stock)

from an S corporation with respect to any restricted bank director stock (as defined in section 1361(f)), the amount of such distribution—

“(1) shall be includible in gross income of the director, and

“(2) shall be deductible by the corporation for the taxable year of such corporation in which or with which ends the taxable year in which such amount is included in the gross income of the director.”.

26 USC 1361
note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

(2) SPECIAL RULE FOR TREATMENT AS SECOND CLASS OF STOCK.—In the case of any taxable year beginning after December 31, 1996, restricted bank director stock (as defined in section 1361(f) of the Internal Revenue Code of 1986, as added by this section) shall not be taken into account in determining whether an S corporation has more than 1 class of stock.

SEC. 8233. SPECIAL RULE FOR BANK REQUIRED TO CHANGE FROM THE RESERVE METHOD OF ACCOUNTING ON BECOMING S CORPORATION.

(a) IN GENERAL.—Section 1361, as amended by this Act, is amended by adding at the end the following new subsection:

“(g) SPECIAL RULE FOR BANK REQUIRED TO CHANGE FROM THE RESERVE METHOD OF ACCOUNTING ON BECOMING S CORPORATION.—In the case of a bank which changes from the reserve method of accounting for bad debts described in section 585 or 593 for its first taxable year for which an election under section 1362(a) is in effect, the bank may elect to take into account any adjustments under section 481 by reason of such change for the taxable year immediately preceding such first taxable year.”.

26 USC 1361
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 8234. TREATMENT OF THE SALE OF INTEREST IN A QUALIFIED SUBCHAPTER S SUBSIDIARY.

(a) IN GENERAL.—Subparagraph (C) of section 1361(b)(3) (relating to treatment of terminations of qualified subchapter S subsidiary status) is amended—

(1) by striking “For purposes of this title,” and inserting the following:

“(i) IN GENERAL.—For purposes of this title,” and

(2) by inserting at the end the following new clause:

“(ii) TERMINATION BY REASON OF SALE OF STOCK.—If the failure to meet the requirements of subparagraph (B) is by reason of the sale of stock of a corporation which is a qualified subchapter S subsidiary, the sale of such stock shall be treated as if—

“(I) the sale were a sale of an undivided interest in the assets of such corporation (based on the percentage of the corporation’s stock sold), and

“(II) the sale were followed by an acquisition by such corporation of all of its assets (and the

assumption by such corporation of all of its liabilities) in a transaction to which section 351 applies.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2006. 26 USC 1361 note.

SEC. 8235. ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS FOR CERTAIN CORPORATIONS. 26 USC 1361 note.

In the case of a corporation which is—

(1) described in section 1311(a)(1) of the Small Business Job Protection Act of 1996, and

(2) not described in section 1311(a)(2) of such Act, the amount of such corporation’s accumulated earnings and profits (for the first taxable year beginning after the date of the enactment of this Act) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under subchapter S of the Internal Revenue Code of 1986.

SEC. 8236. DEDUCTIBILITY OF INTEREST EXPENSE ON INDEBTEDNESS INCURRED BY AN ELECTING SMALL BUSINESS TRUST TO ACQUIRE S CORPORATION STOCK.

(a) **IN GENERAL.**—Subparagraph (C) of section 641(c)(2) (relating to modifications) is amended by inserting after clause (iii) the following new clause:

“(iv) Any interest expense paid or accrued on indebtedness incurred to acquire stock in an S corporation.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2006. 26 USC 641 note.

PART 2—REVENUE PROVISIONS

SEC. 8241. INCREASE IN AGE OF CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT’S INCOME.

(a) **IN GENERAL.**—Subparagraph (A) of section 1(g)(2) (relating to child to whom subsection applies) is amended to read as follows:

“(A) such child—

“(i) has not attained age 18 before the close of the taxable year, or

“(ii)(I) has attained age 18 before the close of the taxable year and meets the age requirements of section 152(c)(3) (determined without regard to subparagraph (B) thereof), and

“(II) whose earned income (as defined in section 911(d)(2)) for such taxable year does not exceed one-half of the amount of the individual’s support (within the meaning of section 152(c)(1)(D) after the application of section 152(f)(5) (without regard to subparagraph (A) thereof)) for such taxable year.”.

(b) **CONFORMING AMENDMENT.**—Subsection (g) of section 1 is amended by striking “MINOR” in the heading thereof.

(c) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 1 note.

SEC. 8242. SUSPENSION OF CERTAIN PENALTIES AND INTEREST.

26 USC 6404. (a) IN GENERAL.—Paragraphs (1)(A) and (3)(A) of section 6404(g) are each amended by striking “18-month period” and inserting “36-month period”.

26 USC 6404 note. (b) EFFECTIVE DATE.—The amendments made by this section shall apply to notices provided by the Secretary of the Treasury, or his delegate, after the date which is 6 months after the date of the enactment of this Act.

SEC. 8243. MODIFICATION OF COLLECTION DUE PROCESS PROCEDURES FOR EMPLOYMENT TAX LIABILITIES.

(a) IN GENERAL.—Section 6330(f) (relating to jeopardy and State refund collection) is amended—

(1) by striking “; or” at the end of paragraph (1) and inserting a comma,

(2) by adding “or” at the end of paragraph (2), and

(3) by inserting after paragraph (2) the following new paragraph:

“(3) the Secretary has served a disqualified employment tax levy,”.

(b) DISQUALIFIED EMPLOYMENT TAX LEVY.—Section 6330 of such Code (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

“(h) DISQUALIFIED EMPLOYMENT TAX LEVY.—For purposes of subsection (f), a disqualified employment tax levy is any levy in connection with the collection of employment taxes for any taxable period if the person subject to the levy (or any predecessor thereof) requested a hearing under this section with respect to unpaid employment taxes arising in the most recent 2-year period before the beginning of the taxable period with respect to which the levy is served. For purposes of the preceding sentence, the term ‘employment taxes’ means any taxes under chapter 21, 22, 23, or 24.”.

26 USC 6330 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to levies served on or after the date that is 120 days after the date of the enactment of this Act.

SEC. 8244. PERMANENT EXTENSION OF IRS USER FEES.

Section 7528 (relating to Internal Revenue Service user fees) is amended by striking subsection (c).

SEC. 8245. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking “\$750” and inserting “\$1,250”, and

(2) by striking “\$15” and inserting “\$25”.

26 USC 6657 note. (b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 8246. UNDERSTATEMENT OF TAXPAYER LIABILITY BY RETURN PREPARERS.

(a) APPLICATION OF RETURN PREPARER PENALTIES TO ALL TAX RETURNS.—

(1) DEFINITION OF TAX RETURN PREPARER.—Paragraph (36) of section 7701(a) (relating to income tax preparer) is amended—

(A) by striking “income” each place it appears in the heading and the text, and

(B) in subparagraph (A), by striking “subtitle A” each place it appears and inserting “this title”.

(2) CONFORMING AMENDMENTS.—

(A)(i) Section 6060 is amended by striking “**INCOME TAX RETURN PREPARERS**” in the heading and inserting “**TAX RETURN PREPARERS**”. 26 USC 6060.

(ii) Section 6060(a) is amended—

(I) by striking “an income tax return preparer” each place it appears and inserting “a tax return preparer”,

(II) by striking “each income tax return preparer” and inserting “each tax return preparer”, and

(III) by striking “another income tax return preparer” and inserting “another tax return preparer”.

(iii) The item relating to section 6060 in the table of sections for subpart F of part III of subchapter A of chapter 61 is amended by striking “income tax return preparers” and inserting “tax return preparers”.

(iv) Subpart F of part III of subchapter A of chapter 61 is amended by striking “**Income Tax Return Preparers**” in the heading and inserting “**Tax Return Preparers**”.

(v) The item relating to subpart F in the table of subparts for part III of subchapter A of chapter 61 is amended by striking “income tax return preparers” and inserting “tax return preparers”.

(B) Section 6103(k)(5) is amended—

(i) by striking “income tax return preparer” each place it appears and inserting “tax return preparer”, and

(ii) by striking “income tax return preparers” each place it appears and inserting “tax return preparers”.

(C)(i) Section 6107 is amended—

(I) by striking “**INCOME TAX RETURN PREPARER**” in the heading and inserting “**TAX RETURN PREPARER**”,

(II) by striking “an income tax return preparer” each place it appears in subsections (a) and (b) and inserting “a tax return preparer”,

(III) by striking “**INCOME TAX RETURN PREPARER**” in the heading for subsection (b) and inserting “**TAX RETURN PREPARER**”, and

(IV) in subsection (c), by striking “income tax return preparers” and inserting “tax return preparers”.

(ii) The item relating to section 6107 in the table of sections for subchapter B of chapter 61 is amended by striking “Income tax return preparer” and inserting “Tax return preparer”.

(D) Section 6109(a)(4) is amended—

(i) by striking “an income tax return preparer” and inserting “a tax return preparer”, and

(ii) by striking “**INCOME RETURN PREPARER**” in the heading and inserting “**TAX RETURN PREPARER**”.

(E) Section 6503(k)(4) is amended by striking “Income tax return preparers” and inserting “Tax return preparers”.

(F)(i) Section 6694 is amended—

(I) by striking “**INCOME TAX RETURN PREPARER**” in the heading and inserting “**TAX RETURN PREPARER**”;

(II) by striking “an income tax return preparer” each place it appears and inserting “a tax return preparer”;

(III) in subsection (c)(2), by striking “the income tax return preparer” and inserting “the tax return preparer”;

(IV) in subsection (e), by striking “subtitle A” and inserting “this title”, and

(V) in subsection (f), by striking “income tax return preparer” and inserting “tax return preparer”.

(ii) The item relating to section 6694 in the table of sections for part I of subchapter B of chapter 68 is amended by striking “income tax return preparer” and inserting “tax return preparer”.

26 USC 6695.

(G)(i) Section 6695 is amended—

(I) by striking “**INCOME**” in the heading, and

(II) by striking “an income tax return preparer” each place it appears and inserting “a tax return preparer”.

(ii) Section 6695(f) is amended—

(I) by striking “subtitle A” and inserting “this title”, and

(II) by striking “the income tax return preparer” and inserting “the tax return preparer”.

(iii) The item relating to section 6695 in the table of sections for part I of subchapter B of chapter 68 is amended by striking “income”.

(H) Section 6696(e) is amended by striking “subtitle A” each place it appears and inserting “this title”.

(I)(i) Section 7407 is amended—

(I) by striking “**INCOME TAX RETURN PREPARERS**” in the heading and inserting “**TAX RETURN PREPARERS**”;

(II) by striking “an income tax return preparer” each place it appears and inserting “a tax return preparer”;

(III) by striking “income tax preparer” both places it appears in subsection (a) and inserting “tax return preparer”, and

(IV) by striking “income tax return” in subsection (a) and inserting “tax return”.

(ii) The item relating to section 7407 in the table of sections for subchapter A of chapter 76 is amended by striking “income tax return preparers” and inserting “tax return preparers”.

(J)(i) Section 7427 is amended—

(I) by striking “**INCOME TAX RETURN PREPARERS**” in the heading and inserting “**TAX RETURN PREPARERS**”, and

(II) by striking “an income tax return preparer” and inserting “a tax return preparer”.

(ii) The item relating to section 7427 in the table of sections for subchapter B of chapter 76 is amended to read as follows:

“Sec. 7427. Tax return preparers.”.

(b) MODIFICATION OF PENALTY FOR UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY TAX RETURN PREPARER.—Subsections (a) and (b) of section 6694 are amended to read as follows:

26 USC 6694.

“(a) UNDERSTATEMENT DUE TO UNREASONABLE POSITIONS.—

“(1) IN GENERAL.—Any tax return preparer who prepares any return or claim for refund with respect to which any part of an understatement of liability is due to a position described in paragraph (2) shall pay a penalty with respect to each such return or claim in an amount equal to the greater of—

“(A) \$1,000, or

“(B) 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

“(2) UNREASONABLE POSITION.—A position is described in this paragraph if—

“(A) the tax return preparer knew (or reasonably should have known) of the position,

“(B) there was not a reasonable belief that the position would more likely than not be sustained on its merits, and

“(C)(i) the position was not disclosed as provided in section 6662(d)(2)(B)(ii), or

“(ii) there was no reasonable basis for the position.

“(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection if it is shown that there is reasonable cause for the understatement and the tax return preparer acted in good faith.

“(b) UNDERSTATEMENT DUE TO WILLFUL OR RECKLESS CONDUCT.—

“(1) IN GENERAL.—Any tax return preparer who prepares any return or claim for refund with respect to which any part of an understatement of liability is due to a conduct described in paragraph (2) shall pay a penalty with respect to each such return or claim in an amount equal to the greater of—

“(A) \$5,000, or

“(B) 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

“(2) WILLFUL OR RECKLESS CONDUCT.—Conduct described in this paragraph is conduct by the tax return preparer which is—

“(A) a willful attempt in any manner to understate the liability for tax on the return or claim, or

“(B) a reckless or intentional disregard of rules or regulations.

“(3) REDUCTION IN PENALTY.—The amount of any penalty payable by any person by reason of this subsection for any return or claim for refund shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns prepared after the date of the enactment of this Act.

26 USC 6060
note.

SEC. 8247. PENALTY FOR FILING ERRONEOUS REFUND CLAIMS.

(a) **IN GENERAL.**—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6675 the following new section:

“SEC. 6676. ERRONEOUS CLAIM FOR REFUND OR CREDIT.

“(a) **CIVIL PENALTY.**—If a claim for refund or credit with respect to income tax (other than a claim for a refund or credit relating to the earned income credit under section 32) is made for an excessive amount, unless it is shown that the claim for such excessive amount has a reasonable basis, the person making such claim shall be liable for a penalty in an amount equal to 20 percent of the excessive amount.

“(b) **EXCESSIVE AMOUNT.**—For purposes of this section, the term ‘excessive amount’ means in the case of any person the amount by which the amount of the claim for refund or credit for any taxable year exceeds the amount of such claim allowable under this title for such taxable year.

“(c) **COORDINATION WITH OTHER PENALTIES.**—This section shall not apply to any portion of the excessive amount of a claim for refund or credit which is subject to a penalty imposed under part II of subchapter A of chapter 68.”.

(b) **CONFORMING AMENDMENT.**—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6675 the following new item:

“Sec. 6676. Erroneous claim for refund or credit.”.

26 USC 6676
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any claim filed or submitted after the date of the enactment of this Act.

SEC. 8248. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

26 USC 6655
note.

Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking “106.25 percent” and inserting “114.25 percent”.

Subtitle C—Small Business Incentives

Small Business
and Work
Opportunity
Act of 2007.
15 USC 631 note.

SEC. 8301. SHORT TITLE.

This subtitle may be cited as the “Small Business and Work Opportunity Act of 2007”.

SEC. 8302. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) **IN GENERAL.**—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

“(a) **COMPLIANCE GUIDE.**—

Publication.

“(1) **IN GENERAL.**—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications ‘small entity compliance guides’.

“(2) **PUBLICATION OF GUIDES.**—The publication of each guide under this subsection shall include—

“(A) the posting of the guide in an easily identified location on the website of the agency; and

“(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

“(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

“(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

“(B) not later than the date on which the requirements of that rule become effective.

“(4) COMPLIANCE ACTIONS.—

“(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

“(B) EXPLANATION.—The explanation under subparagraph (A)—

“(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

“(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements, except that, compliance with any procedures described pursuant to this section does not establish compliance with the rule, or establish a presumption or inference of such compliance.

“(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

“(i) shall be suggestions to assist small entities; and

“(ii) shall not be additional requirements, or diminish requirements, relating to the rule.

“(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

“(6) REPORTING.—Not later than 1 year after the date of enactment of the Fair Minimum Wage Act of 2007, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and any other committee of relevant jurisdiction describing the status of the agency’s compliance with paragraphs (1) through (5).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting “and entitled” after “designated”.

42 USC 9858
note.

SEC. 8303. SMALL BUSINESS CHILD CARE GRANT PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall establish a program to award grants to States, on a competitive basis, to assist States in providing funds to encourage the establishment and operation of employer-operated child care programs.

(b) **APPLICATION.**—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

(c) **AMOUNT AND PERIOD OF GRANT.**—The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all States receiving grants under this section. The Secretary shall make the grant for a period of 3 years.

(d) **USE OF FUNDS.**—

(1) **IN GENERAL.**—A State shall use amounts provided under a grant awarded under this section to provide assistance to small businesses (or consortia formed in accordance with paragraph (3)) located in the State to enable the small businesses (or consortia) to establish and operate child care programs. Such assistance may include—

(A) technical assistance in the establishment of a child care program;

(B) assistance for the startup costs related to a child care program;

(C) assistance for the training of child care providers;

(D) scholarships for low-income wage earners;

(E) the provision of services to care for sick children or to provide care to school-aged children;

(F) the entering into of contracts with local resource and referral organizations or local health departments;

(G) assistance for care for children with disabilities;

(H) payment of expenses for renovation or operation of a child care facility; or

(I) assistance for any other activity determined appropriate by the State.

(2) **APPLICATION.**—In order for a small business or consortium to be eligible to receive assistance from a State under this section, the small business involved shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

(3) **PREFERENCE.**—

(A) **IN GENERAL.**—In providing assistance under this section, a State shall give priority to an applicant that desires to form a consortium to provide child care in a geographic area within the State where such care is not generally available or accessible.

(B) **CONSORTIUM.**—For purposes of subparagraph (A), a consortium shall be made up of 2 or more entities that shall include small businesses and that may include large businesses, nonprofit agencies or organizations, local governments, or other appropriate entities.

(4) **LIMITATIONS.**—With respect to grant funds received under this section, a State may not provide in excess of \$500,000 in assistance from such funds to any single applicant.

(e) **MATCHING REQUIREMENT.**—To be eligible to receive a grant under this section, a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by a covered entity receiving assistance in carrying out activities under this section, the covered entity will make available (directly or through donations from public or private entities) non-Federal contributions to such costs in an amount equal to—

(1) for the first fiscal year in which the covered entity receives such assistance, not less than 50 percent of such costs (\$1 for each \$1 of assistance provided to the covered entity under the grant);

(2) for the second fiscal year in which the covered entity receives such assistance, not less than $66\frac{2}{3}$ percent of such costs (\$2 for each \$1 of assistance provided to the covered entity under the grant); and

(3) for the third fiscal year in which the covered entity receives such assistance, not less than 75 percent of such costs (\$3 for each \$1 of assistance provided to the covered entity under the grant).

(f) **REQUIREMENTS OF PROVIDERS.**—To be eligible to receive assistance under a grant awarded under this section, a child care provider—

(1) who receives assistance from a State shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State; and

(2) who receives assistance from an Indian tribe or tribal organization shall comply with all applicable regulatory standards.

(g) **STATE-LEVEL ACTIVITIES.**—A State may not retain more than 3 percent of the amount described in subsection (c) for State administration and other State-level activities.

(h) **ADMINISTRATION.**—

(1) **STATE RESPONSIBILITY.**—A State shall have responsibility for administering a grant awarded for the State under this section and for monitoring covered entities that receive assistance under such grant.

(2) **AUDITS.**—A State shall require each covered entity receiving assistance under the grant awarded under this section to conduct an annual audit with respect to the activities of the covered entity. Such audits shall be submitted to the State.

(3) **MISUSE OF FUNDS.**—

(A) **REPAYMENT.**—If the State determines, through an audit or otherwise, that a covered entity receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such a covered entity the repayment of an amount equal to the amount of any such misused assistance plus interest.

Notification.

(B) **APPEALS PROCESS.**—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.

Regulations.

(i) **REPORTING REQUIREMENTS.**—

(1) **2-YEAR STUDY.**—

(A) **IN GENERAL.**—Not later than 2 years after the date on which the Secretary first awards grants under

this section, the Secretary shall conduct a study to determine—

- (i) the capacity of covered entities to meet the child care needs of communities within States;
- (ii) the kinds of consortia that are being formed with respect to child care at the local level to carry out programs funded under this section; and
- (iii) who is using the programs funded under this section and the income levels of such individuals.

(B) REPORT.—Not later than 28 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(2) FOUR-YEAR STUDY.—

Deadline.

(A) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine the number of child care facilities that are funded through covered entities that received assistance through a grant awarded under this section and that remain in operation, and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

(B) REPORT.—Not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(j) DEFINITIONS.—In this section:

(1) COVERED ENTITY.—The term “covered entity” means a small business or a consortium formed in accordance with subsection (d)(3).

(2) INDIAN COMMUNITY.—The term “Indian community” means a community served by an Indian tribe or tribal organization.

(3) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms “Indian tribe” and “tribal organization” have the meanings given the terms in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(4) SMALL BUSINESS.—The term “small business” means an employer who employed an average of at least 2 but not more than 50 employees on the business days during the preceding calendar year.

(5) STATE.—The term “State” has the meaning given the term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(k) APPLICATION TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In this section:

(1) IN GENERAL.—Except as provided in subsection (f)(1), and in paragraphs (2) and (3), the term “State” includes an Indian tribe or tribal organization.

(2) GEOGRAPHIC REFERENCES.—The term “State” includes an Indian community in subsections (c) (the second and third place the term appears), (d)(1) (the second place the term

appears), (d)(3)(A) (the second place the term appears), and (i)(1)(A)(i).

(3) STATE-LEVEL ACTIVITIES.—The term “State-level activities” includes activities at the tribal level.

(1) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, \$50,000,000 for the period of fiscal years 2008 through 2012.

(2) STUDIES AND ADMINISTRATION.—With respect to the total amount appropriated for such period in accordance with this subsection, not more than \$2,500,000 of that amount may be used for expenditures related to conducting studies required under, and the administration of, this section.

(m) TERMINATION OF PROGRAM.—The program established under subsection (a) shall terminate on September 30, 2012.

SEC. 8304. STUDY OF UNIVERSAL USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT. Deadline.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall report to Congress on a study of the benefits, costs, risks, and barriers to workers and to businesses (with a special emphasis on small businesses) if the advance earned income tax credit program (under section 3507 of the Internal Revenue Code of 1986) included all recipients of the earned income tax credit (under section 32 of such Code) and what steps would be necessary to implement such inclusion.

SEC. 8305. RENEWAL GRANTS FOR WOMEN’S BUSINESS CENTERS.

(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

“(m) CONTINUED FUNDING FOR CENTERS.—

“(1) IN GENERAL.—A nonprofit organization described in paragraph (2) shall be eligible to receive, subject to paragraph (3), a 3-year grant under this subsection.

“(2) APPLICABILITY.—A nonprofit organization described in this paragraph is a nonprofit organization that has received funding under subsection (b) or (l).

“(3) APPLICATION AND APPROVAL CRITERIA.—

“(A) CRITERIA.—Subject to subparagraph (B), the Administrator shall develop and publish criteria for the consideration and approval of applications by nonprofit organizations under this subsection.

“(B) CONTENTS.—Except as otherwise provided in this subsection, the conditions for participation in the grant program under this subsection shall be the same as the conditions for participation in the program under subsection (l), as in effect on the date of enactment of this Act.

“(C) NOTIFICATION.—Not later than 60 days after the date of the deadline to submit applications for each fiscal year, the Administrator shall approve or deny any application under this subsection and notify the applicant for each such application. Deadline.

“(4) AWARD OF GRANTS.—

“(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall make a grant for the Federal share of the cost of activities described in the

application to each applicant approved under this subsection.

“(B) AMOUNT.—A grant under this subsection shall be for not more than \$150,000, for each year of that grant.

“(C) FEDERAL SHARE.—The Federal share under this subsection shall be not more than 50 percent.

“(D) PRIORITY.—In allocating funds made available for grants under this section, the Administrator shall give applications under this subsection or subsection (l) priority over first-time applications under subsection (b).

“(5) RENEWAL.—

“(A) IN GENERAL.—The Administrator may renew a grant under this subsection for additional 3-year periods, if the nonprofit organization submits an application for such renewal at such time, in such manner, and accompanied by such information as the Administrator may establish.

“(B) UNLIMITED RENEWALS.—There shall be no limitation on the number of times a grant may be renewed under subparagraph (A).

“(n) PRIVACY REQUIREMENTS.—

“(1) IN GENERAL.—A women’s business center may not disclose the name, address, or telephone number of any individual or small business concern receiving assistance under this section without the consent of such individual or small business concern, unless—

“(A) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

“(B) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a women’s business center, but a disclosure under this subparagraph shall be limited to the information necessary for such audit.

“(2) ADMINISTRATION USE OF INFORMATION.—This subsection shall not—

“(A) restrict Administration access to program activity data; or

“(B) prevent the Administration from using client information (other than the information described in subparagraph (A)) to conduct client surveys.

“(3) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring disclosures during a financial audit under paragraph (1)(B).”.

Effective date.
15 USC 656 note.

(b) REPEAL.—Section 29(l) of the Small Business Act (15 U.S.C. 656(l)) is repealed effective October 1 of the first full fiscal year after the date of enactment of this Act.

15 USC 656 note.

(c) TRANSITIONAL RULE.—Notwithstanding any other provision of law, a grant or cooperative agreement that was awarded under subsection (l) of section 29 of the Small Business Act (15 U.S.C. 656), on or before the day before the date described in subsection (b) of this section, shall remain in full force and effect under the terms, and for the duration, of such grant or agreement.

SEC. 8306. REPORTS ON ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.

Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—
(1) by striking “Notwithstanding” and inserting the following:

“(a) IN GENERAL.—Notwithstanding”; and

(2) by adding at the end the following:

“(b) REPORTS.—

“(1) IN GENERAL.—Not later than 180 days after the end of each of fiscal years 2007 through 2011, the head of each Federal agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the amount of the acquisitions made by the agency in that fiscal year of articles, materials, or supplies purchased from entities that manufacture the articles, materials, or supplies outside of the United States.

“(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall separately include, for the fiscal year covered by such report—

“(A) the dollar value of any articles, materials, or supplies that were manufactured outside the United States;

“(B) an itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act, and a citation to the treaty, international agreement, or other law under which each waiver was granted;

“(C) if any articles, materials, or supplies were acquired from entities that manufacture articles, materials, or supplies outside the United States, the specific exception under this section that was used to purchase such articles, materials, or supplies; and

“(D) a summary of—

“(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

“(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

“(3) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available to the maximum extent practicable.

“(4) EXCEPTION FOR INTELLIGENCE COMMUNITY.—This subsection shall not apply to acquisitions made by an agency, or component thereof, that is an element of the intelligence community as specified in, or designated under, section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).”.

TITLE IX—AGRICULTURAL ASSISTANCE**SEC. 9001. CROP DISASTER ASSISTANCE.**

(a) ASSISTANCE AVAILABLE.—There are hereby appropriated to the Secretary of Agriculture such sums as are necessary, to remain available until expended, to make emergency financial assistance available to producers on a farm that incurred qualifying quantity or quality losses for the 2005, 2006, or 2007 crop, due to damaging

weather or any related condition (including losses due to crop diseases, insects, and delayed planting), as determined by the Secretary. However, to be eligible for assistance, the crop subject to the loss must have been planted before February 28, 2007, or, in the case of prevented planting or other total loss, would have been planted before February 28, 2007, in the absence of the damaging weather or any related condition.

(b) ELECTION OF CROP YEAR.—If a producer incurred qualifying crop losses in more than one of the 2005, 2006, or 2007 crop years, the producer shall elect to receive assistance under this section for losses incurred in only one of such crop years. The producer may not receive assistance under this section for more than one crop year.

(c) ADMINISTRATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of Agriculture shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for quantity and economic losses as were used in administering that section, except that the payment rate shall be 42 percent of the established price, instead of 65 percent.

(2) LOSS THRESHOLDS FOR QUALITY LOSSES.—In the case of a payment for quality loss for a crop under subsection (a), the loss thresholds for quality loss for the crop shall be determined under subsection (d).

(d) QUALITY LOSSES.—

(1) IN GENERAL.—Subject to paragraph (3), the amount of a payment made to producers on a farm for a quality loss for a crop under subsection (a) shall be equal to the amount obtained by multiplying—

(A) 65 percent of the payment quantity determined under paragraph (2); by

(B) 42 percent of the payment rate determined under paragraph (3).

(2) PAYMENT QUANTITY.—For the purpose of paragraph (1)(A), the payment quantity for quality losses for a crop of a commodity on a farm shall equal the lesser of—

(A) the actual production of the crop affected by a quality loss of the commodity on the farm; or

(B) the quantity of expected production of the crop affected by a quality loss of the commodity on the farm, using the formula used by the Secretary of Agriculture to determine quantity losses for the crop of the commodity under subsection (a).

(3) PAYMENT RATE.—For the purpose of paragraph (1)(B) and in accordance with paragraphs (5) and (6), the payment rate for quality losses for a crop of a commodity on a farm shall be equal to the difference between—

(A) the per unit market value that the units of the crop affected by the quality loss would have had if the crop had not suffered a quality loss; and

(B) the per unit market value of the units of the crop affected by the quality loss.

(4) **ELIGIBILITY.**—For producers on a farm to be eligible to obtain a payment for a quality loss for a crop under subsection (a), the amount obtained by multiplying the per unit loss determined under paragraph (1) by the number of units affected by the quality loss shall be at least 25 percent of the value that all affected production of the crop would have had if the crop had not suffered a quality loss.

(5) **MARKETING CONTRACTS.**—In the case of any production of a commodity that is sold pursuant to one or more marketing contracts (regardless of whether the contract is entered into by the producers on the farm before or after harvest) and for which appropriate documentation exists, the quantity designated in the contracts shall be eligible for quality loss assistance based on the one or more prices specified in the contracts.

(6) **OTHER PRODUCTION.**—For any additional production of a commodity for which a marketing contract does not exist or for which production continues to be owned by the producer, quality losses shall be based on the average local market discounts for reduced quality, as determined by the appropriate State committee of the Farm Service Agency.

(7) **QUALITY ADJUSTMENTS AND DISCOUNTS.**—The appropriate State committee of the Farm Service Agency shall identify the appropriate quality adjustment and discount factors to be considered in carrying out this subsection, including—

(A) the average local discounts actually applied to a crop; and

(B) the discount schedules applied to loans made by the Farm Service Agency or crop insurance coverage under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(8) **ELIGIBLE PRODUCTION.**—The Secretary of Agriculture shall carry out this subsection in a fair and equitable manner for all eligible production, including the production of fruits and vegetables, other specialty crops, and field crops.

(e) **PAYMENT LIMITATIONS.**—

(1) **LIMIT ON AMOUNT OF ASSISTANCE.**—Assistance provided under this section to a producer for losses to a crop, together with the amounts specified in paragraph (2) applicable to the same crop, may not exceed 95 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary of Agriculture.

(2) **OTHER PAYMENTS.**—In applying the limitation in paragraph (1), the Secretary shall include the following:

(A) Any crop insurance payment made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or payment under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) that the producer receives for losses to the same crop.

(B) The value of the crop that was not lost (if any), as estimated by the Secretary.

(f) **ELIGIBILITY REQUIREMENTS AND LIMITATIONS.**—The producers on a farm shall not be eligible for assistance under this section with respect to losses to an insurable commodity or non-insurable commodity if the producers on the farm—

(1) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses;

(2) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses; or

(3) were not in compliance with highly erodible land conservation and wetland conservation provisions.

(g) TIMING.—

Deadline.

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall make payments to producers on a farm for a crop under this section not later than 60 days after the date the producers on the farm submit to the Secretary a completed application for the payments.

(2) INTEREST.—If the Secretary does not make payments to the producers on a farm by the date described in paragraph (1), the Secretary shall pay to the producers on a farm interest on the payments at a rate equal to the current (as of the sign-up deadline established by the Secretary) market yield on outstanding, marketable obligations of the United States with maturities of 30 years.

(h) DEFINITIONS.—In this section:

(1) INSURABLE COMMODITY.—The term “insurable commodity” means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(2) NONINSURABLE COMMODITY.—The term “noninsurable commodity” means a crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

SEC. 9002. LIVESTOCK ASSISTANCE.

(a) LIVESTOCK COMPENSATION PROGRAM.—

(1) AVAILABILITY OF ASSISTANCE.—There are hereby appropriated to the Secretary of Agriculture such sums as are necessary, to remain available until expended, to carry out the livestock compensation program established under subpart B of part 1416 of title 7, Code of Federal Regulations, as announced by the Secretary on February 12, 2007 (72 Fed. Reg. 6443), to provide compensation for livestock losses between January 1, 2005 and February 28, 2007, due to a disaster, as determined by the Secretary (including losses due to blizzards that started in 2006 and continued into January 2007). However, the payment rate for compensation under this subsection shall be 61 percent of the payment rate otherwise applicable under such program. In addition, section 1416.102(b)(2)(ii) of title 7, Code of Federal Regulations (72 Fed. Reg. 6444) shall not apply.

(2) ELIGIBLE APPLICANTS.—In carrying out the program described in paragraph (1), the Secretary shall provide assistance to any applicant that—

(A) conducts a livestock operation that is located in a disaster county with eligible livestock specified in paragraph (1) of section 1416.102(a) of title 7, Code of Federal Regulations (72 Fed. Reg. 6444), an animal described in

section 10806(a)(1) of the Farm Security and Rural Investment Act of 2002 (21 U.S.C. 321d(a)(1)), or other animals designated by the Secretary as livestock for purposes of this subsection; and

(B) meets the requirements of paragraphs (3) and (4) of section 1416.102(a) of title 7, Code of Federal Regulations, and all other eligibility requirements established by the Secretary for the program.

(3) ELECTION OF LOSSES.—

(A) If a producer incurred eligible livestock losses in more than one of the 2005, 2006, or 2007 calendar years, the producer shall elect to receive payments under this subsection for losses incurred in only one of such calendar years, and such losses must have been incurred in a county declared or designated as a disaster county in that same calendar year.

(B) Producers may elect to receive compensation for losses in the calendar year 2007 grazing season that are attributable to wildfires occurring during the applicable period, as determined by the Secretary.

(4) MITIGATION.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock compensation program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

(5) DEFINITIONS.—In this subsection:

(A) DISASTER COUNTY.—The term “disaster county” means—

- (i) a county included in the geographic area covered by a natural disaster declaration; and
- (ii) each county contiguous to a county described in clause (i).

(B) NATURAL DISASTER DECLARATION.—The term “natural disaster declaration” means—

- (i) a natural disaster declared by the Secretary between January 1, 2005 and February 28, 2007, under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a));
- (ii) a major disaster or emergency designated by the President between January 1, 2005 and February 28, 2007, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or
- (iii) a determination of a Farm Service Agency Administrator’s Physical Loss Notice if such notice applies to a county included under (ii).

(b) LIVESTOCK INDEMNITY PAYMENTS.—

(1) AVAILABILITY OF ASSISTANCE.—There are hereby appropriated to the Secretary of Agriculture such sums as are necessary, to remain available until expended, to make livestock indemnity payments to producers on farms that have incurred livestock losses between January 1, 2005 and February 28, 2007, due to a disaster, as determined by the Secretary (including losses due to blizzards that started in 2006 and continued into January 2007) in a disaster county. To be eligible

for assistance, applicants must meet all eligibility requirements established by the Secretary for the program.

(2) ELECTION OF LOSSES.—If a producer incurred eligible livestock losses in more than one of the 2005, 2006, or 2007 calendar years, the producer shall elect to receive payments under this subsection for losses incurred in only one of such calendar years. The producer may not receive payments under this subsection for more than one calendar year.

(3) PAYMENT RATES.—Indemnity payments to a producer on a farm under paragraph (1) shall be made at a rate of not less than 26 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

(4) LIVESTOCK DEFINED.—In this subsection, the term “livestock” means an animal that—

(A) is specified in clause (i) of section 1416.203(a)(2) of title 7, Code of Federal Regulations (72 Fed. Reg. 6445), or is designated by the Secretary as livestock for purposes of this subsection; and

(B) meets the requirements of clauses (iii) and (iv) of such section.

(5) DEFINITIONS.—In this subsection:

(A) DISASTER COUNTY.—The term “disaster county” means—

(i) a county included in the geographic area covered by a natural disaster declaration; and

(ii) each county contiguous to a county described in clause (i).

(B) NATURAL DISASTER DECLARATION.—The term “natural disaster declaration” means—

(i) a natural disaster declared by the Secretary between January 1, 2005 and February 28, 2007, under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a));

(ii) a major disaster or emergency designated by the President between January 1, 2005 and February 28, 2007, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(iii) a determination of a Farm Service Agency Administrator’s Physical Loss Notice if such notice applies to a county included under (ii).

SEC. 9003. EMERGENCY CONSERVATION PROGRAM.

There is hereby appropriated to the Secretary of Agriculture \$16,000,000, to remain available until expended, to provide assistance under the Emergency Conservation Program under title IV of the Agriculture Credit Act of 1978 (16 U.S.C. 2201 et seq.) for the cleanup and restoration of farm and agricultural production lands.

SEC. 9004. PAYMENT LIMITATIONS.

(a) REDUCTION IN PAYMENTS TO REFLECT PAYMENTS FOR SAME OR SIMILAR LOSSES.—The amount of any payment for which a producer is eligible under sections 9001 and 9002 shall be reduced by any amount received by the producer for the same loss or any similar loss under—

(1) the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148; 119 Stat. 2680);

(2) an agricultural disaster assistance provision contained in the announcement of the Secretary on January 26, 2006 or August 29, 2006; or

(3) the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 418).

(b) ADJUSTED GROSS INCOME LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) shall apply with respect to assistance provided under sections 9001, 9002, and 9003. Applicability.

SEC. 9005. ADMINISTRATION.

(a) REGULATIONS.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement sections 9001 and 9002.

(b) PROCEDURE.—The promulgation of the implementing regulations and the administration of sections 9001 and 9002 shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary of Agriculture shall use the authority provided under section 808 of title 5, United States Code.

(d) USE OF COMMODITY CREDIT CORPORATION; LIMITATION.—In implementing sections 9001 and 9002, the Secretary of Agriculture may use the facilities, services, and authorities of the Commodity Credit Corporation. The Corporation shall not make any expenditures to carry out sections 9001 and 9002 unless funds have been specifically appropriated for such purpose.

SEC. 9006. MILK INCOME LOSS CONTRACT PROGRAM.

(a) Section 1502(c)(3) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(c)(3)) is amended—

(1) in subparagraph (A), by adding “and” at the end;

(2) in subparagraph (B), by striking “August” and all that follows through the end and inserting “September 30, 2007, 34 percent.”; and

(3) by striking subparagraph (C).

(b) Section 10002 of this Act shall not apply to this section except with respect to fiscal years 2007 and 2008. Applicability.

SEC. 9007. DAIRY ASSISTANCE.

There is hereby appropriated \$16,000,000 to make payments to dairy producers for dairy production losses in disaster counties, as defined in section 9002 of this title, to remain available until expended.

SEC. 9008. NONINSURED CROP ASSISTANCE PROGRAM.

For States in which there is a shortage of claims adjusters, as determined by the Secretary, the Secretary shall permit the use of one claims adjuster certified by the Secretary in carrying out 7 CFR 1437.401.

SEC. 9009. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

There is hereby appropriated \$16,000,000 to carry out section 2281 of the Food, Agriculture, Conservation and Trade Act of 1990 (42 U.S.C. 5177a), to remain available until expended.

SEC. 9010. CONSERVATION SECURITY PROGRAM.

Ante, p. 16.

Section 20115 of Public Law 110–5 is amended by striking “section 726” and inserting in lieu thereof “section 726; section 741”.

SEC. 9011. ADMINISTRATIVE EXPENSES.

There is hereby appropriated \$22,000,000 for the “Farm Service Agency, Salaries and Expenses”, to remain available until September 30, 2008.

SEC. 9012. CONTRACT WAIVER.

In carrying out crop disaster and livestock assistance in this title, the Secretary shall require forage producers to have participated in a crop insurance pilot program or the Non-Insured Crop Disaster Assistance Program during the crop year for which compensation is received.

TITLE X—GENERAL PROVISIONS

SEC. 10001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 10002. Amounts in this Act (other than in titles VI and VIII) are designated as emergency requirements and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

Approved May 25, 2007.

LEGISLATIVE HISTORY—H.R. 2206:

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 10, considered and passed House.

May 15, 17, considered and passed Senate, amended.

May 24, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.



Public Law 110–29
110th Congress

An Act

To designate the facility of the United States Postal Service located at 60 Calle McKinley, West in Mayaguez, Puerto Rico, as the “Miguel Angel García Méndez Post Office Building”.

June 1, 2007

[H.R. 414]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MIGUEL ANGEL GARCÍA MÉNDEZ POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 60 Calle McKinley, West in Mayaguez, Puerto Rico, shall be known and designated as the “Miguel Ángel García Méndez Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Miguel Angel García Méndez Post Office Building”.

Approved June 1, 2007.

LEGISLATIVE HISTORY—H.R. 414:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Feb. 12, considered and passed House.

May 23, considered and passed Senate.



Public Law 110–30
110th Congress

An Act

June 1, 2007
[H.R. 437]

To designate the facility of the United States Postal Service located at 500 West Eisenhower Street in Rio Grande City, Texas, as the “Lino Perez, Jr. Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LINO PEREZ, JR. POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 500 West Eisenhower Street in Rio Grande City, Texas, shall be known and designated as the “Lino Perez, Jr. Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lino Perez, Jr. Post Office”.

Approved June 1, 2007.

LEGISLATIVE HISTORY—H.R. 437:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Feb. 12, 13, considered and passed House.

May 23, considered and passed Senate.



Public Law 110–31
110th Congress

An Act

To designate the facility of the United States Postal Service located at 4230 Maine Avenue in Baldwin Park, California, as the “Atanacio Haro-Marin Post Office”.

June 1, 2007
[H.R. 625]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ATANACIO HARO-MARIN POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 4230 Maine Avenue in Baldwin Park, California, shall be known and designated as the “Atanacio Haro-Marin Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Atanacio Haro-Marin Post Office”.

Approved June 1, 2007.

LEGISLATIVE HISTORY—H.R. 625:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 23, considered and passed House.

May 23, considered and passed Senate.



Public Law 110–32
110th Congress

An Act

June 1, 2007
[H.R. 1402]

To designate the facility of the United States Postal Service located at 320 South Lecanto Highway in Lecanto, Florida, as the “Sergeant Dennis J. Flanagan Lecanto Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SERGEANT DENNIS J. FLANAGAN LECANTO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 320 South Lecanto Highway in Lecanto, Florida, shall be known and designated as the “Sergeant Dennis J. Flanagan Lecanto Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Sergeant Dennis J. Flanagan Lecanto Post Office Building”.

Approved June 1, 2007.

LEGISLATIVE HISTORY—H.R. 1402:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 23, considered and passed House.

May 23, considered and passed Senate.



Public Law 110–33
110th Congress

An Act

To amend the District of Columbia Home Rule Act to conform the District charter to revisions made by the Council of the District of Columbia relating to public education.

June 1, 2007
[H.R. 2080]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONFORMING DISTRICT CHARTER TO COUNCIL AMENDMENTS RELATING TO PUBLIC EDUCATION.

(a) IN GENERAL.—The District of Columbia Home Rule Act is amended—

(1) by striking section 452 (sec. 1–204.52, D.C. Official Code); and

(2) by striking section 495 (sec. 1–204.95, D.C. Official Code).

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by striking the item relating to section 452 and the item relating to section 495.

Approved June 1, 2007.

LEGISLATIVE HISTORY—H.R. 2080:

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 8, considered and passed House.

May 22, considered and passed Senate.



Public Law 110–34
110th Congress

An Act

June 14, 2007
[S. 214]

To amend chapter 35 of title 28, United States Code, to preserve the independence of United States attorneys.

Preserving
United States
Attorney
Independence Act
of 2007.
28 USC 1 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Preserving United States Attorney Independence Act of 2007”.

SEC. 2. VACANCIES.

Section 546 of title 28, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) A person appointed as United States attorney under this section may serve until the earlier of—

“(1) the qualification of a United States attorney for such district appointed by the President under section 541 of this title; or

“(2) the expiration of 120 days after appointment by the Attorney General under this section.

“(d) If an appointment expires under subsection (c)(2), the district court for such district may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.”.

28 USC 546 note.

SEC. 3. APPLICABILITY.

(a) **IN GENERAL.**—The amendments made by this Act shall take effect on the date of enactment of this Act.

(b) **APPLICATION.**—

(1) **IN GENERAL.**—Any person serving as a United States attorney on the day before the date of enactment of this Act who was appointed under section 546 of title 28, United States Code, may serve until the earlier of—

(A) the qualification of a United States attorney for such district appointed by the President under section 541 of that title; or

(B) 120 days after the date of enactment of this Act.

(2) **EXPIRED APPOINTMENTS.**—If an appointment expires under paragraph (1), the district court for that district may appoint a United States attorney for that district under section 546(d) of title 28, United States Code, as added by this Act.

Approved June 14, 2007.

LEGISLATIVE HISTORY—S. 214 (H.R. 580):

HOUSE REPORTS: No. 110–58 accompanying H.R. 580 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 19, 20, considered and passed Senate.

May 22, considered and passed House.

Public Law 110–35
110th Congress

An Act

To suspend the requirements of the Department of Housing and Urban Development regarding electronic filing of previous participation certificates and regarding filing of such certificates with respect to certain low-income housing investors.

June 15, 2007
[H.R. 1675]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Preservation Approval Process Improvement Act of 2007”.

Preservation
Approval Process
Improvement Act
of 2007.

SEC. 2. SUSPENSION OF ELECTRONIC FILING REQUIREMENT.

The Secretary of Housing and Urban Development shall—

(1) suspend mandatory processing of Previous Participation Certificates (form HUD–2530) under the Department of Housing and Urban Development’s Automated Partners Performance System (APPS) and permit paper filings of such certificates until such time that the Secretary—

Regulations.

(A) revises the December 2006 draft proposed regulations under subpart H of part 200 of title 24, Code of Federal Regulations, to eliminate the unnecessary burdens and disincentives for program participants; and

(B) submits such revised draft proposed regulations to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate for review by such Committees; and

(2) suspend immediately all filing requirements under the Previous Participation Certificate process with respect to limited liability corporate investors who own or expect to own an interest in entities which are allowed or are expected to

be allowed low-income housing tax credits under section 42 of the Internal Revenue Code of 1986.

Approved June 15, 2007.

LEGISLATIVE HISTORY—H.R. 1675:

HOUSE REPORTS: No. 110–106 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 24, considered and passed House.

May 24, considered and passed Senate.



Public Law 110–36
110th Congress

An Act

To increase the number of Iraqi and Afghani translators and interpreters who may be admitted to the United States as special immigrants, and for other purposes.

June 15, 2007
[S. 1104]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS SERVING AS TRANSLATORS OR INTERPRETERS WITH FEDERAL AGENCIES.

(a) INCREASE IN NUMBERS ADMITTED.—Section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by striking “as a translator” and inserting “, or under Chief of Mission authority, as a translator or interpreter”; and

(B) in subparagraph (C), by inserting “the Chief of Mission or” after “recommendation from”; and

(C) in subparagraph (D), by inserting “the Chief of Mission or” after “as determined by”; and

(2) in subsection (c)(1), by striking “section during any fiscal year shall not exceed 50.” and inserting the following: “section—

“(A) during each of the fiscal years 2007 and 2008, shall not exceed 500; and

“(B) during any other fiscal year shall not exceed 50.”.

(b) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—Section 1059(c)(2) of such Act is amended—

(1) by amending the paragraph designation and heading to read as follows:

“(2) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—”; and

(2) by inserting “and shall not be counted against the numerical limitations under sections 201(d), 202(a), and 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4))” before the period at the end.

(c) ADJUSTMENT OF STATUS; NATURALIZATION.—Section 1059 of such Act is further amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following:

“(d) ADJUSTMENT OF STATUS.—Notwithstanding paragraphs (2), (7) and (8) of section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), the Secretary of Homeland Security may adjust the status of an alien to that of a lawful permanent resident under section 245(a) of such Act if the alien—

“(1) was paroled or admitted as a nonimmigrant into the United States; and

“(2) is otherwise eligible for special immigrant status under this section and under the Immigration and Nationality Act.

“(e) NATURALIZATION.—

“(1) IN GENERAL.—An absence from the United States described in paragraph (2) shall not be considered to break any period for which continuous residence in the United States is required for naturalization under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.).

“(2) ABSENCE DESCRIBED.—An absence described in this paragraph is an absence from the United States due to a person’s employment by the Chief of Mission or United States Armed Forces, under contract with the Chief of Mission or United States Armed Forces, or by a firm or corporation under contract with the Chief of Mission or United States Armed Forces, if—

“(A) such employment involved working with the Chief of Mission or United States Armed Forces as a translator or interpreter; and

“(B) the person spent at least a portion of the time outside of the United States working directly with the Chief of Mission or United States Armed Forces as a translator or interpreter in Iraq or Afghanistan.”.

Approved June 15, 2007.

LEGISLATIVE HISTORY—S. 1104:

HOUSE REPORTS: No. 110–158 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 12, considered and passed Senate.

May 22, considered and passed House, amended.

May 24, Senate concurred in House amendments.



Public Law 110–37
110th Congress

An Act

To reauthorize the program of the Secretary of Housing and Urban Development
for loan guarantees for Indian housing.

June 18, 2007
[H.R. 1676]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Native American Home Ownership
Opportunity Act of 2007”.

Native American
Home Ownership
Opportunity Act
of 2007.
12 USC 1701
note.

SEC. 2. LOAN GUARANTEES FOR NATIVE AMERICAN HOUSING.

Section 184(i) of the Housing and Community Development
Act of 1992 (12 U.S.C. 1715z–13a(i)) is amended as follows:

(1) **OUTSTANDING AGGREGATE LIMITATION.**—In paragraph
(5)(C), by striking “fiscal years 1997 through 2007” and
inserting “fiscal years 2008 through 2012”.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—In paragraph (7),
by striking “fiscal years 1997 through 2007” and inserting
“fiscal years 2008 through 2012”.

Approved June 18, 2007.

LEGISLATIVE HISTORY—H.R. 1676:

HOUSE REPORTS: No. 110–102 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 24, considered and passed House.

May 24, considered and passed Senate.



Public Law 110–38
110th Congress

An Act

June 21, 2007
[S. 676]

To provide that the Executive Director of the Inter-American Development Bank or the Alternate Executive Director of the Inter-American Development Bank may serve on the Board of Directors of the Inter-American Foundation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. AUTHORITY TO APPOINT EXECUTIVE DIRECTOR OR
ALTERNATE EXECUTIVE DIRECTOR OF THE INTER-
AMERICAN DEVELOPMENT BANK TO THE BOARD OF
DIRECTORS OF THE INTER-AMERICAN FOUNDATION.**

The third sentence of section 401(g) of the Foreign Assistance Act of 1969 (22 U.S.C. 290f(g)) is amended to read as follows: “Three members of the Board shall be appointed from among the following: officers or employees of agencies of the United States concerned with inter-American affairs, the United States Executive Director of the Inter-American Development Bank, or the Alternate Executive Director of the Inter-American Development Bank.”.

Approved June 21, 2007.

LEGISLATIVE HISTORY—S. 676:

SENATE REPORTS: No. 110–35 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 15, considered and passed Senate.

June 11, considered and passed House.



Public Law 110–39
110th Congress

An Act

To authorize the transfer of certain funds from the Senate Gift Shop Revolving
Fund to the Senate Employee Child Care Center.

June 21, 2007
[S. 1537]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. TRANSFERS FROM SENATE GIFT SHOP REVOLVING FUND.

Section 2(c) of Public Law 102–392 (2 U.S.C. 121d(c)) is amended by adding at the end the following:

“(3) The Secretary of the Senate may transfer from the fund to the Senate Employee Child Care Center proceeds from the sale of holiday ornaments by the Senate Gift Shop for the purpose of funding necessary activities and expenses of the Center, including scholarships, educational supplies, and equipment.”.

Approved June 21, 2007.

LEGISLATIVE HISTORY—S. 1537:

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 25, considered and passed Senate.

June 6, considered and passed House.



Public Law 110–40
110th Congress

An Act

June 29, 2007
[H.R. 57]

To repeal certain sections of the Act of May 26, 1936, pertaining to the Virgin Islands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF CERTAIN LAWS PERTAINING TO THE VIRGIN ISLANDS.

(a) REPEAL.—Sections 1 through 6 of the Act of May 26, 1936 (Chapter 450; 49 Stat. 1372–1373; 48 U.S.C. 1401–1401e) are repealed.

48 USC 1401
note.

(b) EFFECTIVE DATE.—This section shall be deemed to have taken effect on July 22, 1954.

Approved June 29, 2007.

LEGISLATIVE HISTORY—H.R. 57:

SENATE REPORTS: No. 110–19 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Jan. 17, considered and passed House.

June 12, considered and passed Senate.



Public Law 110–41
110th Congress

An Act

To amend title 4, United States Code, to authorize the Governor of a State, territory, or possession of the United States to order that the National flag be flown at half-staff in that State, territory, or possession in the event of the death of a member of the Armed Forces from that State, territory, or possession who dies while serving on active duty.

June 29, 2007

[H.R. 692]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Army Specialist Joseph P. Micks Federal Flag Code Amendment Act of 2007”.

Army Specialist
Joseph P. Micks
Federal Flag
Code
Amendment Act
of 2007.
4 USC 1 note.
4 USC 7 note.

SEC. 2. FINDING.

Congress finds that members of the Armed Forces of the United States defend the freedom and security of the United States.

SEC. 3. PROCEDURE FOR NATIONAL FLAG TO BE FLOWN AT HALF-STAFF IN THE EVENT OF THE DEATH OF A MEMBER OF THE ARMED FORCES.

(a) **ISSUANCE OF PROCLAMATION.**—Subsection (m) of section 7 of title 4, United States Code, is amended in the sixth sentence—

(1) by inserting “or the death of a member of the Armed Forces from any State, territory, or possession who dies while serving on active duty” after “present or former official of the government of any State, territory, or possession of the United States”; and

(2) by inserting before the period the following: “, and the same authority is provided to the Mayor of the District of Columbia with respect to present or former officials of the District of Columbia and members of the Armed Forces from the District of Columbia”.

(b) **FEDERAL FACILITY CONSISTENCY WITH PROCLAMATION.**—Such subsection is further amended by inserting after the sixth sentence the following new sentence: “When the Governor of a State, territory, or possession, or the Mayor of the District of Columbia, issues a proclamation under the preceding sentence that the National flag be flown at half-staff in that State, territory, or possession or in the District of Columbia because of the death of a member of the Armed Forces, the National flag flown at any Federal installation or facility in the area covered by that

proclamation shall be flown at half-staff consistent with that proclamation.”.

Approved June 29, 2007.

LEGISLATIVE HISTORY—H.R. 692 (S. 720):

HOUSE REPORTS: No. 110–139 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 15, considered and passed House.

June 14, considered and passed Senate.



Public Law 110–42
110th Congress

An Act

To extend the authorities of the Andean Trade Preference Act until February 29, 2008.

June 30, 2007
[H.R. 1830]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF ANDEAN TRADE PREFERENCE ACT.

(a) **EXTENSION.**—Section 208(a) of the Andean Trade Preference Act (19 U.S.C. 3206(a)) is amended by striking “June 30, 2007” and inserting “February 29, 2008”.

(b) **REPEAL OF CONDITIONAL EXTENSIONS.**—Section 208 of the Andean Trade Preference Act (19 U.S.C. 3206) is amended—

- (1) by striking “(a) **TERMINATION.**—Subject to subsection (b), no” and inserting “No”; and
- (2) by striking subsection (b).

SEC. 2. TREATMENT OF CERTAIN APPAREL ARTICLES.

Section 204(b)(3)(B) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)) is amended—

- (1) in clause (iii)—
 - (A) in subclause (II)—
 - (i) by striking “Subject to section 208, the” and inserting “The”; and
 - (ii) by striking “4 succeeding 1-year periods” and inserting “5 succeeding 1-year periods”; and
 - (B) in subclause (III)—
 - (i) by striking “means 2 percent” and inserting “means—
“(aa) 2 percent”;
 - (ii) by striking the period at the end and inserting “; and”; and
 - (iii) by adding at the end the following:
“(bb) for the 1-year period beginning October 1, 2007, the percentage determined under item (aa) for the 1-year period beginning October 1, 2006.”; and
- (2) in clause (v)(II)—
 - (A) by striking “Subject to section 208, during” and inserting “During”; and
 - (B) by striking “3 succeeding 1-year periods” and inserting “4 succeeding 1-year periods”.

SEC. 3. MERCHANDISE PROCESSING FEES.

Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A)) is amended by striking “September 30, 2014” and inserting “October 14, 2014”.

SEC. 4. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

26 USC 6655
note.

Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking “114.25 percent” and inserting “114.50 percent”.

Approved June 30, 2007.

LEGISLATIVE HISTORY—H.R. 1830:

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 27, considered and passed House.

June 28, considered and passed Senate.



Public Law 110–43
110th Congress

An Act

To designate the facility of the United States Postal Service located at 127 East Locust Street in Fairbury, Illinois, as the “Dr. Francis Townsend Post Office Building”.

July 3, 2007

[S. 1352]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DR. FRANCIS TOWNSEND POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 127 East Locust Street in Fairbury, Illinois, shall be known and designated as the “Dr. Francis Townsend Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Dr. Francis Townsend Post Office Building”.

Approved July 3, 2007.

LEGISLATIVE HISTORY—S. 1352:

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 23, considered and passed Senate.

June 18, 19, considered and passed House.



Public Law 110–44
110th Congress

An Act

July 3, 2007
[S. 1704]

To temporarily extend the programs under the Higher Education Act of 1965,
and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

First Higher
Education
Extension Act
of 2007.
20 USC 1001
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “First Higher Education Extension
Act of 2007”.

SEC. 2. EXTENSION OF PROGRAMS.

Section 2(a) of the Higher Education Extension Act of 2005
(Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking
“June 30, 2007” and inserting “July 31, 2007”.

20 USC 1001
note.

SEC. 3. RULE OF CONSTRUCTION.

Nothing in this Act, or in the Higher Education Extension
Act of 2005 as amended by this Act, shall be construed to limit
or otherwise alter the authorizations of appropriations for, or the
durations of, programs contained in the amendments made by the
Higher Education Reconciliation Act of 2005 (Public Law 109–
171) to the provisions of the Higher Education Act of 1965 and
the Taxpayer-Teacher Protection Act of 2004.

Approved July 3, 2007.

LEGISLATIVE HISTORY—S. 1704:

CONGRESSIONAL RECORD, Vol. 153 (2007):
June 27, considered and passed Senate.
June 28, considered and passed House.



Public Law 110–45
110th Congress

An Act

To redesignate a Federal building in Albuquerque, New Mexico, as the “Raymond G. Murphy Department of Veterans Affairs Medical Center”.

July 5, 2007
[S. 229]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building known and designated as the “Department of Veterans Affairs Medical Center” located at 1501 San Pedro Drive, SE, in Albuquerque, New Mexico, shall be known and redesignated as the “Raymond G. Murphy Department of Veterans Affairs Medical Center”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the “Raymond G. Murphy Department of Veterans Affairs Medical Center”.

Approved July 5, 2007.

LEGISLATIVE HISTORY—S. 229:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 12, considered and passed Senate.

June 25, considered and passed House.



Public Law 110–46
110th Congress

An Act

July 5, 2007
[S. 801]

To designate a United States courthouse located in Fresno, California, as the
“Robert E. Coyle United States Courthouse”.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. DESIGNATION.

The United States courthouse bordered by O Street, P Street, Tulare Street, and Capitol Street in Fresno, California, shall be known and designated as the “Robert E. Coyle United States Courthouse”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the “Robert E. Coyle United States Courthouse”.

Approved July 5, 2007.

LEGISLATIVE HISTORY—S. 801:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 10, considered and passed Senate.

June 25, considered and passed House.



Public Law 110–47
110th Congress

An Act

To modify the boundaries of Grand Teton National Park to include certain land within the GT Park Subdivision, and for other purposes.

July 13, 2007
[S. 277]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Grand Teton National Park Extension Act of 2007”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **PARK.**—The term “Park” means the Grand Teton National Park.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(3) **SUBDIVISION.**—The term “Subdivision” means the GT Park Subdivision, with an area of approximately 49.67 acres, as generally depicted on—

(A) the plat recorded in the Office of the Teton County Clerk and Recorder on December 16, 1997, numbered 918, entitled “Final Plat GT Park Subdivision”, and dated June 18, 1997; and

(B) the map entitled “2006 Proposed Grand Teton Boundary Adjustment”, numbered 136/80,198, and dated March 21, 2006, which shall be on file and available for inspection in appropriate offices of the National Park Service.

SEC. 3. ACQUISITION OF LAND.

(a) **IN GENERAL.**—The Secretary may accept from any willing donor the donation of any land or interest in land of the Subdivision.

(b) **ADMINISTRATION.**—On acquisition of land or an interest in land under subsection (a), the Secretary shall—

(1) include the land or interest in the boundaries of the Park; and

(2) administer the land or interest as part of the Park, in accordance with all applicable laws (including regulations).

(c) **DEADLINE FOR ACQUISITION.**—It is the intent of Congress that the acquisition of land or an interest in land under subsection (a) be completed not later than 1 year after the date of enactment of this Act.

(d) **RESTRICTION ON TRANSFER.**—The Secretary shall not donate, sell, exchange, or otherwise transfer any land acquired under this section without express authorization from Congress.

Grand Teton
National Park
Extension Act of
2007.
16 USC 406d–1
note.

16 USC 406d–1
note.

16 USC 406d–1
note.

16 USC 406d–1
note.

SEC. 4. CRAIG THOMAS DISCOVERY AND VISITOR CENTER.

(a) FINDINGS.—Congress finds that—

(1) Craig Thomas was raised on a ranch just outside of Cody, Wyoming, near Yellowstone National Park and Grand Teton National Park, where he—

(A) began a lifelong association with those parks; and

(B) developed a deep and abiding dedication to the values of the public land of the United States;

(2) during his 18-year tenure in Congress, including service in both the Senate and the House of Representatives, Craig Thomas forged a distinguished legislative record on issues as diverse as public land management, agriculture, fiscal responsibility, and rural health care;

(3) as Chairman and Ranking Member of the National Parks Subcommittee of the Committee on Energy and Natural Resources of the Senate and a frequent visitor to many units of the National Park System, including Yellowstone National Park and Grand Teton National Park, Craig Thomas was a strong proponent for ensuring that people of all ages and abilities had a wide range of opportunities to learn more about the natural and cultural heritage of the United States;

(4) Craig Thomas authored legislation to provide critical funding and management reforms to protect units of the National Park System into the 21st century, ensuring quality visits to units of the National Park System and the protection of natural and cultural resources;

(5) Craig Thomas strongly supported public-private partnerships and collaboration between the National Park Service and other organizations that foster new opportunities for providing visitor services while encouraging greater citizen involvement in the stewardship of units of the National Park System;

(6) Craig Thomas was instrumental in obtaining the Federal share for a public-private partnership with the Grand Teton National Park Foundation and the Grand Teton Natural History Association to construct a new discovery and visitor center at Grand Teton National Park;

(7) on June 4, 2007, Craig Thomas passed away after battling cancer for 7 months;

(8) Craig Thomas is survived by his wife, Susan, and children, Patrick, Greg, Peter, and Lexie; and

(9) in memory of the distinguished career of service of Craig Thomas to the people of the United States, the dedication of Craig Thomas to units of the National Park System, generally, and to Grand Teton National Park, specifically, and the critical role of Craig Thomas in the new discovery and visitor center at Grand Teton National Park, the Grand Teton Discovery and Visitor Center should be designated as the “Craig Thomas Discovery and Visitor Center”.

(b) THE CRAIG THOMAS DISCOVERY AND VISITOR CENTER.—

(1) DESIGNATION.—The Grand Teton Discovery and Visitor Center located in Moose, Wyoming, and scheduled for completion in August 2007 shall be known and designated as the “Craig Thomas Discovery and Visitor Center”.

(2) REFERENCE.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the

Grand Teton Discovery and Visitor Center referred to in paragraph (1) shall be deemed to be a reference to the “Craig Thomas Discovery and Visitor Center”.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this Act.

16 USC 406d–1
note.

Approved July 13, 2007.

LEGISLATIVE HISTORY—S. 277 (H.R. 1080):

HOUSE REPORTS: No. 110–127 accompanying H.R. 1080 (Comm. on Natural Resources).

SENATE REPORTS: No. 110–16 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 19, considered and passed Senate.

June 27, considered and passed House.



Public Law 110–48
110th Congress

An Act

July 18, 2007
[S. 1701]

To provide for the extension of transitional medical assistance (TMA) and the abstinence education program through the end of fiscal year 2007, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM THROUGH THE END OF FISCAL YEAR 2007.

120 Stat. 2994.

Section 401 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432) is amended—

(1) by striking “June 30” and inserting “September 30”; and

(2) by striking “third quarter” each place it appears and inserting “fourth quarter”.

SEC. 2. SUNSET OF THE LIMITED CONTINUOUS ENROLLMENT PROVISION FOR CERTAIN BENEFICIARIES UNDER THE MEDICARE ADVANTAGE PROGRAM.

Section 1851(e)(2)(E) of the Social Security Act (42 U.S.C. 1395w–21(e)(2)(E)), as added by section 206(a) of division B of the Tax Relief and Health Care Act of 2006, is amended—

(1) in clause (i), by striking “2007 or 2008” and inserting “the period beginning on January 1, 2007, and ending on July 31, 2007,”; and

(2) in clause (iii)—

(A) in the heading, by striking “YEAR” and inserting “THE APPLICABLE PERIOD”; and

(B) by striking “the year” and inserting “the period described in such clause”.

SEC. 3. OFFSETTING ADJUSTMENT IN MEDICARE ADVANTAGE STABILIZATION FUND.

Section 1858(e)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395w–27a(e)(2)(A)(i)), as amended by 301 of division B of the Tax Relief and Health Care Act of 2006, is amended by striking “the Fund during the period” and all that follows and inserting “the Fund—

“(I) during 2012, \$1,600,000,000; and

PUBLIC LAW 110–48—JULY 18, 2007

121 STAT. 245

“(II) during 2013, \$1,790,000,000.”.

Approved July 18, 2007.

LEGISLATIVE HISTORY—S. 1701:

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 27, considered and passed Senate.

July 10, 11, considered and passed House.



Public Law 110–49
110th Congress

An Act

July 26, 2007
[H.R. 556]

Foreign
Investment and
National Security
Act of 2007.
50 USC
app. 2061 note.

To ensure national security while promoting foreign investment and the creation and maintenance of jobs, to reform the process by which such investments are examined for any effect they may have on national security, to establish the Committee on Foreign Investment in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Foreign Investment and National Security Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. United States security improvement amendments; clarification of review and investigation process.
- Sec. 3. Statutory establishment of the Committee on Foreign Investment in the United States.
- Sec. 4. Additional factors for consideration.
- Sec. 5. Mitigation, tracking, and postconsummation monitoring and enforcement.
- Sec. 6. Action by the President.
- Sec. 7. Increased oversight by Congress.
- Sec. 8. Certification of notices and assurances.
- Sec. 9. Regulations.
- Sec. 10. Effect on other law.
- Sec. 11. Clerical amendments
- Sec. 12. Effective date.

SEC. 2. UNITED STATES SECURITY IMPROVEMENT AMENDMENTS; CLARIFICATION OF REVIEW AND INVESTIGATION PROCESS.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by striking subsections (a) and (b) and inserting the following:

“(a) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

“(1) **COMMITTEE; CHAIRPERSON.**—The terms ‘Committee’ and ‘chairperson’ mean the Committee on Foreign Investment in the United States and the chairperson thereof, respectively.

“(2) **CONTROL.**—The term ‘control’ has the meaning given to such term in regulations which the Committee shall prescribe.

“(3) **COVERED TRANSACTION.**—The term ‘covered transaction’ means any merger, acquisition, or takeover that is proposed or pending after August 23, 1988, by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States.

“(4) FOREIGN GOVERNMENT-CONTROLLED TRANSACTION.—The term ‘foreign government-controlled transaction’ means any covered transaction that could result in the control of any person engaged in interstate commerce in the United States by a foreign government or an entity controlled by or acting on behalf of a foreign government.

“(5) CLARIFICATION.—The term ‘national security’ shall be construed so as to include those issues relating to ‘homeland security’, including its application to critical infrastructure.

“(6) CRITICAL INFRASTRUCTURE.—The term ‘critical infrastructure’ means, subject to rules issued under this section, systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on national security.

“(7) CRITICAL TECHNOLOGIES.—The term ‘critical technologies’ means critical technology, critical components, or critical technology items essential to national defense, identified pursuant to this section, subject to regulations issued at the direction of the President, in accordance with subsection (h).

“(8) LEAD AGENCY.—The term ‘lead agency’ means the agency, or agencies, designated as the lead agency or agencies pursuant to subsection (k)(5) for the review of a transaction.

“(b) NATIONAL SECURITY REVIEWS AND INVESTIGATIONS.—

“(1) NATIONAL SECURITY REVIEWS.—

“(A) IN GENERAL.—Upon receiving written notification under subparagraph (C) of any covered transaction, or pursuant to a unilateral notification initiated under subparagraph (D) with respect to any covered transaction, the President, acting through the Committee—

“(i) shall review the covered transaction to determine the effects of the transaction on the national security of the United States; and

“(ii) shall consider the factors specified in subsection (f) for such purpose, as appropriate.

“(B) CONTROL BY FOREIGN GOVERNMENT.—If the Committee determines that the covered transaction is a foreign government-controlled transaction, the Committee shall conduct an investigation of the transaction under paragraph (2).

“(C) WRITTEN NOTICE.—

“(i) IN GENERAL.—Any party or parties to any covered transaction may initiate a review of the transaction under this paragraph by submitting a written notice of the transaction to the Chairperson of the Committee.

“(ii) WITHDRAWAL OF NOTICE.—No covered transaction for which a notice was submitted under clause (i) may be withdrawn from review, unless a written request for such withdrawal is submitted to the Committee by any party to the transaction and approved by the Committee.

“(iii) CONTINUING DISCUSSIONS.—A request for withdrawal under clause (ii) shall not be construed to preclude any party to the covered transaction from continuing informal discussions with the Committee

or any member thereof regarding possible resubmission for review pursuant to this paragraph.

“(D) UNILATERAL INITIATION OF REVIEW.—Subject to subparagraph (F), the President or the Committee may initiate a review under subparagraph (A) of—

“(i) any covered transaction;

“(ii) any covered transaction that has previously been reviewed or investigated under this section, if any party to the transaction submitted false or misleading material information to the Committee in connection with the review or investigation or omitted material information, including material documents, from information submitted to the Committee; or

“(iii) any covered transaction that has previously been reviewed or investigated under this section, if—

“(I) any party to the transaction or the entity resulting from consummation of the transaction intentionally materially breaches a mitigation agreement or condition described in subsection (1)(1)(A);

“(II) such breach is certified to the Committee by the lead department or agency monitoring and enforcing such agreement or condition as an intentional material breach; and

“(III) the Committee determines that there are no other remedies or enforcement tools available to address such breach.

Deadline.

“(E) TIMING.—Any review under this paragraph shall be completed before the end of the 30-day period beginning on the date of the acceptance of written notice under subparagraph (C) by the chairperson, or beginning on the date of the initiation of the review in accordance with subparagraph (D), as applicable.

“(F) LIMIT ON DELEGATION OF CERTAIN AUTHORITY.—The authority of the Committee to initiate a review under subparagraph (D) may not be delegated to any person, other than the Deputy Secretary or an appropriate Under Secretary of the department or agency represented on the Committee.

“(2) NATIONAL SECURITY INVESTIGATIONS.—

“(A) IN GENERAL.—In each case described in subparagraph (B), the Committee shall immediately conduct an investigation of the effects of a covered transaction on the national security of the United States, and take any necessary actions in connection with the transaction to protect the national security of the United States.

“(B) APPLICABILITY.—Subparagraph (A) shall apply in each case in which—

“(i) a review of a covered transaction under paragraph (1) results in a determination that—

“(I) the transaction threatens to impair the national security of the United States and that threat has not been mitigated during or prior to the review of a covered transaction under paragraph (1);

“(II) the transaction is a foreign government-controlled transaction; or

“(III) the transaction would result in control of any critical infrastructure of or within the United States by or on behalf of any foreign person, if the Committee determines that the transaction could impair national security, and that such impairment to national security has not been mitigated by assurances provided or renewed with the approval of the Committee, as described in subsection (I), during the review period under paragraph (1); or

“(ii) the lead agency recommends, and the Committee concurs, that an investigation be undertaken.

“(C) TIMING.—Any investigation under subparagraph (A) shall be completed before the end of the 45-day period beginning on the date on which the investigation commenced.

Deadline.

“(D) EXCEPTION.—

“(i) IN GENERAL.—Notwithstanding subparagraph (B)(i), an investigation of a foreign government-controlled transaction described in subclause (II) of subparagraph (B)(i) or a transaction involving critical infrastructure described in subclause (III) of subparagraph (B)(i) shall not be required under this paragraph, if the Secretary of the Treasury and the head of the lead agency jointly determine, on the basis of the review of the transaction under paragraph (1), that the transaction will not impair the national security of the United States.

“(ii) NONDELEGATION.—The authority of the Secretary or the head of an agency referred to in clause (i) may not be delegated to any person, other than the Deputy Secretary of the Treasury or the deputy head (or the equivalent thereof) of the lead agency, respectively.

“(E) GUIDANCE ON CERTAIN TRANSACTIONS WITH NATIONAL SECURITY IMPLICATIONS.—The Chairperson shall, not later than 180 days after the effective date of the Foreign Investment and National Security Act of 2007, publish in the Federal Register guidance on the types of transactions that the Committee has reviewed and that have presented national security considerations, including transactions that may constitute covered transactions that would result in control of critical infrastructure relating to United States national security by a foreign government or an entity controlled by or acting on behalf of a foreign government.

Deadline.
Federal Register,
publication.

“(3) CERTIFICATIONS TO CONGRESS.—

“(A) CERTIFIED NOTICE AT COMPLETION OF REVIEW.—Upon completion of a review under subsection (b) that concludes action under this section, the chairperson and the head of the lead agency shall transmit a certified notice to the members of Congress specified in subparagraph (C)(iii).

“(B) CERTIFIED REPORT AT COMPLETION OF INVESTIGATION.—As soon as is practicable after completion of an investigation under subsection (b) that concludes action under this section, the chairperson and the head of the

lead agency shall transmit to the members of Congress specified in subparagraph (C)(iii) a certified written report (consistent with the requirements of subsection (c)) on the results of the investigation, unless the matter under investigation has been sent to the President for decision.

“(C) CERTIFICATION PROCEDURES.—

“(i) IN GENERAL.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be submitted to the members of Congress specified in clause (iii), and shall include—

“(I) a description of the actions taken by the Committee with respect to the transaction; and

“(II) identification of the determinative factors considered under subsection (f).

“(ii) CONTENT OF CERTIFICATION.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be signed by the chairperson and the head of the lead agency, and shall state that, in the determination of the Committee, there are no unresolved national security concerns with the transaction that is the subject of the notice or report.

“(iii) MEMBERS OF CONGRESS.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be transmitted—

“(I) to the Majority Leader and the Minority Leader of the Senate;

“(II) to the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of any committee of the Senate having oversight over the lead agency;

“(III) to the Speaker and the Minority Leader of the House of Representatives;

“(IV) to the chair and ranking member of the Committee on Financial Services of the House of Representatives and of any committee of the House of Representatives having oversight over the lead agency; and

“(V) with respect to covered transactions involving critical infrastructure, to the members of the Senate from the State in which the principal place of business of the acquired United States person is located, and the member from the Congressional District in which such principal place of business is located.

“(iv) SIGNATURES; LIMIT ON DELEGATION.—

“(I) IN GENERAL.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be signed by the chairperson and the head of the lead agency, which signature requirement may only be delegated in accordance with subclause (II).

“(II) LIMITATION ON DELEGATION OF CERTIFICATIONS.—The chairperson and the head of the lead agency may delegate the signature requirement under subclause (I)—

“(aa) only to an appropriate employee of the Department of the Treasury (in the case

of the Secretary of the Treasury) or to an appropriate employee of the lead agency (in the case of the lead agency) who was appointed by the President, by and with the advice and consent of the Senate, with respect to any notice provided under paragraph (1) following the completion of a review under this section; or

“(bb) only to a Deputy Secretary of the Treasury (in the case of the Secretary of the Treasury) or a person serving in the Deputy position or the equivalent thereof at the lead agency (in the case of the lead agency), with respect to any report provided under subparagraph (B) following an investigation under this section.

“(4) ANALYSIS BY DIRECTOR OF NATIONAL INTELLIGENCE.—

“(A) IN GENERAL.—The Director of National Intelligence shall expeditiously carry out a thorough analysis of any threat to the national security of the United States posed by any covered transaction. The Director of National Intelligence shall also seek and incorporate the views of all affected or appropriate intelligence agencies with respect to the transaction.

“(B) TIMING.—The analysis required under subparagraph (A) shall be provided by the Director of National Intelligence to the Committee not later than 20 days after the date on which notice of the transaction is accepted by the Committee under paragraph (1)(C), but such analysis may be supplemented or amended, as the Director considers necessary or appropriate, or upon a request for additional information by the Committee. The Director may begin the analysis at any time prior to acceptance of the notice, in accordance with otherwise applicable law.

Deadline.

“(C) INTERACTION WITH INTELLIGENCE COMMUNITY.—The Director of National Intelligence shall ensure that the intelligence community remains engaged in the collection, analysis, and dissemination to the Committee of any additional relevant information that may become available during the course of any investigation conducted under subsection (b) with respect to a transaction.

“(D) INDEPENDENT ROLE OF DIRECTOR.—The Director of National Intelligence shall be a nonvoting, ex officio member of the Committee, and shall be provided with all notices received by the Committee under paragraph (1)(C) regarding covered transactions, but shall serve no policy role on the Committee, other than to provide analysis under subparagraphs (A) and (C) in connection with a covered transaction.

“(5) SUBMISSION OF ADDITIONAL INFORMATION.—No provision of this subsection shall be construed as prohibiting any party to a covered transaction from submitting additional information concerning the transaction, including any proposed restructuring of the transaction or any modifications to any agreements in connection with the transaction, while any review or investigation of the transaction is ongoing.

“(6) NOTICE OF RESULTS TO PARTIES.—The Committee shall notify the parties to a covered transaction of the results of a review or investigation under this section, promptly upon completion of all action under this section.

“(7) REGULATIONS.—Regulations prescribed under this section shall include standard procedures for—

“(A) submitting any notice of a covered transaction to the Committee;

“(B) submitting a request to withdraw a covered transaction from review;

“(C) resubmitting a notice of a covered transaction that was previously withdrawn from review; and

“(D) providing notice of the results of a review or investigation to the parties to the covered transaction, upon completion of all action under this section.”.

SEC. 3. STATUTORY ESTABLISHMENT OF THE COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by striking subsection (k) and inserting the following:

“(k) COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.—

“(1) ESTABLISHMENT.—The Committee on Foreign Investment in the United States, established pursuant to Executive Order No. 11858, shall be a multi agency committee to carry out this section and such other assignments as the President may designate.

“(2) MEMBERSHIP.—The Committee shall be comprised of the following members or the designee of any such member:

“(A) The Secretary of the Treasury.

“(B) The Secretary of Homeland Security.

“(C) The Secretary of Commerce.

“(D) The Secretary of Defense.

“(E) The Secretary of State.

“(F) The Attorney General of the United States.

“(G) The Secretary of Energy.

“(H) The Secretary of Labor (nonvoting, ex officio).

“(I) The Director of National Intelligence (nonvoting, ex officio).

“(J) The heads of any other executive department, agency, or office, as the President determines appropriate, generally or on a case-by-case basis.

“(3) CHAIRPERSON.—The Secretary of the Treasury shall serve as the chairperson of the Committee.

“(4) ASSISTANT SECRETARY FOR THE DEPARTMENT OF THE TREASURY.—There shall be established an additional position of Assistant Secretary of the Treasury, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary appointed under this paragraph shall report directly to the Undersecretary of the Treasury for International Affairs. The duties of the Assistant Secretary shall include duties related to the Committee on Foreign Investment in the United States, as delegated by the Secretary of the Treasury under this section.

“(5) DESIGNATION OF LEAD AGENCY.—The Secretary of the Treasury shall designate, as appropriate, a member or members

Establishment.
President.

of the Committee to be the lead agency or agencies on behalf of the Committee—

“(A) for each covered transaction, and for negotiating any mitigation agreements or other conditions necessary to protect national security; and

“(B) for all matters related to the monitoring of the completed transaction, to ensure compliance with such agreements or conditions and with this section.

“(6) OTHER MEMBERS.—The chairperson shall consult with the heads of such other Federal departments, agencies, and independent establishments in any review or investigation under subsection (a), as the chairperson determines to be appropriate, on the basis of the facts and circumstances of the covered transaction under review or investigation (or the designee of any such department or agency head).

“(7) MEETINGS.—The Committee shall meet upon the direction of the President or upon the call of the chairperson, without regard to section 552b of title 5, United States Code (if otherwise applicable).”.

SEC. 4. ADDITIONAL FACTORS FOR CONSIDERATION.

Section 721(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) is amended—

(1) in the matter preceding paragraph (1), by striking “among other factors”;

(2) in paragraph (4)—

(A) in subparagraph (A) by striking “or” at the end;

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A) the following:

“(B) identified by the Secretary of Defense as posing a potential regional military threat to the interests of the United States; or”; and

(D) by striking “and” at the end;

(3) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(6) the potential national security-related effects on United States critical infrastructure, including major energy assets;

“(7) the potential national security-related effects on United States critical technologies;

“(8) whether the covered transaction is a foreign government-controlled transaction, as determined under subsection (b)(1)(B);

“(9) as appropriate, and particularly with respect to transactions requiring an investigation under subsection (b)(1)(B), a review of the current assessment of—

“(A) the adherence of the subject country to non-proliferation control regimes, including treaties and multilateral supply guidelines, which shall draw on, but not be limited to, the annual report on ‘Adherence to and Compliance with Arms Control, Nonproliferation and Disarmament Agreements and Commitments’ required by section 403 of the Arms Control and Disarmament Act;

“(B) the relationship of such country with the United States, specifically on its record on cooperating in counter-terrorism efforts, which shall draw on, but not be limited

to, the report of the President to Congress under section 7120 of the Intelligence Reform and Terrorism Prevention Act of 2004; and

“(C) the potential for transshipment or diversion of technologies with military applications, including an analysis of national export control laws and regulations;

“(10) the long-term projection of United States requirements for sources of energy and other critical resources and material; and

“(11) such other factors as the President or the Committee may determine to be appropriate, generally or in connection with a specific review or investigation.”.

SEC. 5. MITIGATION, TRACKING, AND POSTCONSUMMATION MONITORING AND ENFORCEMENT.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by adding at the end the following:

“(1) MITIGATION, TRACKING, AND POSTCONSUMMATION MONITORING AND ENFORCEMENT.—

“(1) MITIGATION.—

“(A) IN GENERAL.—The Committee or a lead agency may, on behalf of the Committee, negotiate, enter into or impose, and enforce any agreement or condition with any party to the covered transaction in order to mitigate any threat to the national security of the United States that arises as a result of the covered transaction.

“(B) RISK-BASED ANALYSIS REQUIRED.—Any agreement entered into or condition imposed under subparagraph (A) shall be based on a risk-based analysis, conducted by the Committee, of the threat to national security of the covered transaction.

“(2) TRACKING AUTHORITY FOR WITHDRAWN NOTICES.—

“(A) IN GENERAL.—If any written notice of a covered transaction that was submitted to the Committee under this section is withdrawn before any review or investigation by the Committee under subsection (b) is completed, the Committee shall establish, as appropriate—

“(i) interim protections to address specific concerns with such transaction that have been raised in connection with any such review or investigation pending any resubmission of any written notice under this section with respect to such transaction and further action by the President under this section;

“(ii) specific time frames for resubmitting any such written notice; and

“(iii) a process for tracking any actions that may be taken by any party to the transaction, in connection with the transaction, before the notice referred to in clause (ii) is resubmitted.

“(B) DESIGNATION OF AGENCY.—The lead agency, other than any entity of the intelligence community (as defined in the National Security Act of 1947), shall, on behalf of the Committee, ensure that the requirements of subparagraph (A) with respect to any covered transaction that is subject to such subparagraph are met.

“(3) NEGOTIATION, MODIFICATION, MONITORING, AND ENFORCEMENT.—

“(A) DESIGNATION OF LEAD AGENCY.—The lead agency shall negotiate, modify, monitor, and enforce, on behalf of the Committee, any agreement entered into or condition imposed under paragraph (1) with respect to a covered transaction, based on the expertise with and knowledge of the issues related to such transaction on the part of the designated department or agency. Nothing in this paragraph shall prohibit other departments or agencies in assisting the lead agency in carrying out the purposes of this paragraph.

“(B) REPORTING BY DESIGNATED AGENCY.—

“(i) MODIFICATION REPORTS.—The lead agency in connection with any agreement entered into or condition imposed with respect to a covered transaction shall—

“(I) provide periodic reports to the Committee on any material modification to any such agreement or condition imposed with respect to the transaction; and

“(II) ensure that any material modification to any such agreement or condition is reported to the Director of National Intelligence, the Attorney General of the United States, and any other Federal department or agency that may have a material interest in such modification.

“(ii) COMPLIANCE.—The Committee shall develop and agree upon methods for evaluating compliance with any agreement entered into or condition imposed with respect to a covered transaction that will allow the Committee to adequately assure compliance, without—

“(I) unnecessarily diverting Committee resources from assessing any new covered transaction for which a written notice has been filed pursuant to subsection (b)(1)(C), and if necessary, reaching a mitigation agreement with or imposing a condition on a party to such covered transaction or any covered transaction for which a review has been reopened for any reason; or

“(II) placing unnecessary burdens on a party to a covered transaction.”.

SEC. 6. ACTION BY THE PRESIDENT.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by striking subsections (d) and (e) and inserting the following:

“(d) ACTION BY THE PRESIDENT.—

“(1) IN GENERAL.—Subject to paragraph (4), the President may take such action for such time as the President considers appropriate to suspend or prohibit any covered transaction that threatens to impair the national security of the United States.

“(2) ANNOUNCEMENT BY THE PRESIDENT.—The President shall announce the decision on whether or not to take action pursuant to paragraph (1) not later than 15 days after the date on which an investigation described in subsection (b) is completed.

Deadline.

“(3) ENFORCEMENT.—The President may direct the Attorney General of the United States to seek appropriate relief, including divestment relief, in the district courts of the United States, in order to implement and enforce this subsection.

“(4) FINDINGS OF THE PRESIDENT.—The President may exercise the authority conferred by paragraph (1), only if the President finds that—

“(A) there is credible evidence that leads the President to believe that the foreign interest exercising control might take action that threatens to impair the national security; and

“(B) provisions of law, other than this section and the International Emergency Economic Powers Act, do not, in the judgment of the President, provide adequate and appropriate authority for the President to protect the national security in the matter before the President.

“(5) FACTORS TO BE CONSIDERED.—For purposes of determining whether to take action under paragraph (1), the President shall consider, among other factors each of the factors described in subsection (f), as appropriate.

“(e) ACTIONS AND FINDINGS NONREVIEWABLE.—The actions of the President under paragraph (1) of subsection (d) and the findings of the President under paragraph (4) of subsection (d) shall not be subject to judicial review.”.

SEC. 7. INCREASED OVERSIGHT BY CONGRESS.

(a) REPORT ON ACTIONS.—Section 721(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(g)) is amended to read as follows:

“(g) ADDITIONAL INFORMATION TO CONGRESS; CONFIDENTIALITY.—

“(1) BRIEFING REQUIREMENT ON REQUEST.—The Committee shall, upon request from any Member of Congress specified in subsection (b)(3)(C)(iii), promptly provide briefings on a covered transaction for which all action has concluded under this section, or on compliance with a mitigation agreement or condition imposed with respect to such transaction, on a classified basis, if deemed necessary by the sensitivity of the information. Briefings under this paragraph may be provided to the congressional staff of such a Member of Congress having appropriate security clearance.

“(2) APPLICATION OF CONFIDENTIALITY PROVISIONS.—

“(A) IN GENERAL.—The disclosure of information under this subsection shall be consistent with the requirements of subsection (c). Members of Congress and staff of either House of Congress or any committee of Congress, shall be subject to the same limitations on disclosure of information as are applicable under subsection (c).

“(B) PROPRIETARY INFORMATION.—Proprietary information which can be associated with a particular party to a covered transaction shall be furnished in accordance with subparagraph (A) only to a committee of Congress, and only when the committee provides assurances of confidentiality, unless such party otherwise consents in writing to such disclosure.”.

(b) ANNUAL REPORT.—Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by adding at the end the following:

“(m) ANNUAL REPORT TO CONGRESS.—

“(1) IN GENERAL.—The chairperson shall transmit a report to the chairman and ranking member of the committee of jurisdiction in the Senate and the House of Representatives, before July 31 of each year on all of the reviews and investigations of covered transactions completed under subsection (b) during the 12-month period covered by the report.

“(2) CONTENTS OF REPORT RELATING TO COVERED TRANSACTIONS.—The annual report under paragraph (1) shall contain the following information, with respect to each covered transaction, for the reporting period:

“(A) A list of all notices filed and all reviews or investigations completed during the period, with basic information on each party to the transaction, the nature of the business activities or products of all pertinent persons, along with information about any withdrawal from the process, and any decision or action by the President under this section.

“(B) Specific, cumulative, and, as appropriate, trend information on the numbers of filings, investigations, withdrawals, and decisions or actions by the President under this section.

“(C) Cumulative and, as appropriate, trend information on the business sectors involved in the filings which have been made, and the countries from which the investments have originated.

“(D) Information on whether companies that withdrew notices to the Committee in accordance with subsection (b)(1)(C)(ii) have later refiled such notices, or, alternatively, abandoned the transaction.

“(E) The types of security arrangements and conditions the Committee has used to mitigate national security concerns about a transaction, including a discussion of the methods that the Committee and any lead agency are using to determine compliance with such arrangements or conditions.

“(F) A detailed discussion of all perceived adverse effects of covered transactions on the national security or critical infrastructure of the United States that the Committee will take into account in its deliberations during the period before delivery of the next report, to the extent possible.

“(3) CONTENTS OF REPORT RELATING TO CRITICAL TECHNOLOGIES.—

“(A) IN GENERAL.—In order to assist Congress in its oversight responsibilities with respect to this section, the President and such agencies as the President shall designate shall include in the annual report submitted under paragraph (1)—

“(i) an evaluation of whether there is credible evidence of a coordinated strategy by 1 or more countries or companies to acquire United States companies involved in research, development, or production of

President.

critical technologies for which the United States is a leading producer; and

“(ii) an evaluation of whether there are industrial espionage activities directed or directly assisted by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technologies.

“(B) RELEASE OF UNCLASSIFIED STUDY.—All appropriate portions of the annual report under paragraph (1) may be classified. An unclassified version of the report, as appropriate, consistent with safeguarding national security and privacy, shall be made available to the public.”.

50 USC
app. 2170 note.

(c) STUDY AND REPORT.—

(1) STUDY REQUIRED.—Before the end of the 120-day period beginning on the date of enactment of this Act and annually thereafter, the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Commerce, shall conduct a study on foreign direct investments in the United States, especially investments in critical infrastructure and industries affecting national security, by—

(A) foreign governments, entities controlled by or acting on behalf of a foreign government, or persons of foreign countries which comply with any boycott of Israel; or

(B) foreign governments, entities controlled by or acting on behalf of a foreign government, or persons of foreign countries which do not ban organizations designated by the Secretary of State as foreign terrorist organizations.

(2) REPORT.—Before the end of the 30-day period beginning upon the date of completion of each study under paragraph (1), and thereafter in each annual report under section 721(m) of the Defense Production Act of 1950 (as added by this section), the Secretary of the Treasury shall submit a report to Congress, for transmittal to all appropriate committees of the Senate and the House of Representatives, containing the findings and conclusions of the Secretary with respect to the study described in paragraph (1), together with an analysis of the effects of such investment on the national security of the United States and on any efforts to address those effects.

(d) INVESTIGATION BY INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of the Treasury shall conduct an independent investigation to determine all of the facts and circumstances concerning each failure of the Department of the Treasury to make any report to the Congress that was required under section 721(k) of the Defense Production Act of 1950, as in effect on the day before the date of enactment of this Act.

(2) REPORT TO THE CONGRESS.—Before the end of the 270-day period beginning on the date of enactment of this Act, the Inspector General of the Department of the Treasury shall submit a report on the investigation under paragraph (1) containing the findings and conclusions of the Inspector General, to the chairman and ranking member of each committee of the Senate and the House of Representatives having jurisdiction over any aspect of the report, including, at a minimum, the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee

on Foreign Affairs, the Committee on Financial Services, and the Committee on Energy and Commerce of the House of Representatives.

SEC. 8. CERTIFICATION OF NOTICES AND ASSURANCES.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by adding at the end the following:

“(n) CERTIFICATION OF NOTICES AND ASSURANCES.—Each notice, and any followup information, submitted under this section and regulations prescribed under this section to the President or the Committee by a party to a covered transaction, and any information submitted by any such party in connection with any action for which a report is required pursuant to paragraph (3)(B) of subsection (l), with respect to the implementation of any mitigation agreement or condition described in paragraph (1)(A) of subsection (l), or any material change in circumstances, shall be accompanied by a written statement by the chief executive officer or the designee of the person required to submit such notice or information certifying that, to the best of the knowledge and belief of that person—

“(1) the notice or information submitted fully complies with the requirements of this section or such regulation, agreement, or condition; and

“(2) the notice or information is accurate and complete in all material respects.”.

SEC. 9. REGULATIONS.

Section 721(h) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(h)) is amended to read as follows:

“(h) REGULATIONS.—

“(1) IN GENERAL.—The President shall direct, subject to notice and comment, the issuance of regulations to carry out this section. President.

“(2) EFFECTIVE DATE.—Regulations issued under this section shall become effective not later than 180 days after the effective date of the Foreign Investment and National Security Act of 2007.

“(3) CONTENT.—Regulations issued under this subsection shall—

“(A) provide for the imposition of civil penalties for any violation of this section, including any mitigation agreement entered into or conditions imposed pursuant to subsection (l);

“(B) to the extent possible—

“(i) minimize paperwork burdens; and

“(ii) coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law; and

“(C) provide for an appropriate role for the Secretary of Labor with respect to mitigation agreements.”.

SEC. 10. EFFECT ON OTHER LAW.

Section 721(i) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(i)) is amended to read as follows:

“(i) EFFECT ON OTHER LAW.—No provision of this section shall be construed as altering or affecting any other authority, process, regulation, investigation, enforcement measure, or review provided by or established under any other provision of Federal law, including the International Emergency Economic Powers Act, or

any other authority of the President or the Congress under the Constitution of the United States.”.

SEC. 11. CLERICAL AMENDMENTS.

(a) TITLE 31.—Section 301(e) of title 31, United States Code, is amended by striking “8 Assistant” and inserting “9 Assistant”.

(b) TITLE 5.—Section 5315 of title 5, United States Code, is amended in the item relating to “Assistant Secretaries of the Treasury”, by striking “(8)” and inserting “(9)”.

5 USC 5315 note. **SEC. 12. EFFECTIVE DATE.**

The amendments made by this Act shall apply after the end of the 90-day period beginning on the date of enactment of this Act.

Approved July 26, 2007.

LEGISLATIVE HISTORY—H.R. 556 (S. 1610):

HOUSE REPORTS: No. 110–24, Pt. 1 (Comm. Financial Services).

SENATE REPORTS: No. 110–80 accompanying S. 1610 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Feb. 28, considered and passed House.

June 29, considered and passed Senate, amended, in lieu of S. 1610.

June 10, 11, House considered and concurred in Senate amendment.



Public Law 110–50
110th Congress

An Act

To enable the Department of State to respond to a critical shortage of passport processing personnel, and for other purposes.

July 30, 2007

[S. 966]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Passport Backlog Reduction Act of 2007”.

Passport Backlog
Reduction Act of
2007.
22 USC 3901
note.

SEC. 2. REEMPLOYMENT OF FOREIGN SERVICE ANNUITANTS.

Section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “; or” and inserting a semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following new subparagraph—

“(C)(i) to provide assistance to consular posts with a substantial backlog of visa applications; or

“(ii) to provide assistance to meet the demand resulting from the passport and travel document requirements set forth in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note), including assistance related to the investigation of fraud in connection with an application for a passport.”; and

(2) in paragraph (2)—

(A) by striking “The authority” and inserting “(A) The authority”; and

(B) by adding at the end the following new subparagraphs:

“(B) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (C)(i) of paragraph (1) shall terminate on September 30, 2008.

“(C) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant

Waiver authority.
Termination
date.

Waiver authority.
Termination
date.

pursuant to subparagraph (C)(ii) of paragraph (1) shall terminate on September 30, 2009.”.

Approved July 30, 2007.

LEGISLATIVE HISTORY—S. 966:

SENATE REPORTS: No. 110–109 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 29, considered and passed Senate.

July 16, considered and passed House, amended.

July 17, Senate concurred in House amendment.



Public Law 110–51
110th Congress

An Act

To temporarily extend the programs under the Higher Education Act of 1965,
and for other purposes.

July 31, 2007

[S. 1868]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Second Higher Education Extension Act of 2007”.

Second Higher
Education
Extension Act
of 2007.
20 USC 1001
note.

SEC. 2. EXTENSION OF PROGRAMS.

Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking “July 31, 2007” and inserting “October 31, 2007”.

SEC. 3. RULE OF CONSTRUCTION.

Nothing in this Act, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

20 USC 1001
note.

Approved July 31, 2007.

LEGISLATIVE HISTORY—S. 1868:

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 24, considered and passed Senate.

July 25, considered and passed House.



Public Law 110–52
110th Congress

Joint Resolution

Aug. 1, 2007
[H.J. Res. 44]

Approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

50 USC 1701
note.

SECTION 1. RENEWAL OF IMPORT RESTRICTIONS UNDER BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.

Congress approves the renewal of import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003.

SEC. 2. MERCHANDISE PROCESSING FEES.

Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A)) is amended by striking “October 14, 2014” and inserting “October 21, 2014”.

SEC. 3. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

26 USC 6655
note.

Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking “114.50 percent” and inserting “114.75 percent”.

50 USC 1701
note.

SEC. 4. RULE OF CONSTRUCTION.

This joint resolution shall be deemed to be a “renewal resolution” for purposes of section 9 of the Burmese Freedom and Democracy Act of 2003.

SEC. 5. EFFECTIVE DATE.

19 USC 58c note.

This joint resolution and the amendments made by this joint resolution shall take effect on the date of the enactment of this joint resolution or July 26, 2007, whichever occurs first.

Approved August 1, 2007.

LEGISLATIVE HISTORY—H.J. Res. 44:

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 23, considered and passed House.

July 24, considered and passed Senate.



Public Law 110–53
110th Congress

An Act

Aug. 3, 2007
[H.R. 1]

Implementing
Recommendations of the 9/11
Commission Act
of 2007.
6 USC 101 note.

To provide for the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Implementing Recommendations of the 9/11 Commission Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HOMELAND SECURITY GRANTS

Sec. 101. Homeland Security Grant Program.

Sec. 102. Other amendments to the Homeland Security Act of 2002.

Sec. 103. Amendments to the Post-Katrina Emergency Management Reform Act of 2006.

Sec. 104. Technical and conforming amendments.

TITLE II—EMERGENCY MANAGEMENT PERFORMANCE GRANTS

Sec. 201. Emergency management performance grant program.

Sec. 202. Grants for construction of emergency operations centers.

TITLE III—ENSURING COMMUNICATIONS INTEROPERABILITY FOR FIRST RESPONDERS

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TITLE I—HOMELAND SECURITY GRANTS

SEC. 101. HOMELAND SECURITY GRANT PROGRAM.

The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.)
is amended by adding at the end the following:

“TITLE XX—HOMELAND SECURITY GRANTS

“SEC. 2001. DEFINITIONS.

6 USC 601.

“In this title, the following definitions shall apply:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the
Administrator of the Federal Emergency Management Agency.

“(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term
‘appropriate committees of Congress’ means—

“(A) the Committee on Homeland Security and Govern-
mental Affairs of the Senate; and

“(B) those committees of the House of Representatives that the Speaker of the House of Representatives determines appropriate.

“(3) CRITICAL INFRASTRUCTURE SECTORS.—The term ‘critical infrastructure sectors’ means the following sectors, in both urban and rural areas:

“(A) Agriculture and food.

“(B) Banking and finance.

“(C) Chemical industries.

“(D) Commercial facilities.

“(E) Commercial nuclear reactors, materials, and waste.

“(F) Dams.

“(G) The defense industrial base.

“(H) Emergency services.

“(I) Energy.

“(J) Government facilities.

“(K) Information technology.

“(L) National monuments and icons.

“(M) Postal and shipping.

“(N) Public health and health care.

“(O) Telecommunications.

“(P) Transportation systems.

“(Q) Water.

“(4) DIRECTLY ELIGIBLE TRIBE.—The term ‘directly eligible tribe’ means—

“(A) any Indian tribe—

“(i) that is located in the continental United States;

“(ii) that operates a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services;

“(iii)(I) that is located on or near an international border or a coastline bordering an ocean (including the Gulf of Mexico) or international waters;

“(II) that is located within 10 miles of a system or asset included on the prioritized critical infrastructure list established under section 210E(a)(2) or has such a system or asset within its territory;

“(III) that is located within or contiguous to 1 of the 50 most populous metropolitan statistical areas in the United States; or

“(IV) the jurisdiction of which includes not less than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code; and

“(iv) that certifies to the Secretary that a State has not provided funds under section 2003 or 2004 to the Indian tribe or consortium of Indian tribes for the purpose for which direct funding is sought; and

“(B) a consortium of Indian tribes, if each tribe satisfies the requirements of subparagraph (A).

“(5) ELIGIBLE METROPOLITAN AREA.—The term ‘eligible metropolitan area’ means any of the 100 most populous metropolitan statistical areas in the United States.

“(6) HIGH-RISK URBAN AREA.—The term ‘high-risk urban area’ means a high-risk urban area designated under section 2003(b)(3)(A).

“(7) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given that term in section 4(e) of the Indian Self-Determination Act (25 U.S.C. 450b(e)).

“(8) METROPOLITAN STATISTICAL AREA.—The term ‘metropolitan statistical area’ means a metropolitan statistical area, as defined by the Office of Management and Budget.

“(9) NATIONAL SPECIAL SECURITY EVENT.—The term ‘National Special Security Event’ means a designated event that, by virtue of its political, economic, social, or religious significance, may be the target of terrorism or other criminal activity.

“(10) POPULATION.—The term ‘population’ means population according to the most recent United States census population estimates available at the start of the relevant fiscal year.

“(11) POPULATION DENSITY.—The term ‘population density’ means population divided by land area in square miles.

“(12) QUALIFIED INTELLIGENCE ANALYST.—The term ‘qualified intelligence analyst’ means an intelligence analyst (as that term is defined in section 210A(j)), including law enforcement personnel—

“(A) who has successfully completed training to ensure baseline proficiency in intelligence analysis and production, as determined by the Secretary, which may include training using a curriculum developed under section 209; or

“(B) whose experience ensures baseline proficiency in intelligence analysis and production equivalent to the training required under subparagraph (A), as determined by the Secretary.

“(13) TARGET CAPABILITIES.—The term ‘target capabilities’ means the target capabilities for Federal, State, local, and tribal government preparedness for which guidelines are required to be established under section 646(a) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 746(a)).

“(14) TRIBAL GOVERNMENT.—The term ‘tribal government’ means the government of an Indian tribe.

“Subtitle A—Grants to States and High-Risk Urban Areas

“SEC. 2002. HOMELAND SECURITY GRANT PROGRAMS.

6 USC 603.

“(a) GRANTS AUTHORIZED.—The Secretary, through the Administrator, may award grants under sections 2003 and 2004 to State, local, and tribal governments.

“(b) PROGRAMS NOT AFFECTED.—This subtitle shall not be construed to affect any of the following Federal programs:

“(1) Firefighter and other assistance programs authorized under the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.).

“(2) Grants authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(3) Emergency Management Performance Grants under the amendments made by title II of the Implementing Recommendations of the 9/11 Commission Act of 2007.

“(4) Grants to protect critical infrastructure, including port security grants authorized under section 70107 of title 46, United States Code, and the grants authorized under title XIV and XV of the Implementing Recommendations of the 9/11 Commission Act of 2007 and the amendments made by such titles.

“(5) The Metropolitan Medical Response System authorized under section 635 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 723).

“(6) The Interoperable Emergency Communications Grant Program authorized under title XVIII.

“(7) Grant programs other than those administered by the Department.

“(c) RELATIONSHIP TO OTHER LAWS.—

“(1) IN GENERAL.—The grant programs authorized under sections 2003 and 2004 shall supercede all grant programs authorized under section 1014 of the USA PATRIOT Act (42 U.S.C. 3714).

“(2) ALLOCATION.—The allocation of grants authorized under section 2003 or 2004 shall be governed by the terms of this subtitle and not by any other provision of law.

6 USC 604.

“SEC. 2003. URBAN AREA SECURITY INITIATIVE.

“(a) ESTABLISHMENT.—There is established an Urban Area Security Initiative to provide grants to assist high-risk urban areas in preventing, preparing for, protecting against, and responding to acts of terrorism.

“(b) ASSESSMENT AND DESIGNATION OF HIGH-RISK URBAN AREAS.—

“(1) IN GENERAL.—The Administrator shall designate high-risk urban areas to receive grants under this section based on procedures under this subsection.

“(2) INITIAL ASSESSMENT.—

“(A) IN GENERAL.—For each fiscal year, the Administrator shall conduct an initial assessment of the relative threat, vulnerability, and consequences from acts of terrorism faced by each eligible metropolitan area, including consideration of—

“(i) the factors set forth in subparagraphs (A) through (H) and (K) of section 2007(a)(1); and

“(ii) information and materials submitted under subparagraph (B).

“(B) SUBMISSION OF INFORMATION BY ELIGIBLE METROPOLITAN AREAS.—Prior to conducting each initial assessment under subparagraph (A), the Administrator shall provide each eligible metropolitan area with, and shall notify each eligible metropolitan area of, the opportunity to—

“(i) submit information that the eligible metropolitan area believes to be relevant to the determination of the threat, vulnerability, and consequences it faces from acts of terrorism; and

“(ii) review the risk assessment conducted by the Department of that eligible metropolitan area, including the bases for the assessment by the Department of the threat, vulnerability, and consequences

from acts of terrorism faced by that eligible metropolitan area, and remedy erroneous or incomplete information.

“(3) DESIGNATION OF HIGH-RISK URBAN AREAS.—

“(A) DESIGNATION.—

“(i) IN GENERAL.—For each fiscal year, after conducting the initial assessment under paragraph (2), and based on that assessment, the Administrator shall designate high-risk urban areas that may submit applications for grants under this section.

“(ii) ADDITIONAL AREAS.—Notwithstanding paragraph (2), the Administrator may—

“(I) in any case where an eligible metropolitan area consists of more than 1 metropolitan division (as that term is defined by the Office of Management and Budget) designate more than 1 high-risk urban area within a single eligible metropolitan area; and

“(II) designate an area that is not an eligible metropolitan area as a high-risk urban area based on the assessment by the Administrator of the relative threat, vulnerability, and consequences from acts of terrorism faced by the area.

“(iii) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require the Administrator to—

“(I) designate all eligible metropolitan areas that submit information to the Administrator under paragraph (2)(B)(i) as high-risk urban areas; or

“(II) designate all areas within an eligible metropolitan area as part of the high-risk urban area.

“(B) JURISDICTIONS INCLUDED IN HIGH-RISK URBAN AREAS.—

“(i) IN GENERAL.—In designating high-risk urban areas under subparagraph (A), the Administrator shall determine which jurisdictions, at a minimum, shall be included in each high-risk urban area.

“(ii) ADDITIONAL JURISDICTIONS.—A high-risk urban area designated by the Administrator may, in consultation with the State or States in which such high-risk urban area is located, add additional jurisdictions to the high-risk urban area.

“(c) APPLICATION.—

“(1) IN GENERAL.—An area designated as a high-risk urban area under subsection (b) may apply for a grant under this section.

“(2) MINIMUM CONTENTS OF APPLICATION.—In an application for a grant under this section, a high-risk urban area shall submit—

“(A) a plan describing the proposed division of responsibilities and distribution of funding among the local and tribal governments in the high-risk urban area;

“(B) the name of an individual to serve as a high-risk urban area liaison with the Department and among the various jurisdictions in the high-risk urban area; and

“(C) such information in support of the application as the Administrator may reasonably require.

“(3) ANNUAL APPLICATIONS.—Applicants for grants under this section shall apply or reapply on an annual basis.

“(4) STATE REVIEW AND TRANSMISSION.—

“(A) IN GENERAL.—To ensure consistency with State homeland security plans, a high-risk urban area applying for a grant under this section shall submit its application to each State within which any part of that high-risk urban area is located for review before submission of such application to the Department.

“(B) DEADLINE.—Not later than 30 days after receiving an application from a high-risk urban area under subparagraph (A), a State shall transmit the application to the Department.

Notification.

“(C) OPPORTUNITY FOR STATE COMMENT.—If the Governor of a State determines that an application of a high-risk urban area is inconsistent with the State homeland security plan of that State, or otherwise does not support the application, the Governor shall—

“(i) notify the Administrator, in writing, of that fact; and

“(ii) provide an explanation of the reason for not supporting the application at the time of transmission of the application.

“(5) OPPORTUNITY TO AMEND.—In considering applications for grants under this section, the Administrator shall provide applicants with a reasonable opportunity to correct defects in the application, if any, before making final awards.

“(d) DISTRIBUTION OF AWARDS.—

“(1) IN GENERAL.—If the Administrator approves the application of a high-risk urban area for a grant under this section, the Administrator shall distribute the grant funds to the State or States in which that high-risk urban area is located.

“(2) STATE DISTRIBUTION OF FUNDS.—

Deadline.

“(A) IN GENERAL.—Not later than 45 days after the date that a State receives grant funds under paragraph (1), that State shall provide the high-risk urban area awarded that grant not less than 80 percent of the grant funds. Any funds retained by a State shall be expended on items, services, or activities that benefit the high-risk urban area.

“(B) FUNDS RETAINED.—A State shall provide each relevant high-risk urban area with an accounting of the items, services, or activities on which any funds retained by the State under subparagraph (A) were expended.

“(3) INTERSTATE URBAN AREAS.—If parts of a high-risk urban area awarded a grant under this section are located in 2 or more States, the Administrator shall distribute to each such State—

“(A) a portion of the grant funds in accordance with the proposed distribution set forth in the application; or

“(B) if no agreement on distribution has been reached, a portion of the grant funds determined by the Administrator to be appropriate.

“(4) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO HIGH-RISK URBAN AREAS.—A State that receives grant funds under paragraph (1) shall certify to the Administrator that the State has made available to the applicable high-risk urban area the required funds under paragraph (2).

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section—

“(1) \$850,000,000 for fiscal year 2008;

“(2) \$950,000,000 for fiscal year 2009;

“(3) \$1,050,000,000 for fiscal year 2010;

“(4) \$1,150,000,000 for fiscal year 2011;

“(5) \$1,300,000,000 for fiscal year 2012; and

“(6) such sums as are necessary for fiscal year 2013, and each fiscal year thereafter.

“SEC. 2004. STATE HOMELAND SECURITY GRANT PROGRAM.

6 USC 605.

“(a) ESTABLISHMENT.—There is established a State Homeland Security Grant Program to assist State, local, and tribal governments in preventing, preparing for, protecting against, and responding to acts of terrorism.

“(b) APPLICATION.—

“(1) IN GENERAL.—Each State may apply for a grant under this section, and shall submit such information in support of the application as the Administrator may reasonably require.

“(2) MINIMUM CONTENTS OF APPLICATION.—The Administrator shall require that each State include in its application, at a minimum—

“(A) the purpose for which the State seeks grant funds and the reasons why the State needs the grant to meet the target capabilities of that State;

“(B) a description of how the State plans to allocate the grant funds to local governments and Indian tribes; and

“(C) a budget showing how the State intends to expend the grant funds.

“(3) ANNUAL APPLICATIONS.—Applicants for grants under this section shall apply or reapply on an annual basis.

“(c) DISTRIBUTION TO LOCAL AND TRIBAL GOVERNMENTS.—

“(1) IN GENERAL.—Not later than 45 days after receiving grant funds, any State receiving a grant under this section shall make available to local and tribal governments, consistent with the applicable State homeland security plan—

Deadline.

“(A) not less than 80 percent of the grant funds;

“(B) with the consent of local and tribal governments, items, services, or activities having a value of not less than 80 percent of the amount of the grant; or

“(C) with the consent of local and tribal governments, grant funds combined with other items, services, or activities having a total value of not less than 80 percent of the amount of the grant.

“(2) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—A State shall certify to the Administrator that the State has made the distribution to local and tribal governments required under paragraph (1).

“(3) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Administrator extend the period under paragraph (1) for an additional period of time. The

Administrator may approve such a request if the Administrator determines that the resulting delay in providing grant funding to the local and tribal governments is necessary to promote effective investments to prevent, prepare for, protect against, or respond to acts of terrorism.

“(4) EXCEPTION.—Paragraph (1) shall not apply to the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands.

“(5) DIRECT FUNDING.—If a State fails to make the distribution to local or tribal governments required under paragraph (1) in a timely fashion, a local or tribal government entitled to receive such distribution may petition the Administrator to request that grant funds be provided directly to the local or tribal government.

“(d) MULTISTATE APPLICATIONS.—

“(1) IN GENERAL.—Instead of, or in addition to, any application for a grant under subsection (b), 2 or more States may submit an application for a grant under this section in support of multistate efforts to prevent, prepare for, protect against, and respond to acts of terrorism.

“(2) ADMINISTRATION OF GRANT.—If a group of States applies for a grant under this section, such States shall submit to the Administrator at the time of application a plan describing—

“(A) the division of responsibilities for administering the grant; and

“(B) the distribution of funding among the States that are parties to the application.

“(e) MINIMUM ALLOCATION.—

“(1) IN GENERAL.—In allocating funds under this section, the Administrator shall ensure that—

“(A) except as provided in subparagraph (B), each State receives, from the funds appropriated for the State Homeland Security Grant Program established under this section, not less than an amount equal to—

“(i) 0.375 percent of the total funds appropriated for grants under this section and section 2003 in fiscal year 2008;

“(ii) 0.365 percent of the total funds appropriated for grants under this section and section 2003 in fiscal year 2009;

“(iii) 0.36 percent of the total funds appropriated for grants under this section and section 2003 in fiscal year 2010;

“(iv) 0.355 percent of the total funds appropriated for grants under this section and section 2003 in fiscal year 2011; and

“(v) 0.35 percent of the total funds appropriated for grants under this section and section 2003 in fiscal year 2012 and in each fiscal year thereafter; and

“(B) for each fiscal year, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands each receive, from the funds appropriated for the State Homeland Security Grant Program established under this section, not less than an amount

Territories.

equal to 0.08 percent of the total funds appropriated for grants under this section and section 2003.

“(2) EFFECT OF MULTISTATE AWARD ON STATE MINIMUM.—Any portion of a multistate award provided to a State under subsection (d) shall be considered in calculating the minimum State allocation under this subsection.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section—

“(1) \$950,000,000 for each of fiscal years 2008 through 2012; and

“(2) such sums as are necessary for fiscal year 2013, and each fiscal year thereafter.

“SEC. 2005. GRANTS TO DIRECTLY ELIGIBLE TRIBES.

6 USC 606.

“(a) IN GENERAL.—Notwithstanding section 2004(b), the Administrator may award grants to directly eligible tribes under section 2004.

“(b) TRIBAL APPLICATIONS.—A directly eligible tribe may apply for a grant under section 2004 by submitting an application to the Administrator that includes, as appropriate, the information required for an application by a State under section 2004(b).

“(c) CONSISTENCY WITH STATE PLANS.—

“(1) IN GENERAL.—To ensure consistency with any applicable State homeland security plan, a directly eligible tribe applying for a grant under section 2004 shall provide a copy of its application to each State within which any part of the tribe is located for review before the tribe submits such application to the Department.

“(2) OPPORTUNITY FOR COMMENT.—If the Governor of a State determines that the application of a directly eligible tribe is inconsistent with the State homeland security plan of that State, or otherwise does not support the application, not later than 30 days after the date of receipt of that application the Governor shall—

Deadline.
Notification.

“(A) notify the Administrator, in writing, of that fact; and

“(B) provide an explanation of the reason for not supporting the application.

“(d) FINAL AUTHORITY.—The Administrator shall have final authority to approve any application of a directly eligible tribe. The Administrator shall notify each State within the boundaries of which any part of a directly eligible tribe is located of the approval of an application by the tribe.

Notification.

“(e) PRIORITIZATION.—The Administrator shall allocate funds to directly eligible tribes in accordance with the factors applicable to allocating funds among States under section 2007.

“(f) DISTRIBUTION OF AWARDS TO DIRECTLY ELIGIBLE TRIBES.—If the Administrator awards funds to a directly eligible tribe under this section, the Administrator shall distribute the grant funds directly to the tribe and not through any State.

“(g) MINIMUM ALLOCATION.—

“(1) IN GENERAL.—In allocating funds under this section, the Administrator shall ensure that, for each fiscal year, directly eligible tribes collectively receive, from the funds appropriated for the State Homeland Security Grant Program established under section 2004, not less than an amount equal

to 0.1 percent of the total funds appropriated for grants under sections 2003 and 2004.

“(2) EXCEPTION.—This subsection shall not apply in any fiscal year in which the Administrator—

“(A) receives fewer than 5 applications under this section; or

“(B) does not approve at least 2 applications under this section.

“(h) TRIBAL LIAISON.—A directly eligible tribe applying for a grant under section 2004 shall designate an individual to serve as a tribal liaison with the Department and other Federal, State, local, and regional government officials concerning preventing, preparing for, protecting against, and responding to acts of terrorism.

“(i) ELIGIBILITY FOR OTHER FUNDS.—A directly eligible tribe that receives a grant under section 2004 may receive funds for other purposes under a grant from the State or States within the boundaries of which any part of such tribe is located and from any high-risk urban area of which it is a part, consistent with the homeland security plan of the State or high-risk urban area.

“(j) STATE OBLIGATIONS.—

“(1) IN GENERAL.—States shall be responsible for allocating grant funds received under section 2004 to tribal governments in order to help those tribal communities achieve target capabilities not achieved through grants to directly eligible tribes.

“(2) DISTRIBUTION OF GRANT FUNDS.—With respect to a grant to a State under section 2004, an Indian tribe shall be eligible for funding directly from that State, and shall not be required to seek funding from any local government.

“(3) IMPOSITION OF REQUIREMENTS.—A State may not impose unreasonable or unduly burdensome requirements on an Indian tribe as a condition of providing the Indian tribe with grant funds or resources under section 2004.

“(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of an Indian tribe that receives funds under this subtitle.

6 USC 607.

“SEC. 2006. TERRORISM PREVENTION.

“(a) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—

“(1) IN GENERAL.—The Administrator shall ensure that not less than 25 percent of the total combined funds appropriated for grants under sections 2003 and 2004 is used for law enforcement terrorism prevention activities.

“(2) LAW ENFORCEMENT TERRORISM PREVENTION ACTIVITIES.—Law enforcement terrorism prevention activities include—

“(A) information sharing and analysis;

“(B) target hardening;

“(C) threat recognition;

“(D) terrorist interdiction;

“(E) overtime expenses consistent with a State homeland security plan, including for the provision of enhanced law enforcement operations in support of Federal agencies, including for increased border security and border crossing enforcement;

“(F) establishing, enhancing, and staffing with appropriately qualified personnel State, local, and regional fusion centers that comply with the guidelines established under section 210A(i);

“(G) paying salaries and benefits for personnel, including individuals employed by the grant recipient on the date of the relevant grant application, to serve as qualified intelligence analysts;

“(H) any other activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the Law Enforcement Terrorism Prevention Program; and

“(I) any other terrorism prevention activity authorized by the Administrator.

“(3) PARTICIPATION OF UNDERREPRESENTED COMMUNITIES IN FUSION CENTERS.—The Administrator shall ensure that grant funds described in paragraph (1) are used to support the participation, as appropriate, of law enforcement and other emergency response providers from rural and other underrepresented communities at risk from acts of terrorism in fusion centers.

“(b) OFFICE FOR STATE AND LOCAL LAW ENFORCEMENT.—

“(1) ESTABLISHMENT.—There is established in the Policy Directorate of the Department an Office for State and Local Law Enforcement, which shall be headed by an Assistant Secretary for State and Local Law Enforcement.

“(2) QUALIFICATIONS.—The Assistant Secretary for State and Local Law Enforcement shall have an appropriate background with experience in law enforcement, intelligence, and other counterterrorism functions.

“(3) ASSIGNMENT OF PERSONNEL.—The Secretary shall assign to the Office for State and Local Law Enforcement permanent staff and, as appropriate and consistent with sections 506(c)(2), 821, and 888(d), other appropriate personnel detailed from other components of the Department to carry out the responsibilities under this subsection.

“(4) RESPONSIBILITIES.—The Assistant Secretary for State and Local Law Enforcement shall—

“(A) lead the coordination of Department-wide policies relating to the role of State and local law enforcement in preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disasters within the United States;

“(B) serve as a liaison between State, local, and tribal law enforcement agencies and the Department;

“(C) coordinate with the Office of Intelligence and Analysis to ensure the intelligence and information sharing requirements of State, local, and tribal law enforcement agencies are being addressed;

“(D) work with the Administrator to ensure that law enforcement and terrorism-focused grants to State, local, and tribal government agencies, including grants under sections 2003 and 2004, the Commercial Equipment Direct Assistance Program, and other grants administered by the Department to support fusion centers and law enforcement-oriented programs, are appropriately focused on terrorism prevention activities;

“(E) coordinate with the Science and Technology Directorate, the Federal Emergency Management Agency, the

Department of Justice, the National Institute of Justice, law enforcement organizations, and other appropriate entities to support the development, promulgation, and updating, as necessary, of national voluntary consensus standards for training and personal protective equipment to be used in a tactical environment by law enforcement officers; and

Study.
Reports.

“(F) conduct, jointly with the Administrator, a study to determine the efficacy and feasibility of establishing specialized law enforcement deployment teams to assist State, local, and tribal governments in responding to natural disasters, acts of terrorism, or other man-made disasters and report on the results of that study to the appropriate committees of Congress.

“(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to diminish, supercede, or replace the responsibilities, authorities, or role of the Administrator.

6 USC 608.

“SEC. 2007. PRIORITIZATION.

“(a) IN GENERAL.—In allocating funds among States and high-risk urban areas applying for grants under section 2003 or 2004, the Administrator shall consider, for each State or high-risk urban area—

“(1) its relative threat, vulnerability, and consequences from acts of terrorism, including consideration of—

“(A) its population, including appropriate consideration of military, tourist, and commuter populations;

“(B) its population density;

“(C) its history of threats, including whether it has been the target of a prior act of terrorism;

“(D) its degree of threat, vulnerability, and consequences related to critical infrastructure (for all critical infrastructure sectors) or key resources identified by the Administrator or the State homeland security plan, including threats, vulnerabilities, and consequences related to critical infrastructure or key resources in nearby jurisdictions;

“(E) the most current threat assessments available to the Department;

“(F) whether the State has, or the high-risk urban area is located at or near, an international border;

“(G) whether it has a coastline bordering an ocean (including the Gulf of Mexico) or international waters;

“(H) its likely need to respond to acts of terrorism occurring in nearby jurisdictions;

“(I) the extent to which it has unmet target capabilities;

“(J) in the case of a high-risk urban area, the extent to which that high-risk urban area includes—

“(i) those incorporated municipalities, counties, parishes, and Indian tribes within the relevant eligible metropolitan area, the inclusion of which will enhance regional efforts to prevent, prepare for, protect against, and respond to acts of terrorism; and

“(ii) other local and tribal governments in the surrounding area that are likely to be called upon to respond to acts of terrorism within the high-risk urban area; and

“(K) such other factors as are specified in writing by the Administrator; and

“(2) the anticipated effectiveness of the proposed use of the grant by the State or high-risk urban area in increasing the ability of that State or high-risk urban area to prevent, prepare for, protect against, and respond to acts of terrorism, to meet its target capabilities, and to otherwise reduce the overall risk to the high-risk urban area, the State, or the Nation.

“(b) TYPES OF THREAT.—In assessing threat under this section, the Administrator shall consider the following types of threat to critical infrastructure sectors and to populations in all areas of the United States, urban and rural:

“(1) Biological.

“(2) Chemical.

“(3) Cyber.

“(4) Explosives.

“(5) Incendiary.

“(6) Nuclear.

“(7) Radiological.

“(8) Suicide bombers.

“(9) Such other types of threat determined relevant by the Administrator.

“SEC. 2008. USE OF FUNDS.

6 USC 609.

“(a) PERMITTED USES.—Grants awarded under section 2003 or 2004 may be used to achieve target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism, consistent with a State homeland security plan and relevant local, tribal, and regional homeland security plans, through—

“(1) developing and enhancing homeland security, emergency management, or other relevant plans, assessments, or mutual aid agreements;

“(2) designing, conducting, and evaluating training and exercises, including training and exercises conducted under section 512 of this Act and section 648 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748);

“(3) protecting a system or asset included on the prioritized critical infrastructure list established under section 210E(a)(2);

“(4) purchasing, upgrading, storing, or maintaining equipment, including computer hardware and software;

“(5) ensuring operability and achieving interoperability of emergency communications;

“(6) responding to an increase in the threat level under the Homeland Security Advisory System, or to the needs resulting from a National Special Security Event;

“(7) establishing, enhancing, and staffing with appropriately qualified personnel State, local, and regional fusion centers that comply with the guidelines established under section 210A(i);

“(8) enhancing school preparedness;

“(9) supporting public safety answering points;

“(10) paying salaries and benefits for personnel, including individuals employed by the grant recipient on the date of the relevant grant application, to serve as qualified intelligence analysts;

“(11) paying expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant;

“(12) any activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the State Homeland Security Grant Program, the Urban Area Security Initiative (including activities permitted under the full-time counterterrorism staffing pilot), or the Law Enforcement Terrorism Prevention Program; and

“(13) any other appropriate activity, as determined by the Administrator.

“(b) LIMITATIONS ON USE OF FUNDS.—

“(1) IN GENERAL.—Funds provided under section 2003 or 2004 may not be used—

“(A) to supplant State or local funds, except that nothing in this paragraph shall prohibit the use of grant funds provided to a State or high-risk urban area for otherwise permissible uses under subsection (a) on the basis that a State or high-risk urban area has previously used State or local funds to support the same or similar uses; or

“(B) for any State or local government cost-sharing contribution.

“(2) PERSONNEL.—

“(A) IN GENERAL.—Not more than 50 percent of the amount awarded to a grant recipient under section 2003 or 2004 in any fiscal year may be used to pay for personnel, including overtime and backfill costs, in support of the permitted uses under subsection (a).

“(B) WAIVER.—At the request of the recipient of a grant under section 2003 or 2004, the Administrator may grant a waiver of the limitation under subparagraph (A).

“(3) CONSTRUCTION.—

“(A) IN GENERAL.—A grant awarded under section 2003 or 2004 may not be used to acquire land or to construct buildings or other physical facilities.

“(B) EXCEPTIONS.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A), nothing in this paragraph shall prohibit the use of a grant awarded under section 2003 or 2004 to achieve target capabilities related to preventing, preparing for, protecting against, or responding to acts of terrorism, including through the alteration or remodeling of existing buildings for the purpose of making such buildings secure against acts of terrorism.

“(ii) REQUIREMENTS FOR EXCEPTION.—No grant awarded under section 2003 or 2004 may be used for a purpose described in clause (i) unless—

“(I) specifically approved by the Administrator;

“(II) any construction work occurs under terms and conditions consistent with the requirements under section 611(j)(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(j)(9)); and

“(III) the amount allocated for purposes under clause (i) does not exceed the greater of \$1,000,000 or 15 percent of the grant award.

“(4) RECREATION.—Grants awarded under this subtitle may not be used for recreational or social purposes.

“(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this subtitle shall be construed to prohibit State, local, or tribal governments from using grant funds under sections 2003 and 2004 in a manner that enhances preparedness for disasters unrelated to acts of terrorism, if such use assists such governments in achieving target capabilities related to preventing, preparing for, protecting against, or responding to acts of terrorism.

“(d) REIMBURSEMENT OF COSTS.—

“(1) PAID-ON-CALL OR VOLUNTEER REIMBURSEMENT.—In addition to the activities described in subsection (a), a grant under section 2003 or 2004 may be used to provide a reasonable stipend to paid-on-call or volunteer emergency response providers who are not otherwise compensated for travel to or participation in training or exercises related to the purposes of this subtitle. Any such reimbursement shall not be considered compensation for purposes of rendering an emergency response provider an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

“(2) PERFORMANCE OF FEDERAL DUTY.—An applicant for a grant under section 2003 or 2004 may petition the Administrator to use the funds from its grants under those sections for the reimbursement of the cost of any activity relating to preventing, preparing for, protecting against, or responding to acts of terrorism that is a Federal duty and usually performed by a Federal agency, and that is being performed by a State or local government under agreement with a Federal agency.

“(e) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a grant under section 2003 or 2004, the Administrator may authorize the grant recipient to transfer all or part of the grant funds from uses specified in the grant agreement to other uses authorized under this section, if the Administrator determines that such transfer is in the interests of homeland security.

“(f) EQUIPMENT STANDARDS.—If an applicant for a grant under section 2003 or 2004 proposes to upgrade or purchase, with assistance provided under that grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards developed under section 647 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 747), the applicant shall include in its application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

“Subtitle B—Grants Administration

“SEC. 2021. ADMINISTRATION AND COORDINATION.

6 USC 611.

“(a) REGIONAL COORDINATION.—The Administrator shall ensure that—

“(1) all recipients of grants administered by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters (excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency

Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.)) coordinate, as appropriate, their prevention, preparedness, and protection efforts with neighboring State, local, and tribal governments; and

“(2) all high-risk urban areas and other recipients of grants administered by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters (excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.)) that include or substantially affect parts or all of more than 1 State coordinate, as appropriate, across State boundaries, including, where appropriate, through the use of regional working groups and requirements for regional plans.

“(b) PLANNING COMMITTEES.—

Establishment.

“(1) IN GENERAL.—Any State or high-risk urban area receiving a grant under section 2003 or 2004 shall establish a planning committee to assist in preparation and revision of the State, regional, or local homeland security plan and to assist in determining effective funding priorities for grants under sections 2003 and 2004.

“(2) COMPOSITION.—

“(A) IN GENERAL.—The planning committee shall include representatives of significant stakeholders, including—

“(i) local and tribal government officials; and

“(ii) emergency response providers, which shall include representatives of the fire service, law enforcement, emergency medical response, and emergency managers.

“(B) GEOGRAPHIC REPRESENTATION.—The members of the planning committee shall be a representative group of individuals from the counties, cities, towns, and Indian tribes within the State or high-risk urban area, including, as appropriate, representatives of rural, high-population, and high-threat jurisdictions.

“(3) EXISTING PLANNING COMMITTEES.—Nothing in this subsection may be construed to require that any State or high-risk urban area create a planning committee if that State or high-risk urban area has established and uses a multijurisdictional planning committee or commission that meets the requirements of this subsection.

“(c) INTERAGENCY COORDINATION.—

Deadline.

“(1) IN GENERAL.—Not later than 12 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary (acting through the Administrator), the Attorney General, the Secretary of Health and Human Services, and the heads of other agencies providing assistance to State, local, and tribal governments for preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disasters, shall jointly—

“(A) compile a comprehensive list of Federal grant programs for State, local, and tribal governments for preventing, preparing for, protecting against, and responding

to natural disasters, acts of terrorism, and other man-made disasters;

“(B) compile the planning, reporting, application, and other requirements and guidance for the grant programs described in subparagraph (A);

“(C) develop recommendations, as appropriate, to—

“(i) eliminate redundant and duplicative requirements for State, local, and tribal governments, including onerous application and ongoing reporting requirements;

“(ii) ensure accountability of the programs to the intended purposes of such programs;

“(iii) coordinate allocation of grant funds to avoid duplicative or inconsistent purchases by the recipients;

“(iv) make the programs more accessible and user friendly to applicants; and

“(v) ensure the programs are coordinated to enhance the overall preparedness of the Nation;

“(D) submit the information and recommendations under subparagraphs (A), (B), and (C) to the appropriate committees of Congress; and

Submission.

“(E) provide the appropriate committees of Congress, the Comptroller General, and any officer or employee of the Government Accountability Office with full access to any information collected or reviewed in preparing the submission under subparagraph (D).

“(2) SCOPE OF TASK.—Nothing in this subsection shall authorize the elimination, or the alteration of the purposes, as delineated by statute, regulation, or guidance, of any grant program that exists on the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, nor authorize the review or preparation of proposals on the elimination, or the alteration of such purposes, of any such grant program.

“(d) SENSE OF CONGRESS.—It is the sense of Congress that, in order to ensure that the Nation is most effectively able to prevent, prepare for, protect against, and respond to all hazards, including natural disasters, acts of terrorism, and other man-made disasters—

“(1) the Department should administer a coherent and coordinated system of both terrorism-focused and all-hazards grants;

“(2) there should be a continuing and appropriate balance between funding for terrorism-focused and all-hazards preparedness, as reflected in the authorizations of appropriations for grants under the amendments made by titles I and II, as applicable, of the Implementing Recommendations of the 9/11 Commission Act of 2007; and

“(3) with respect to terrorism-focused grants, it is necessary to ensure both that the target capabilities of the highest risk areas are achieved quickly and that basic levels of preparedness, as measured by the attainment of target capabilities, are achieved nationwide.

“SEC. 2022. ACCOUNTABILITY.

6 USC 612.

“(a) AUDITS OF GRANT PROGRAMS.—

“(1) COMPLIANCE REQUIREMENTS.—

“(A) AUDIT REQUIREMENT.—Each recipient of a grant administered by the Department that expends not less than \$500,000 in Federal funds during its fiscal year shall submit to the Administrator a copy of the organization-wide financial and compliance audit report required under chapter 75 of title 31, United States Code.

“(B) ACCESS TO INFORMATION.—The Department and each recipient of a grant administered by the Department shall provide the Comptroller General and any officer or employee of the Government Accountability Office with full access to information regarding the activities carried out related to any grant administered by the Department.

“(C) IMPROPER PAYMENTS.—Consistent with the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note), for each of the grant programs under sections 2003 and 2004 of this title and section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 762), the Administrator shall specify policies and procedures for—

“(i) identifying activities funded under any such grant program that are susceptible to significant improper payments; and

“(ii) reporting any improper payments to the Department.

“(2) AGENCY PROGRAM REVIEW.—

“(A) IN GENERAL.—Not less than once every 2 years, the Administrator shall conduct, for each State and high-risk urban area receiving a grant administered by the Department, a programmatic and financial review of all grants awarded by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters, excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.).

“(B) CONTENTS.—Each review under subparagraph (A) shall, at a minimum, examine—

“(i) whether the funds awarded were used in accordance with the law, program guidance, and State homeland security plans or other applicable plans; and

“(ii) the extent to which funds awarded enhanced the ability of a grantee to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism, and other man-made disasters.

“(C) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated to the Administrator, there are authorized to be appropriated to the Administrator for reviews under this paragraph—

“(i) \$8,000,000 for each of fiscal years 2008, 2009, and 2010; and

“(ii) such sums as are necessary for fiscal year 2011, and each fiscal year thereafter.

“(3) OFFICE OF INSPECTOR GENERAL PERFORMANCE AUDITS.—

“(A) IN GENERAL.—In order to ensure the effective and appropriate use of grants administered by the Department,

Deadline.

the Inspector General of the Department each year shall conduct audits of a sample of States and high-risk urban areas that receive grants administered by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters, excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.).

“(B) DETERMINING SAMPLES.—The sample selected for audits under subparagraph (A) shall be—

“(i) of an appropriate size to—

“(I) assess the overall integrity of the grant programs described in subparagraph (A); and

“(II) act as a deterrent to financial mismanagement; and

“(ii) selected based on—

“(I) the size of the grants awarded to the recipient;

“(II) the past grant management performance of the recipient;

“(III) concerns identified by the Administrator, including referrals from the Administrator; and

“(IV) such other factors as determined by the Inspector General of the Department.

“(C) COMPREHENSIVE AUDITING.—During the 7-year period beginning on the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department shall conduct not fewer than 1 audit of each State that receives funds under a grant under section 2003 or 2004.

Effective date.

“(D) REPORT BY THE INSPECTOR GENERAL.—

“(i) IN GENERAL.—The Inspector General of the Department shall submit to the appropriate committees of Congress an annual consolidated report regarding the audits completed during the fiscal year before the date of that report.

“(ii) CONTENTS.—Each report submitted under clause (i) shall describe, for the fiscal year before the date of that report—

“(I) the audits conducted under subparagraph (A);

“(II) the findings of the Inspector General with respect to the audits conducted under subparagraph (A);

“(III) whether the funds awarded were used in accordance with the law, program guidance, and State homeland security plans and other applicable plans; and

“(IV) the extent to which funds awarded enhanced the ability of a grantee to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism and other man-made disasters.

“(iii) DEADLINE.—For each year, the report required under clause (i) shall be submitted not later than December 31.

“(E) PUBLIC AVAILABILITY ON WEBSITE.—The Inspector General of the Department shall make each audit conducted under subparagraph (A) available on the website of the Inspector General, subject to redaction as the Inspector General determines necessary to protect classified and other sensitive information.

“(F) PROVISION OF INFORMATION TO ADMINISTRATOR.—The Inspector General of the Department shall provide to the Administrator any findings and recommendations from audits conducted under subparagraph (A).

Deadline.

“(G) EVALUATION OF GRANTS MANAGEMENT AND OVERSIGHT.—Not later than 1 year after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department shall review and evaluate the grants management and oversight practices of the Federal Emergency Management Agency, including assessment of and recommendations relating to—

“(i) the skills, resources, and capabilities of the workforce; and

“(ii) any additional resources and staff necessary to carry out such management and oversight.

“(H) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated to the Inspector General of the Department, there are authorized to be appropriated to the Inspector General of the Department for audits under subparagraph (A)—

“(i) \$8,500,000 for each of fiscal years 2008, 2009, and 2010; and

“(ii) such sums as are necessary for fiscal year 2011, and each fiscal year thereafter.

“(4) PERFORMANCE ASSESSMENT.—In order to ensure that States and high-risk urban areas are using grants administered by the Department appropriately to meet target capabilities and preparedness priorities, the Administrator shall—

“(A) ensure that any such State or high-risk urban area conducts or participates in exercises under section 648(b) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b));

“(B) use performance metrics in accordance with the comprehensive assessment system under section 649 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 749) and ensure that any such State or high-risk urban area regularly tests its progress against such metrics through the exercises required under subparagraph (A);

“(C) use the remedial action management program under section 650 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 750); and

Reports.

“(D) ensure that each State receiving a grant administered by the Department submits a report to the Administrator on its level of preparedness, as required by section 652(c) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(c)).

“(5) CONSIDERATION OF ASSESSMENTS.—In conducting program reviews and performance audits under paragraphs (2) and (3), the Administrator and the Inspector General of the

Department shall take into account the performance assessment elements required under paragraph (4).

“(6) RECOVERY AUDITS.—The Administrator shall conduct a recovery audit (as that term is defined by the Director of the Office of Management and Budget under section 3561 of title 31, United States Code) for any grant administered by the Department with a total value of not less than \$1,000,000, if the Administrator finds that—

“(A) a financial audit has identified improper payments that can be recouped; and

“(B) it is cost effective to conduct a recovery audit to recapture the targeted funds.

“(7) REMEDIES FOR NONCOMPLIANCE.—

“(A) IN GENERAL.—If, as a result of a review or audit under this subsection or otherwise, the Administrator finds that a recipient of a grant under this title has failed to substantially comply with any provision of law or with any regulations or guidelines of the Department regarding eligible expenditures, the Administrator shall—

“(i) reduce the amount of payment of grant funds to the recipient by an amount equal to the amount of grants funds that were not properly expended by the recipient;

“(ii) limit the use of grant funds to programs, projects, or activities not affected by the failure to comply;

“(iii) refer the matter to the Inspector General of the Department for further investigation;

“(iv) terminate any payment of grant funds to be made to the recipient; or

“(v) take such other action as the Administrator determines appropriate.

“(B) DURATION OF PENALTY.—The Administrator shall apply an appropriate penalty under subparagraph (A) until such time as the Administrator determines that the grant recipient is in full compliance with the law and with applicable guidelines or regulations of the Department.

“(b) REPORTS BY GRANT RECIPIENTS.—

“(1) QUARTERLY REPORTS ON HOMELAND SECURITY SPENDING.—

“(A) IN GENERAL.—As a condition of receiving a grant under section 2003 or 2004, a State, high-risk urban area, or directly eligible tribe shall, not later than 30 days after the end of each Federal fiscal quarter, submit to the Administrator a report on activities performed using grant funds during that fiscal quarter.

“(B) CONTENTS.—Each report submitted under subparagraph (A) shall at a minimum include, for the applicable State, high-risk urban area, or directly eligible tribe, and each subgrantee thereof—

“(i) the amount obligated to that recipient under section 2003 or 2004 in that quarter;

“(ii) the amount of funds received and expended under section 2003 or 2004 by that recipient in that quarter; and

“(iii) a summary description of expenditures made by that recipient using such funds, and the purposes for which such expenditures were made.

“(C) END-OF-YEAR REPORT.—The report submitted under subparagraph (A) by a State, high-risk urban area, or directly eligible tribe relating to the last quarter of any fiscal year shall include—

“(i) the amount and date of receipt of all funds received under the grant during that fiscal year;

“(ii) the identity of, and amount provided to, any subgrantee for that grant during that fiscal year;

“(iii) the amount and the dates of disbursements of all such funds expended in compliance with section 2021(a)(1) or under mutual aid agreements or other sharing arrangements that apply within the State, high-risk urban area, or directly eligible tribe, as applicable, during that fiscal year; and

“(iv) how the funds were used by each recipient or subgrantee during that fiscal year.

“(2) ANNUAL REPORT.—Any State applying for a grant under section 2004 shall submit to the Administrator annually a State preparedness report, as required by section 652(c) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(c)).

“(c) REPORTS BY THE ADMINISTRATOR.—

“(1) FEDERAL PREPAREDNESS REPORT.—The Administrator shall submit to the appropriate committees of Congress annually the Federal Preparedness Report required under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(a)).

“(2) RISK ASSESSMENT.—

“(A) IN GENERAL.—For each fiscal year, the Administrator shall provide to the appropriate committees of Congress a detailed and comprehensive explanation of the methodologies used to calculate risk and compute the allocation of funds for grants administered by the Department, including—

“(i) all variables included in the risk assessment and the weights assigned to each such variable;

“(ii) an explanation of how each such variable, as weighted, correlates to risk, and the basis for concluding there is such a correlation; and

“(iii) any change in the methodologies from the previous fiscal year, including changes in variables considered, weighting of those variables, and computational methods.

“(B) CLASSIFIED ANNEX.—The information required under subparagraph (A) shall be provided in unclassified form to the greatest extent possible, and may include a classified annex if necessary.

“(C) DEADLINE.—For each fiscal year, the information required under subparagraph (A) shall be provided on the earlier of—

“(i) October 31; or

“(ii) 30 days before the issuance of any program guidance for grants administered by the Department.

“(3) TRIBAL FUNDING REPORT.—At the end of each fiscal year, the Administrator shall submit to the appropriate committees of Congress a report setting forth the amount of funding provided during that fiscal year to Indian tribes under any grant program administered by the Department, whether provided directly or through a subgrant from a State or high-risk urban area.”.

SEC. 102. OTHER AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002.

(a) NATIONAL ADVISORY COUNCIL.—Section 508(b) of the Homeland Security Act of 2002 (6 U.S.C. 318(b)) is amended—

(1) by striking “The National Advisory” the first place that term appears and inserting the following:

“(1) IN GENERAL.—The National Advisory”; and

(2) by adding at the end the following:

“(2) CONSULTATION ON GRANTS.—To ensure input from and coordination with State, local, and tribal governments and emergency response providers, the Administrator shall regularly consult and work with the National Advisory Council on the administration and assessment of grant programs administered by the Department, including with respect to the development of program guidance and the development and evaluation of risk-assessment methodologies, as appropriate.”.

(b) EVACUATION PLANNING.—Section 512(b)(5)(A) of the Homeland Security Act of 2002 (6 U.S.C. 321a(b)(5)(A)) is amended by inserting “, including the elderly” after “needs”.

SEC. 103. AMENDMENTS TO THE POST-KATRINA EMERGENCY MANAGEMENT REFORM ACT OF 2006.

(a) FUNDING EFFICACY.—Section 652(a)(2) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(a)(2)) is amended—

(1) in subparagraph (C), by striking “and” at the end;

(2) in subparagraph (D), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(E) an evaluation of the extent to which grants administered by the Department, including grants under title XX of the Homeland Security Act of 2002—

“(i) have contributed to the progress of State, local, and tribal governments in achieving target capabilities; and

“(ii) have led to the reduction of risk from natural disasters, acts of terrorism, or other man-made disasters nationally and in State, local, and tribal jurisdictions.”.

(b) STATE PREPAREDNESS REPORT.—Section 652(c)(2)(D) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(c)(2)(D)) is amended by striking “an assessment of resource needs” and inserting “a discussion of the extent to which target capabilities identified in the applicable State homeland security plan and other applicable plans remain unmet and an assessment of resources needed”.

SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS.

(a) **IN GENERAL.**—The Homeland Security Act of 2002 (6 U.S.C. 101 *et seq.*) is amended—

- 6 USC 591. (1) by redesignating title XVIII, as added by the SAFE Port Act (Public Law 109–347; 120 Stat. 1884), as title XIX;
- 6 USC 591 *et seq.* (2) by redesignating sections 1801 through 1806, as added by the SAFE Port Act (Public Law 109–347; 120 Stat. 1884), as sections 1901 through 1906, respectively;
- 6 USC 594. (3) in section 1904(a), as so redesignated, by striking “section 1802” and inserting “section 1902”;
- 6 USC 596. (4) in section 1906, as so redesignated, by striking “section 1802(a)” each place that term appears and inserting “section 1902(a)”; and
- (5) in the table of contents in section 1(b), by striking the items relating to title XVIII and sections 1801 through 1806, as added by the SAFE Port Act (Public Law 109–347; 120 Stat. 1884), and inserting the following:

“TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE

- “Sec. 1901. Domestic Nuclear Detection Office.
- “Sec. 1902. Mission of Office.
- “Sec. 1903. Hiring authority.
- “Sec. 1904. Testing authority.
- “Sec. 1905. Relationship to other Department entities and Federal agencies.
- “Sec. 1906. Contracting and grant making authorities.

“TITLE XX—HOMELAND SECURITY GRANTS

“Sec. 2001. Definitions.

“Subtitle A—Grants to States and High-Risk Urban Areas

- “Sec. 2002. Homeland Security Grant Programs.
- “Sec. 2003. Urban Area Security Initiative.
- “Sec. 2004. State Homeland Security Grant Program.
- “Sec. 2005. Grants to directly eligible tribes.
- “Sec. 2006. Terrorism prevention.
- “Sec. 2007. Prioritization.
- “Sec. 2008. Use of funds.

“Subtitle B—Grants Administration

- “Sec. 2021. Administration and coordination.
- “Sec. 2022. Accountability.”.

TITLE II—EMERGENCY MANAGEMENT PERFORMANCE GRANTS

SEC. 201. EMERGENCY MANAGEMENT PERFORMANCE GRANT PROGRAM.

Section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 762) is amended to read as follows:

“SEC. 662. EMERGENCY MANAGEMENT PERFORMANCE GRANTS PROGRAM.

“(a) **DEFINITIONS.**—In this section—

- “(1) the term ‘program’ means the emergency management performance grants program described in subsection (b); and
- “(2) the term ‘State’ has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

“(b) **IN GENERAL.**—The Administrator of the Federal Emergency Management Agency shall continue implementation of an emergency management performance grants program, to make grants

to States to assist State, local, and tribal governments in preparing for all hazards, as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(c) FEDERAL SHARE.—Except as otherwise specifically provided by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Federal share of the cost of an activity carried out using funds made available under the program shall not exceed 50 percent.

“(d) APPORTIONMENT.—For fiscal year 2008, and each fiscal year thereafter, the Administrator shall apportion the amounts appropriated to carry out the program among the States as follows:

“(1) BASELINE AMOUNT.—The Administrator shall first apportion 0.25 percent of such amounts to each of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands and 0.75 percent of such amounts to each of the remaining States. Territories.
States.

“(2) REMAINDER.—The Administrator shall apportion the remainder of such amounts in the ratio that—

“(A) the population of each State; bears to

“(B) the population of all States.

“(e) CONSISTENCY IN ALLOCATION.—Notwithstanding subsection (d), in any fiscal year before fiscal year 2013 in which the appropriation for grants under this section is equal to or greater than the appropriation for emergency management performance grants in fiscal year 2007, no State shall receive an amount under this section for that fiscal year less than the amount that State received in fiscal year 2007.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program—

“(1) for fiscal year 2008, \$400,000,000;

“(2) for fiscal year 2009, \$535,000,000;

“(3) for fiscal year 2010, \$680,000,000;

“(4) for fiscal year 2011, \$815,000,000; and

“(5) for fiscal year 2012, \$950,000,000.”.

SEC. 202. GRANTS FOR CONSTRUCTION OF EMERGENCY OPERATIONS CENTERS.

Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended to read as follows:

“SEC. 614. GRANTS FOR CONSTRUCTION OF EMERGENCY OPERATIONS CENTERS.

“(a) GRANTS.—The Administrator of the Federal Emergency Management Agency may make grants to States under this title for equipping, upgrading, and constructing State and local emergency operations centers.

“(b) FEDERAL SHARE.—Notwithstanding any other provision of this title, the Federal share of the cost of an activity carried out using amounts from grants made under this section shall not exceed 75 percent.”.

TITLE III—ENSURING COMMUNICATIONS INTEROPERABILITY FOR FIRST RESPONDERS

SEC. 301. INTEROPERABLE EMERGENCY COMMUNICATIONS GRANT PROGRAM.

(a) ESTABLISHMENT.—Title XVIII of the Homeland Security Act of 2002 (6 U.S.C. 571 et seq.) is amended by adding at the end the following new section:

6 USC 579.

“SEC. 1809. INTEROPERABLE EMERGENCY COMMUNICATIONS GRANT PROGRAM.

“(a) ESTABLISHMENT.—The Secretary shall establish the Interoperable Emergency Communications Grant Program to make grants to States to carry out initiatives to improve local, tribal, statewide, regional, national and, where appropriate, international interoperable emergency communications, including communications in collective response to natural disasters, acts of terrorism, and other man-made disasters.

“(b) POLICY.—The Director for Emergency Communications shall ensure that a grant awarded to a State under this section is consistent with the policies established pursuant to the responsibilities and authorities of the Office of Emergency Communications under this title, including ensuring that activities funded by the grant—

“(1) comply with the statewide plan for that State required by section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)); and

“(2) comply with the National Emergency Communications Plan under section 1802, when completed.

“(c) ADMINISTRATION.—

“(1) IN GENERAL.—The Administrator of the Federal Emergency Management Agency shall administer the Interoperable Emergency Communications Grant Program pursuant to the responsibilities and authorities of the Administrator under title V of the Act.

“(2) GUIDANCE.—In administering the grant program, the Administrator shall ensure that the use of grants is consistent with guidance established by the Director of Emergency Communications pursuant to section 7303(a)(1)(H) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(1)(H)).

“(d) USE OF FUNDS.—A State that receives a grant under this section shall use the grant to implement that State’s Statewide Interoperability Plan required under section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)) and approved under subsection (e), and to assist with activities determined by the Secretary to be integral to interoperable emergency communications.

“(e) APPROVAL OF PLANS.—

“(1) APPROVAL AS CONDITION OF GRANT.—Before a State may receive a grant under this section, the Director of Emergency Communications shall approve the State’s Statewide Interoperable Communications Plan required under section

7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)).

“(2) PLAN REQUIREMENTS.—In approving a plan under this subsection, the Director of Emergency Communications shall ensure that the plan—

“(A) is designed to improve interoperability at the city, county, regional, State and interstate level;

“(B) considers any applicable local or regional plan; and

“(C) complies, to the maximum extent practicable, with the National Emergency Communications Plan under section 1802.

“(3) APPROVAL OF REVISIONS.—The Director of Emergency Communications may approve revisions to a State’s plan if the Director determines that doing so is likely to further interoperability.

“(f) LIMITATIONS ON USES OF FUNDS.—

“(1) IN GENERAL.—The recipient of a grant under this section may not use the grant—

“(A) to supplant State or local funds;

“(B) for any State or local government cost-sharing contribution; or

“(C) for recreational or social purposes.

“(2) PENALTIES.—In addition to other remedies currently available, the Secretary may take such actions as necessary to ensure that recipients of grant funds are using the funds for the purpose for which they were intended.

“(g) LIMITATIONS ON AWARD OF GRANTS.—

“(1) NATIONAL EMERGENCY COMMUNICATIONS PLAN REQUIRED.—The Secretary may not award a grant under this section before the date on which the Secretary completes and submits to Congress the National Emergency Communications Plan required under section 1802.

“(2) VOLUNTARY CONSENSUS STANDARDS.—The Secretary may not award a grant to a State under this section for the purchase of equipment that does not meet applicable voluntary consensus standards, unless the State demonstrates that there are compelling reasons for such purchase.

“(h) AWARD OF GRANTS.—In approving applications and awarding grants under this section, the Secretary shall consider—

“(1) the risk posed to each State by natural disasters, acts of terrorism, or other manmade disasters, including—

“(A) the likely need of a jurisdiction within the State to respond to such risk in nearby jurisdictions;

“(B) the degree of threat, vulnerability, and consequences related to critical infrastructure (from all critical infrastructure sectors) or key resources identified by the Administrator or the State homeland security and emergency management plans, including threats to, vulnerabilities of, and consequences from damage to critical infrastructure and key resources in nearby jurisdictions;

“(C) the size of the population and density of the population of the State, including appropriate consideration of military, tourist, and commuter populations;

“(D) whether the State is on or near an international border;

“(E) whether the State encompasses an economically significant border crossing; and

“(F) whether the State has a coastline bordering an ocean, a major waterway used for interstate commerce, or international waters; and

“(2) the anticipated effectiveness of the State’s proposed use of grant funds to improve interoperability.

“(i) OPPORTUNITY TO AMEND APPLICATIONS.—In considering applications for grants under this section, the Administrator shall provide applicants with a reasonable opportunity to correct defects in the application, if any, before making final awards.

“(j) MINIMUM GRANT AMOUNTS.—

“(1) STATES.—In awarding grants under this section, the Secretary shall ensure that for each fiscal year, except as provided in paragraph (2), no State receives a grant in an amount that is less than the following percentage of the total amount appropriated for grants under this section for that fiscal year:

“(A) For fiscal year 2008, 0.50 percent.

“(B) For fiscal year 2009, 0.50 percent.

“(C) For fiscal year 2010, 0.45 percent.

“(D) For fiscal year 2011, 0.40 percent.

“(E) For fiscal year 2012 and each subsequent fiscal year, 0.35 percent.

“(2) TERRITORIES AND POSSESSIONS.—In awarding grants under this section, the Secretary shall ensure that for each fiscal year, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands each receive grants in amounts that are not less than 0.08 percent of the total amount appropriated for grants under this section for that fiscal year.

“(k) CERTIFICATION.—Each State that receives a grant under this section shall certify that the grant is used for the purpose for which the funds were intended and in compliance with the State’s approved Statewide Interoperable Communications Plan.

“(l) STATE RESPONSIBILITIES.—

“(1) AVAILABILITY OF FUNDS TO LOCAL AND TRIBAL GOVERNMENTS.—Not later than 45 days after receiving grant funds, any State that receives a grant under this section shall obligate or otherwise make available to local and tribal governments—

“(A) not less than 80 percent of the grant funds;

“(B) with the consent of local and tribal governments, eligible expenditures having a value of not less than 80 percent of the amount of the grant; or

“(C) grant funds combined with other eligible expenditures having a total value of not less than 80 percent of the amount of the grant.

“(2) ALLOCATION OF FUNDS.—A State that receives a grant under this section shall allocate grant funds to tribal governments in the State to assist tribal communities in improving interoperable communications, in a manner consistent with the Statewide Interoperable Communications Plan. A State may not impose unreasonable or unduly burdensome requirements on a tribal government as a condition of providing grant funds or resources to the tribal government.

“(3) PENALTIES.—If a State violates the requirements of this subsection, in addition to other remedies available to the

Deadline.

Secretary, the Secretary may terminate or reduce the amount of the grant awarded to that State or transfer grant funds previously awarded to the State directly to the appropriate local or tribal government.

“(m) REPORTS.—

“(1) ANNUAL REPORTS BY STATE GRANT RECIPIENTS.—A State that receives a grant under this section shall annually submit to the Director of Emergency Communications a report on the progress of the State in implementing that State’s Statewide Interoperable Communications Plans required under section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)) and achieving interoperability at the city, county, regional, State, and interstate levels. The Director shall make the reports publicly available, including by making them available on the Internet website of the Office of Emergency Communications, subject to any redactions that the Director determines are necessary to protect classified or other sensitive information.

Public
information.

“(2) ANNUAL REPORTS TO CONGRESS.—At least once each year, the Director of Emergency Communications shall submit to Congress a report on the use of grants awarded under this section and any progress in implementing Statewide Interoperable Communications Plans and improving interoperability at the city, county, regional, State, and interstate level, as a result of the award of such grants.

“(n) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or interpreted to preclude a State from using a grant awarded under this section for interim or long-term Internet Protocol-based interoperable solutions.

“(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section—

“(1) for fiscal year 2008, such sums as may be necessary;

“(2) for each of fiscal years 2009 through 2012, \$400,000,000; and

“(3) for each subsequent fiscal year, such sums as may be necessary.”

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 1808 the following:

“Sec. 1809. Interoperable Emergency Communications Grant Program.”

(c) INTEROPERABLE COMMUNICATIONS PLANS.—Section 7303 of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 194) is amended—

(1) in subsection (f)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(6) include information on the governance structure used to develop the plan, including such information about all agencies and organizations that participated in developing the plan and the scope and timeframe of the plan; and

“(7) describe the method by which multi-jurisdictional, multidisciplinary input is provided from all regions of the jurisdiction, including any high-threat urban areas located in the

jurisdiction, and the process for continuing to incorporate such input.”;

(2) in subsection (g)(1), by striking “or video” and inserting “and video”.

6 USC 572.

(d) NATIONAL EMERGENCY COMMUNICATIONS PLAN.—Section 1802(c) of the Homeland Security Act of 2002 (6 U.S.C. 652(c)) is amended—

(1) in paragraph (8), by striking “and” at the end;

(2) in paragraph (9), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(10) set a date, including interim benchmarks, as appropriate, by which State, local, and tribal governments, Federal departments and agencies, and emergency response providers expect to achieve a baseline level of national interoperable communications, as that term is defined under section 7303(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1)).”.

SEC. 302. BORDER INTEROPERABILITY DEMONSTRATION PROJECT.

(a) IN GENERAL.—Title XVIII of the Homeland Security Act of 2002 (6 U.S.C. 571 et seq.) is amended by adding at the end the following new section:

6 USC 580.

“SEC. 1810. BORDER INTEROPERABILITY DEMONSTRATION PROJECT.

“(a) IN GENERAL.—

“(1) ESTABLISHMENT.—The Secretary, acting through the Director of the Office of Emergency Communications (referred to in this section as the ‘Director’), and in coordination with the Federal Communications Commission and the Secretary of Commerce, shall establish an International Border Community Interoperable Communications Demonstration Project (referred to in this section as the ‘demonstration project’).

“(2) MINIMUM NUMBER OF COMMUNITIES.—The Director shall select no fewer than 6 communities to participate in a demonstration project.

“(3) LOCATION OF COMMUNITIES.—No fewer than 3 of the communities selected under paragraph (2) shall be located on the northern border of the United States and no fewer than 3 of the communities selected under paragraph (2) shall be located on the southern border of the United States.

“(b) CONDITIONS.—The Director, in coordination with the Federal Communications Commission and the Secretary of Commerce, shall ensure that the project is carried out as soon as adequate spectrum is available as a result of the 800 megahertz rebanding process in border areas, and shall ensure that the border projects do not impair or impede the rebanding process, but under no circumstances shall funds be distributed under this section unless the Federal Communications Commission and the Secretary of Commerce agree that these conditions have been met.

Canada.
Mexico.

“(c) PROGRAM REQUIREMENTS.—Consistent with the responsibilities of the Office of Emergency Communications under section 1801, the Director shall foster local, tribal, State, and Federal interoperable emergency communications, as well as interoperable emergency communications with appropriate Canadian and Mexican authorities in the communities selected for the demonstration project. The Director shall—

“(1) identify solutions to facilitate interoperable communications across national borders expeditiously;

“(2) help ensure that emergency response providers can communicate with each other in the event of natural disasters, acts of terrorism, and other man-made disasters;

“(3) provide technical assistance to enable emergency response providers to deal with threats and contingencies in a variety of environments;

“(4) identify appropriate joint-use equipment to ensure communications access;

“(5) identify solutions to facilitate communications between emergency response providers in communities of differing population densities; and

“(6) take other actions or provide equipment as the Director deems appropriate to foster interoperable emergency communications.

“(d) DISTRIBUTION OF FUNDS.—

“(1) IN GENERAL.—The Secretary shall distribute funds under this section to each community participating in the demonstration project through the State, or States, in which each community is located.

“(2) OTHER PARTICIPANTS.—A State shall make the funds available promptly to the local and tribal governments and emergency response providers selected by the Secretary to participate in the demonstration project.

“(3) REPORT.—Not later than 90 days after a State receives funds under this subsection the State shall report to the Director on the status of the distribution of such funds to local and tribal governments.

“(e) MAXIMUM PERIOD OF GRANTS.—The Director may not fund any participant under the demonstration project for more than 3 years.

“(f) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Director shall establish mechanisms to ensure that the information and knowledge gained by participants in the demonstration project are transferred among the participants and to other interested parties, including other communities that submitted applications to the participant in the project.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this section such sums as may be necessary.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of that Act is amended by inserting after the item relating to section 1809 the following:

“Sec. 1810. Border interoperability demonstration project.”.

TITLE IV—STRENGTHENING USE OF THE INCIDENT COMMAND SYSTEM

SEC. 401. DEFINITIONS.

(a) IN GENERAL.—Section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311) is amended—

(1) by redesignating paragraphs (10) and (11) as paragraphs (12) and (13), respectively;

(2) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(3) by inserting after paragraph (3) the following:

“(4) the terms ‘credentialed’ and ‘credentialing’ mean having provided, or providing, respectively, documentation that identifies personnel and authenticates and verifies the qualifications of such personnel by ensuring that such personnel possess a minimum common level of training, experience, physical and medical fitness, and capability appropriate for a particular position in accordance with standards created under section 510;”;

(4) by inserting after paragraph (10), as so redesignated, the following:

“(11) the term ‘resources’ means personnel and major items of equipment, supplies, and facilities available or potentially available for responding to a natural disaster, act of terrorism, or other man-made disaster;”;

(5) in paragraph (12), as so redesignated, by striking “and” at the end;

(6) in paragraph (13), as so redesignated, by striking the period at the end and inserting “; and”; and

(7) by adding at the end the following:

“(14) the terms ‘typed’ and ‘typing’ mean having evaluated, or evaluating, respectively, a resource in accordance with standards created under section 510.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741) is amended—

(1) by redesignating paragraphs (2) through (10) as paragraphs (3) through (11), respectively;

(2) by inserting after paragraph (1) the following:

“(2) CREDENTIALLED; CREDENTIALING.—The terms ‘credentialed’ and ‘credentialing’ have the meanings given those terms in section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311).”; and

(3) by adding at the end the following:

“(12) RESOURCES.—The term ‘resources’ has the meaning given that term in section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311).

“(13) TYPE.—The term ‘type’ means a classification of resources that refers to the capability of a resource.

“(14) TYPED; TYPING.—The terms ‘typed’ and ‘typing’ have the meanings given those terms in section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311).”.

SEC. 402. NATIONAL EXERCISE PROGRAM DESIGN.

Section 648(b)(2)(A) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b)(2)(A)) is amended by striking clauses (iv) and (v) and inserting the following:

“(iv) designed to provide for the systematic evaluation of readiness and enhance operational understanding of the incident command system and relevant mutual aid agreements;

“(v) designed to address the unique requirements of populations with special needs, including the elderly; and

“(vi) designed to promptly develop after-action reports and plans for quickly incorporating lessons learned into future operations; and”.

SEC. 403. NATIONAL EXERCISE PROGRAM MODEL EXERCISES.

Section 648(b)(2)(B) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b)(2)(B)) is amended by striking “shall provide” and all that follows through “of exercises” and inserting the following: “shall include a selection of model exercises that State, local, and tribal governments can readily adapt for use and provide assistance to State, local, and tribal governments with the design, implementation, and evaluation of exercises (whether a model exercise program or an exercise designed locally)”.

SEC. 404. PREIDENTIFYING AND EVALUATING MULTIJURISDICTIONAL FACILITIES TO STRENGTHEN INCIDENT COMMAND; PRIVATE SECTOR PREPAREDNESS.

Section 507(c)(2) of the Homeland Security Act of 2002 (6 U.S.C. 317(c)(2)) is amended—

- (1) in subparagraph (H) by striking “and” at the end;
- (2) by redesignating subparagraph (I) as subparagraph (K);

and

- (3) by inserting after subparagraph (H) the following:

“(I) coordinating with the private sector to help ensure private sector preparedness for natural disasters, acts of terrorism, and other man-made disasters;

“(J) assisting State, local, and tribal governments, where appropriate, to preidentify and evaluate suitable sites where a multijurisdictional incident command system may quickly be established and operated from, if the need for such a system arises; and”.

SEC. 405. FEDERAL RESPONSE CAPABILITY INVENTORY.

Section 651 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 751) is amended—

- (1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “The inventory” and inserting “For each Federal agency with responsibilities under the National Response Plan, the inventory”;

(B) in paragraph (1), by striking “and” at the end;

(C) by redesignating paragraph (2) as paragraph (4);

and

(D) by inserting after paragraph (1) the following:

“(2) a list of personnel credentialed in accordance with section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320);

“(3) a list of resources typed in accordance with section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320); and”;

- (2) in subsection (d)—

(A) in paragraph (1), by striking “capabilities, readiness” and all that follows and inserting the following: “—

“(A) capabilities;

“(B) readiness;

“(C) the compatibility of equipment;

“(D) credentialed personnel; and

“(E) typed resources;”;

(B) in paragraph (2), by inserting “of capabilities, credentialed personnel, and typed resources” after “rapid deployment”; and

(C) in paragraph (3), by striking “inventories” and inserting “the inventory described in subsection (a)”.

SEC. 406. REPORTING REQUIREMENTS.

Section 652(a)(2) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(a)(2)), as amended by section 103, is further amended—

(1) in subparagraph (C), by striking “section 651(a);” and inserting “section 651, including the number and type of credentialed personnel in each category of personnel trained and ready to respond to a natural disaster, act of terrorism, or other man-made disaster;”;

(2) in subparagraph (D), by striking “and” at the end;

(3) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(F) a discussion of whether the list of credentialed personnel of the Agency described in section 651(b)(2)—

“(i) complies with the strategic human capital plan developed under section 10102 of title 5, United States Code; and

“(ii) is sufficient to respond to a natural disaster, act of terrorism, or other man-made disaster, including a catastrophic incident.”.

SEC. 407. FEDERAL PREPAREDNESS.

Section 653 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 753) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “coordinating, primary, or supporting”;

(B) in paragraph (2), by inserting “, including credentialing of personnel and typing of resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster in accordance with section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320)” before the semicolon at the end;

(C) in paragraph (3), by striking “and” at the end;

(D) in paragraph (4), by striking the period at the end and inserting “; and”; and

(E) by adding at the end the following:

“(5) regularly updates, verifies the accuracy of, and provides to the Administrator the information in the inventory required under section 651.”; and

(2) in subsection (d)—

(A) by inserting “to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives” after “The President shall certify”; and

(B) by striking “coordinating, primary, or supporting”.

SEC. 408. CREDENTIALING AND TYPING.

Section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320) is amended—

(1) by striking “The Administrator” and inserting the following:

“(a) IN GENERAL.—The Administrator”;

(2) in subsection (a), as so designated, by striking “credentialing of personnel and typing of” and inserting “for credentialing and typing of incident management personnel, emergency response providers, and other personnel (including temporary personnel) and”; and

(3) by adding at the end the following:

“(b) DISTRIBUTION.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Administrator shall provide the standards developed under subsection (a), including detailed written guidance, to—

Deadline.
Guidance.

“(A) each Federal agency that has responsibilities under the National Response Plan to aid that agency with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster; and

“(B) State, local, and tribal governments, to aid such governments with credentialing and typing of State, local, and tribal incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster.

“(2) ASSISTANCE.—The Administrator shall provide expertise and technical assistance to aid Federal, State, local, and tribal government agencies with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster.

“(c) CREDENTIALING AND TYPING OF PERSONNEL.—Not later than 6 months after receiving the standards provided under subsection (b), each Federal agency with responsibilities under the National Response Plan shall ensure that incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other manmade disaster are credentialed and typed in accordance with this section.

Deadline.

“(d) CONSULTATION ON HEALTH CARE STANDARDS.—In developing standards for credentialing health care professionals under this section, the Administrator shall consult with the Secretary of Health and Human Services.”.

SEC. 409. MODEL STANDARDS AND GUIDELINES FOR CRITICAL INFRASTRUCTURE WORKERS.

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

6 USC 321k.

“SEC. 522. MODEL STANDARDS AND GUIDELINES FOR CRITICAL INFRASTRUCTURE WORKERS.

Deadline.

“(a) IN GENERAL.—Not later than 12 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and in coordination with appropriate national professional organizations, Federal, State, local, and tribal government agencies, and private-sector and nongovernmental entities, the Administrator shall establish model standards and guidelines for credentialing critical infrastructure workers that may be used by a State to credential critical infrastructure workers that may respond to a natural disaster, act of terrorism, or other man-made disaster.

“(b) DISTRIBUTION AND ASSISTANCE.—The Administrator shall provide the standards developed under subsection (a), including detailed written guidance, to State, local, and tribal governments, and provide expertise and technical assistance to aid such governments with credentialing critical infrastructure workers that may respond to a natural disaster, act of terrorism, or other manmade disaster.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by inserting after the item relating to section 521 the following:

“Sec. 522. Model standards and guidelines for critical infrastructure workers.”.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this title and the amendments made by this title.

TITLE V—IMPROVING INTELLIGENCE AND INFORMATION SHARING WITHIN THE FEDERAL GOVERNMENT AND WITH STATE, LOCAL, AND TRIBAL GOVERNMENTS

Subtitle A—Homeland Security Information Sharing Enhancement

SEC. 501. HOMELAND SECURITY ADVISORY SYSTEM AND INFORMATION SHARING.

(a) ADVISORY SYSTEM AND INFORMATION SHARING.—

(1) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

6 USC 124.

“SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.

“(a) REQUIREMENT.—The Secretary shall administer the Homeland Security Advisory System in accordance with this section to provide advisories or warnings regarding the threat or risk that acts of terrorism will be committed on the homeland to Federal, State, local, and tribal government authorities and to the people of the United States, as appropriate. The Secretary shall exercise primary responsibility for providing such advisories or warnings.

“(b) **REQUIRED ELEMENTS.**—In administering the Homeland Security Advisory System, the Secretary shall—

“(1) establish criteria for the issuance and revocation of such advisories or warnings; Criteria.

“(2) develop a methodology, relying on the criteria established under paragraph (1), for the issuance and revocation of such advisories or warnings;

“(3) provide, in each such advisory or warning, specific information and advice regarding appropriate protective measures and countermeasures that may be taken in response to the threat or risk, at the maximum level of detail practicable to enable individuals, government entities, emergency response providers, and the private sector to act appropriately;

“(4) whenever possible, limit the scope of each such advisory or warning to a specific region, locality, or economic sector believed to be under threat or at risk; and

“(5) not, in issuing any advisory or warning, use color designations as the exclusive means of specifying homeland security threat conditions that are the subject of the advisory or warning.

“SEC. 204. HOMELAND SECURITY INFORMATION SHARING.

6 USC 124a.

“(a) **INFORMATION SHARING.**—Consistent with section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Secretary, acting through the Under Secretary for Intelligence and Analysis, shall integrate the information and standardize the format of the products of the intelligence components of the Department containing homeland security information, terrorism information, weapons of mass destruction information, or national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5))) except for any internal security protocols or personnel information of such intelligence components, or other administrative processes that are administered by any chief security officer of the Department.

“(b) **INFORMATION SHARING AND KNOWLEDGE MANAGEMENT OFFICERS.**—For each intelligence component of the Department, the Secretary shall designate an information sharing and knowledge management officer who shall report to the Under Secretary for Intelligence and Analysis regarding coordinating the different systems used in the Department to gather and disseminate homeland security information or national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5))).

“(c) **STATE, LOCAL, AND PRIVATE-SECTOR SOURCES OF INFORMATION.**—

“(1) **ESTABLISHMENT OF BUSINESS PROCESSES.**—The Secretary, acting through the Under Secretary for Intelligence and Analysis or the Assistant Secretary for Infrastructure Protection, as appropriate, shall—

“(A) establish Department-wide procedures for the review and analysis of information provided by State, local, and tribal governments and the private sector;

“(B) as appropriate, integrate such information into the information gathered by the Department and other departments and agencies of the Federal Government; and

“(C) make available such information, as appropriate, within the Department and to other departments and agencies of the Federal Government.

Procedures.

“(2) FEEDBACK.—The Secretary shall develop mechanisms to provide feedback regarding the analysis and utility of information provided by any entity of State, local, or tribal government or the private sector that provides such information to the Department.

“(d) TRAINING AND EVALUATION OF EMPLOYEES.—

“(1) TRAINING.—The Secretary, acting through the Under Secretary for Intelligence and Analysis or the Assistant Secretary for Infrastructure Protection, as appropriate, shall provide to employees of the Department opportunities for training and education to develop an understanding of—

“(A) the definitions of homeland security information and national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5))); and

“(B) how information available to such employees as part of their duties—

“(i) might qualify as homeland security information or national intelligence; and

“(ii) might be relevant to the Office of Intelligence and Analysis and the intelligence components of the Department.

“(2) EVALUATIONS.—The Under Secretary for Intelligence and Analysis shall—

“(A) on an ongoing basis, evaluate how employees of the Office of Intelligence and Analysis and the intelligence components of the Department are utilizing homeland security information or national intelligence, sharing information within the Department, as described in this title, and participating in the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485); and

“(B) provide to the appropriate component heads regular reports regarding the evaluations under subparagraph (A).

Reports.

6 USC 124b.

“SEC. 205. COMPREHENSIVE INFORMATION TECHNOLOGY NETWORK ARCHITECTURE.

“(a) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Intelligence and Analysis, shall establish, consistent with the policies and procedures developed under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), and consistent with the enterprise architecture of the Department, a comprehensive information technology network architecture for the Office of Intelligence and Analysis that connects the various databases and related information technology assets of the Office of Intelligence and Analysis and the intelligence components of the Department in order to promote internal information sharing among the intelligence and other personnel of the Department.

“(b) COMPREHENSIVE INFORMATION TECHNOLOGY NETWORK ARCHITECTURE DEFINED.—The term ‘comprehensive information technology network architecture’ means an integrated framework for evolving or maintaining existing information technology and acquiring new information technology to achieve the strategic management and information resources management goals of the Office of Intelligence and Analysis.

“SEC. 206. COORDINATION WITH INFORMATION SHARING ENVIRONMENT. 6 USC 124c.

“(a) GUIDANCE.—All activities to comply with sections 203, 204, and 205 shall be—

“(1) consistent with any policies, guidelines, procedures, instructions, or standards established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485);

“(2) implemented in coordination with, as appropriate, the program manager for the information sharing environment established under that section;

“(3) consistent with any applicable guidance issued by the Director of National Intelligence; and

“(4) consistent with any applicable guidance issued by the Secretary relating to the protection of law enforcement information or proprietary information.

“(b) CONSULTATION.—In carrying out the duties and responsibilities under this subtitle, the Under Secretary for Intelligence and Analysis shall take into account the views of the heads of the intelligence components of the Department.”.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended—

(i) by striking paragraph (7); and

(ii) by redesignating paragraphs (8) through (19) as paragraphs (7) through (18), respectively.

(B) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 202 the following:

“Sec. 203. Homeland Security Advisory System.

“Sec. 204. Homeland security information sharing.

“Sec. 205. Comprehensive information technology network architecture.

“Sec. 206. Coordination with information sharing environment.”.

(b) OFFICE OF INTELLIGENCE AND ANALYSIS AND OFFICE OF INFRASTRUCTURE PROTECTION.—Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended—

(1) in paragraph (1), by inserting “, in support of the mission responsibilities of the Department and the functions of the National Counterterrorism Center established under section 119 of the National Security Act of 1947 (50 U.S.C. 404o),” after “and to integrate such information”; and

(2) by striking paragraph (7), as redesignated by subsection (a)(2)(A)(ii) of this section, and inserting the following:

“(7) To review, analyze, and make recommendations for improvements to the policies and procedures governing the sharing of information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), including homeland security information, terrorism information, and weapons of mass destruction information, and any policies, guidelines, procedures, instructions, or standards established under that section.”.

(c) REPORT ON COMPREHENSIVE INFORMATION TECHNOLOGY NETWORK ARCHITECTURE.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental

Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the progress of the Secretary in developing the comprehensive information technology network architecture required under section 205 of the Homeland Security Act of 2002, as added by subsection (a). The report shall include—

(1) a description of the priorities for the development of the comprehensive information technology network architecture and a rationale for such priorities;

(2) an explanation of how the various components of the comprehensive information technology network architecture will work together and interconnect;

(3) a description of the technological challenges that the Secretary expects the Office of Intelligence and Analysis will face in implementing the comprehensive information technology network architecture;

(4) a description of the technological options that are available or are in development that may be incorporated into the comprehensive information technology network architecture, the feasibility of incorporating such options, and the advantages and disadvantages of doing so;

(5) an explanation of any security protections to be developed as part of the comprehensive information technology network architecture;

(6) a description of safeguards for civil liberties and privacy to be built into the comprehensive information technology network architecture; and

(7) an operational best practices plan.

SEC. 502. INTELLIGENCE COMPONENT DEFINED.

(a) IN GENERAL.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended—

(1) by redesignating paragraphs (9) through (16) as paragraphs (10) through (17), respectively; and

(2) by inserting after paragraph (8) the following:

“(9) The term ‘intelligence component of the Department’ means any element or entity of the Department that collects, gathers, processes, analyzes, produces, or disseminates intelligence information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, or national intelligence, as defined under section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5)), except—

“(A) the United States Secret Service; and

“(B) the Coast Guard, when operating under the direct authority of the Secretary of Defense or Secretary of the Navy pursuant to section 3 of title 14, United States Code, except that nothing in this paragraph shall affect or diminish the authority and responsibilities of the Commandant of the Coast Guard to command or control the Coast Guard as an armed force or the authority of the Director of National Intelligence with respect to the Coast Guard as an element of the intelligence community (as defined under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))).”.

(b) RECEIPT OF INFORMATION FROM UNITED STATES SECRET SERVICE.— 6 USC 124a note.

(1) IN GENERAL.—The Under Secretary for Intelligence and Analysis shall receive from the United States Secret Service homeland security information, terrorism information, weapons of mass destruction information (as these terms are defined in Section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485)), or national intelligence, as defined in Section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5)), as well as suspect information obtained in criminal investigations. The United States Secret Service shall cooperate with the Under Secretary for Intelligence and Analysis with respect to activities under sections 204 and 205 of the Homeland Security Act of 2002.

(2) SAVINGS CLAUSE.—Nothing in this Act shall interfere with the operation of Section 3056(g) of Title 18, United States Code, or with the authority of the Secretary of Homeland Security or the Director of the United States Secret Service regarding the budget of the United States Secret Service.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) HOMELAND SECURITY ACT OF 2002.—Paragraph (13) of section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311), as redesignated by section 401, is amended by striking “section 2(10)(B)” and inserting “section 2(11)(B)”.

(2) OTHER LAW.—Section 712(a) of title 14, United States Code, is amended by striking “section 2(15) of the Homeland Security Act of 2002 (6 U.S.C. 101(15))” and inserting “section 2(16) of the Homeland Security Act of 2002 (6 U.S.C. 101(16))”.

SEC. 503. ROLE OF INTELLIGENCE COMPONENTS, TRAINING, AND INFORMATION SHARING.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 is further amended by adding at the end the following:

“SEC. 207. INTELLIGENCE COMPONENTS.

6 USC 124d.

“Subject to the direction and control of the Secretary, and consistent with any applicable guidance issued by the Director of National Intelligence, the responsibilities of the head of each intelligence component of the Department are as follows:

“(1) To ensure that the collection, processing, analysis, and dissemination of information within the scope of the information sharing environment, including homeland security information, terrorism information, weapons of mass destruction information, and national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5))), are carried out effectively and efficiently in support of the intelligence mission of the Department, as led by the Under Secretary for Intelligence and Analysis.

“(2) To otherwise support and implement the intelligence mission of the Department, as led by the Under Secretary for Intelligence and Analysis.

“(3) To incorporate the input of the Under Secretary for Intelligence and Analysis with respect to performance appraisals, bonus or award recommendations, pay adjustments, and other forms of commendation.

“(4) To coordinate with the Under Secretary for Intelligence and Analysis in developing policies and requirements for the

recruitment and selection of intelligence officials of the intelligence component.

“(5) To advise and coordinate with the Under Secretary for Intelligence and Analysis on any plan to reorganize or restructure the intelligence component that would, if implemented, result in realignments of intelligence functions.

“(6) To ensure that employees of the intelligence component have knowledge of, and comply with, the programs and policies established by the Under Secretary for Intelligence and Analysis and other appropriate officials of the Department and that such employees comply with all applicable laws and regulations.

“(7) To perform such other activities relating to such responsibilities as the Secretary may provide.

6 USC 124e.

“SEC. 208. TRAINING FOR EMPLOYEES OF INTELLIGENCE COMPONENTS.

“The Secretary shall provide training and guidance for employees, officials, and senior executives of the intelligence components of the Department to develop knowledge of laws, regulations, operations, policies, procedures, and programs that are related to the functions of the Department relating to the collection, processing, analysis, and dissemination of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, or national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5))).

6 USC 124f.

“SEC. 209. INTELLIGENCE TRAINING DEVELOPMENT FOR STATE AND LOCAL GOVERNMENT OFFICIALS.

“(a) CURRICULUM.—The Secretary, acting through the Under Secretary for Intelligence and Analysis, shall—

“(1) develop a curriculum for training State, local, and tribal government officials, including law enforcement officers, intelligence analysts, and other emergency response providers, in the intelligence cycle and Federal laws, practices, and regulations regarding the development, handling, and review of intelligence and other information; and

“(2) ensure that the curriculum includes executive level training for senior level State, local, and tribal law enforcement officers, intelligence analysts, and other emergency response providers.

“(b) TRAINING.—To the extent possible, the Federal Law Enforcement Training Center and other existing Federal entities with the capacity and expertise to train State, local, and tribal government officials based on the curriculum developed under subsection (a) shall be used to carry out the training programs created under this section. If such entities do not have the capacity, resources, or capabilities to conduct such training, the Secretary may approve another entity to conduct such training.

“(c) CONSULTATION.—In carrying out the duties described in subsection (a), the Under Secretary for Intelligence and Analysis shall consult with the Director of the Federal Law Enforcement Training Center, the Attorney General, the Director of National Intelligence, the Administrator of the Federal Emergency Management Agency, and other appropriate parties, such as private industry, institutions of higher education, nonprofit institutions, and other intelligence agencies of the Federal Government.

“SEC. 210. INFORMATION SHARING INCENTIVES.

6 USC 124g.

“(a) **AWARDS.**—In making cash awards under chapter 45 of title 5, United States Code, the President or the head of an agency, in consultation with the program manager designated under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), may consider the success of an employee in appropriately sharing information within the scope of the information sharing environment established under that section, including homeland security information, terrorism information, and weapons of mass destruction information, or national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5))), in a manner consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of that environment for the implementation and management of that environment.

“(b) **OTHER INCENTIVES.**—The head of each department or agency described in section 1016(i) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485(i)), in consultation with the program manager designated under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), shall adopt best practices regarding effective ways to educate and motivate officers and employees of the Federal Government to participate fully in the information sharing environment, including—

“(1) promotions and other nonmonetary awards; and

“(2) publicizing information sharing accomplishments by individual employees and, where appropriate, the tangible end benefits that resulted.”.

(b) **CLERICAL AMENDMENT.**—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended further by inserting after the item relating to section 206 the following:

“Sec. 207. Intelligence components.

“Sec. 208. Training for employees of intelligence components.

“Sec. 209. Intelligence training development for State and local government officials.

“Sec. 210. Information sharing incentives.”.

SEC. 504. INFORMATION SHARING.

Section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

“(1) **HOMELAND SECURITY INFORMATION.**—The term ‘homeland security information’ has the meaning given that term in section 892(f) of the Homeland Security Act of 2002 (6 U.S.C. 482(f)).”;

(C) by striking paragraph (3), as so redesignated, and inserting the following:

“(3) **INFORMATION SHARING ENVIRONMENT.**—The terms ‘information sharing environment’ and ‘ISE’ mean an approach that facilitates the sharing of terrorism and homeland security information, which may include any method determined necessary and appropriate for carrying out this section.”;

(D) by striking paragraph (5), as so redesignated, and inserting the following:

“(5) TERRORISM INFORMATION.—The term ‘terrorism information’—

“(A) means all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to—

“(i) the existence, organization, capabilities, plans, intentions, vulnerabilities, means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism;

“(ii) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to those of other nations;

“(iii) communications of or by such groups or individuals; or

“(iv) groups or individuals reasonably believed to be assisting or associated with such groups or individuals; and

“(B) includes weapons of mass destruction information.”; and

(E) by adding at the end the following:

“(6) WEAPONS OF MASS DESTRUCTION INFORMATION.—The term ‘weapons of mass destruction information’ means information that could reasonably be expected to assist in the development, proliferation, or use of a weapon of mass destruction (including a chemical, biological, radiological, or nuclear weapon) that could be used by a terrorist or a terrorist organization against the United States, including information about the location of any stockpile of nuclear materials that could be exploited for use in such a weapon that could be used by a terrorist or a terrorist organization against the United States.”;

(2) in subsection (b)(2)—

(A) in subparagraph (H), by striking “and” at the end;

(B) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(J) integrates the information within the scope of the information sharing environment, including any such information in legacy technologies;

“(K) integrates technologies, including all legacy technologies, through Internet-based services, consistent with appropriate security protocols and safeguards, to enable connectivity among required users at the Federal, State, and local levels;

“(L) allows the full range of analytic and operational activities without the need to centralize information within the scope of the information sharing environment;

“(M) permits analysts to collaborate both independently and in a group (commonly known as ‘collective and non-collective collaboration’), and across multiple levels of national security information and controlled unclassified information;

“(N) provides a resolution process that enables changes by authorized officials regarding rules and policies for the

access, use, and retention of information within the scope of the information sharing environment; and

“(O) incorporates continuous, real-time, and immutable audit capabilities, to the maximum extent practicable.”;

(3) in subsection (f)—

(A) in paragraph (1)—

(i) by striking “during the two-year period beginning on the date of designation under this paragraph unless sooner removed from service and replaced” and inserting “until removed from service or replaced”; and

(ii) by striking “The program manager shall have and exercise governmentwide authority.” and inserting “The program manager, in consultation with the head of any affected department or agency, shall have and exercise governmentwide authority over the sharing of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, by all Federal departments, agencies, and components, irrespective of the Federal department, agency, or component in which the program manager may be administratively located, except as otherwise expressly provided by law.”; and

(B) in paragraph (2)(A)—

(i) by redesignating clause (iii) as clause (v); and

(ii) by striking clause (ii) and inserting the following:

“(ii) assist in the development of policies, as appropriate, to foster the development and proper operation of the ISE;

“(iii) consistent with the direction and policies issued by the President, the Director of National Intelligence, and the Director of the Office of Management and Budget, issue governmentwide procedures, guidelines, instructions, and functional standards, as appropriate, for the management, development, and proper operation of the ISE;

“(iv) identify and resolve information sharing disputes between Federal departments, agencies, and components; and”;

(4) in subsection (g)—

(A) in paragraph (1), by striking “during the two-year period beginning on the date of the initial designation of the program manager by the President under subsection (f)(1), unless sooner removed from service and replaced” and inserting “until removed from service or replaced”;

(B) in paragraph (2)—

(i) in subparagraph (F), by striking “and” at the end;

(ii) by redesignating subparagraph (G) as subparagraph (I); and

(iii) by inserting after subparagraph (F) the following:

“(G) assist the program manager in identifying and resolving information sharing disputes between Federal departments, agencies, and components;

“(H) identify appropriate personnel for assignment to the program manager to support staffing needs identified by the program manager; and”;

(C) in paragraph (4), by inserting “(including any subsidiary group of the Information Sharing Council)” before “shall not be subject”; and

(D) by adding at the end the following:

“(5) DETAILEES.—Upon a request by the Director of National Intelligence, the departments and agencies represented on the Information Sharing Council shall detail to the program manager, on a reimbursable basis, appropriate personnel identified under paragraph (2)(H).”;

(5) in subsection (h)(1), by striking “and annually thereafter” and inserting “and not later than June 30 of each year thereafter”; and

(6) by striking subsection (j) and inserting the following:

“(j) REPORT ON THE INFORMATION SHARING ENVIRONMENT.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the President shall report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Select Committee on Intelligence of the Senate, the Committee on Homeland Security of the House of Representatives, and the Permanent Select Committee on Intelligence of the House of Representatives on the feasibility of—

“(A) eliminating the use of any marking or process (including ‘Originator Control’) intended to, or having the effect of, restricting the sharing of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, between and among participants in the information sharing environment, unless the President has—

“(i) specifically exempted categories of information from such elimination; and

“(ii) reported that exemption to the committees of Congress described in the matter preceding this subparagraph; and

“(B) continuing to use Federal agency standards in effect on such date of enactment for the collection, sharing, and access to information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, relating to citizens and lawful permanent residents;

“(C) replacing the standards described in subparagraph (B) with a standard that would allow mission-based or threat-based permission to access or share information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, for a particular purpose that the Federal Government, through an appropriate process established in consultation with the Privacy and Civil Liberties Oversight Board established under section 1061, has determined to be lawfully

President.

permissible for a particular agency, component, or employee (commonly known as an ‘authorized use’ standard); and

“(D) the use of anonymized data by Federal departments, agencies, or components collecting, possessing, disseminating, or handling information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, in any cases in which—

“(i) the use of such information is reasonably expected to produce results materially equivalent to the use of information that is transferred or stored in a non-anonymized form; and

“(ii) such use is consistent with any mission of that department, agency, or component (including any mission under a Federal statute or directive of the President) that involves the storage, retention, sharing, or exchange of personally identifiable information.

“(2) DEFINITION.—In this subsection, the term ‘anonymized data’ means data in which the individual to whom the data pertains is not identifiable with reasonable efforts, including information that has been encrypted or hidden through the use of other technology.

“(k) ADDITIONAL POSITIONS.—The program manager is authorized to hire not more than 40 full-time employees to assist the program manager in—

“(1) activities associated with the implementation of the information sharing environment, including—

“(A) implementing the requirements under subsection (b)(2); and

“(B) any additional implementation initiatives to enhance and expedite the creation of the information sharing environment; and

“(2) identifying and resolving information sharing disputes between Federal departments, agencies, and components under subsection (f)(2)(A)(iv).

“(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$30,000,000 for each of fiscal years 2008 and 2009.”.

Subtitle B—Homeland Security Information Sharing Partnerships

SEC. 511. DEPARTMENT OF HOMELAND SECURITY STATE, LOCAL, AND REGIONAL FUSION CENTER INITIATIVE.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is further amended by adding at the end the following:

“SEC. 210A. DEPARTMENT OF HOMELAND SECURITY STATE, LOCAL, AND REGIONAL FUSION CENTER INITIATIVE.

6 USC 124h.

“(a) ESTABLISHMENT.—The Secretary, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Attorney General, the Privacy Officer of the Department, the Officer for Civil Rights

and Civil Liberties of the Department, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall establish a Department of Homeland Security State, Local, and Regional Fusion Center Initiative to establish partnerships with State, local, and regional fusion centers.

“(b) DEPARTMENT SUPPORT AND COORDINATION.—Through the Department of Homeland Security State, Local, and Regional Fusion Center Initiative, and in coordination with the principal officials of participating State, local, or regional fusion centers and the officers designated as the Homeland Security Advisors of the States, the Secretary shall—

“(1) provide operational and intelligence advice and assistance to State, local, and regional fusion centers;

“(2) support efforts to include State, local, and regional fusion centers into efforts to establish an information sharing environment;

“(3) conduct tabletop and live training exercises to regularly assess the capability of individual and regional networks of State, local, and regional fusion centers to integrate the efforts of such networks with the efforts of the Department;

“(4) coordinate with other relevant Federal entities engaged in homeland security-related activities;

“(5) provide analytic and reporting advice and assistance to State, local, and regional fusion centers;

“(6) review information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, that is gathered by State, local, and regional fusion centers, and to incorporate such information, as appropriate, into the Department’s own such information;

“(7) provide management assistance to State, local, and regional fusion centers;

“(8) serve as a point of contact to ensure the dissemination of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information;

“(9) facilitate close communication and coordination between State, local, and regional fusion centers and the Department;

“(10) provide State, local, and regional fusion centers with expertise on Department resources and operations;

“(11) provide training to State, local, and regional fusion centers and encourage such fusion centers to participate in terrorism threat-related exercises conducted by the Department; and

“(12) carry out such other duties as the Secretary determines are appropriate.

“(c) PERSONNEL ASSIGNMENT.—

“(1) IN GENERAL.—The Under Secretary for Intelligence and Analysis shall, to the maximum extent practicable, assign officers and intelligence analysts from components of the Department to participating State, local, and regional fusion centers.

“(2) PERSONNEL SOURCES.—Officers and intelligence analysts assigned to participating fusion centers under this

subsection may be assigned from the following Department components, in coordination with the respective component head and in consultation with the principal officials of participating fusion centers:

“(A) Office of Intelligence and Analysis.

“(B) Office of Infrastructure Protection.

“(C) Transportation Security Administration.

“(D) United States Customs and Border Protection.

“(E) United States Immigration and Customs Enforcement.

“(F) United States Coast Guard.

“(G) Other components of the Department, as determined by the Secretary.

“(3) QUALIFYING CRITERIA.—

“(A) IN GENERAL.—The Secretary shall develop qualifying criteria for a fusion center to participate in the assigning of Department officers or intelligence analysts under this section.

“(B) CRITERIA.—Any criteria developed under subparagraph (A) may include—

“(i) whether the fusion center, through its mission and governance structure, focuses on a broad counterterrorism approach, and whether that broad approach is pervasive through all levels of the organization;

“(ii) whether the fusion center has sufficient numbers of adequately trained personnel to support a broad counterterrorism mission;

“(iii) whether the fusion center has—

“(I) access to relevant law enforcement, emergency response, private sector, open source, and national security data; and

“(II) the ability to share and analytically utilize that data for lawful purposes;

“(iv) whether the fusion center is adequately funded by the State, local, or regional government to support its counterterrorism mission; and

“(v) the relevancy of the mission of the fusion center to the particular source component of Department officers or intelligence analysts.

“(4) PREREQUISITE.—

“(A) INTELLIGENCE ANALYSIS, PRIVACY, AND CIVIL LIBERTIES TRAINING.—Before being assigned to a fusion center under this section, an officer or intelligence analyst shall undergo—

“(i) appropriate intelligence analysis or information sharing training using an intelligence-led policing curriculum that is consistent with—

“(I) standard training and education programs offered to Department law enforcement and intelligence personnel; and

“(II) the Criminal Intelligence Systems Operating Policies under part 23 of title 28, Code of Federal Regulations (or any corresponding similar rule or regulation);

“(ii) appropriate privacy and civil liberties training that is developed, supported, or sponsored by the Privacy Officer appointed under section 222 and the Officer for Civil Rights and Civil Liberties of the Department, in consultation with the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note); and

“(iii) such other training prescribed by the Under Secretary for Intelligence and Analysis.

“(B) PRIOR WORK EXPERIENCE IN AREA.—In determining the eligibility of an officer or intelligence analyst to be assigned to a fusion center under this section, the Under Secretary for Intelligence and Analysis shall consider the familiarity of the officer or intelligence analyst with the State, locality, or region, as determined by such factors as whether the officer or intelligence analyst—

“(i) has been previously assigned in the geographic area; or

“(ii) has previously worked with intelligence officials or law enforcement or other emergency response providers from that State, locality, or region.

“(5) EXPEDITED SECURITY CLEARANCE PROCESSING.—The Under Secretary for Intelligence and Analysis—

“(A) shall ensure that each officer or intelligence analyst assigned to a fusion center under this section has the appropriate security clearance to contribute effectively to the mission of the fusion center; and

“(B) may request that security clearance processing be expedited for each such officer or intelligence analyst and may use available funds for such purpose.

“(6) FURTHER QUALIFICATIONS.—Each officer or intelligence analyst assigned to a fusion center under this section shall satisfy any other qualifications the Under Secretary for Intelligence and Analysis may prescribe.

“(d) RESPONSIBILITIES.—An officer or intelligence analyst assigned to a fusion center under this section shall—

“(1) assist law enforcement agencies and other emergency response providers of State, local, and tribal governments and fusion center personnel in using information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, to develop a comprehensive and accurate threat picture;

“(2) review homeland security-relevant information from law enforcement agencies and other emergency response providers of State, local, and tribal government;

“(3) create intelligence and other information products derived from such information and other homeland security-relevant information provided by the Department; and

“(4) assist in the dissemination of such products, as coordinated by the Under Secretary for Intelligence and Analysis, to law enforcement agencies and other emergency response providers of State, local, and tribal government, other fusion centers, and appropriate Federal agencies.

“(e) BORDER INTELLIGENCE PRIORITY.—

“(1) IN GENERAL.—The Secretary shall make it a priority to assign officers and intelligence analysts under this section from United States Customs and Border Protection, United States Immigration and Customs Enforcement, and the Coast Guard to participating State, local, and regional fusion centers located in jurisdictions along land or maritime borders of the United States in order to enhance the integrity of and security at such borders by helping Federal, State, local, and tribal law enforcement authorities to identify, investigate, and otherwise interdict persons, weapons, and related contraband that pose a threat to homeland security.

“(2) BORDER INTELLIGENCE PRODUCTS.—When performing the responsibilities described in subsection (d), officers and intelligence analysts assigned to participating State, local, and regional fusion centers under this section shall have, as a primary responsibility, the creation of border intelligence products that—

“(A) assist State, local, and tribal law enforcement agencies in deploying their resources most efficiently to help detect and interdict terrorists, weapons of mass destruction, and related contraband at land or maritime borders of the United States;

“(B) promote more consistent and timely sharing of border security-relevant information among jurisdictions along land or maritime borders of the United States; and

“(C) enhance the Department’s situational awareness of the threat of acts of terrorism at or involving the land or maritime borders of the United States.

“(f) DATABASE ACCESS.—In order to fulfill the objectives described under subsection (d), each officer or intelligence analyst assigned to a fusion center under this section shall have appropriate access to all relevant Federal databases and information systems, consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of the information sharing environment for the implementation and management of that environment.

“(g) CONSUMER FEEDBACK.—

“(1) IN GENERAL.—The Secretary shall create a voluntary mechanism for any State, local, or tribal law enforcement officer or other emergency response provider who is a consumer of the intelligence or other information products referred to in subsection (d) to provide feedback to the Department on the quality and utility of such intelligence products.

“(2) REPORT.—Not later than one year after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and annually thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that includes a description of the consumer feedback obtained under paragraph (1) and, if applicable, how the Department has adjusted its production of intelligence products in response to that consumer feedback.

“(h) RULE OF CONSTRUCTION.—

“(1) IN GENERAL.—The authorities granted under this section shall supplement the authorities granted under section

201(d) and nothing in this section shall be construed to abrogate the authorities granted under section 201(d).

“(2) PARTICIPATION.—Nothing in this section shall be construed to require a State, local, or regional government or entity to accept the assignment of officers or intelligence analysts of the Department into the fusion center of that State, locality, or region.

“(i) GUIDELINES.—The Secretary, in consultation with the Attorney General, shall establish guidelines for fusion centers created and operated by State and local governments, to include standards that any such fusion center shall—

“(1) collaboratively develop a mission statement, identify expectations and goals, measure performance, and determine effectiveness for that fusion center;

“(2) create a representative governance structure that includes law enforcement officers and other emergency response providers and, as appropriate, the private sector;

“(3) create a collaborative environment for the sharing of intelligence and information among Federal, State, local, and tribal government agencies (including law enforcement officers and other emergency response providers), the private sector, and the public, consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of the information sharing environment;

“(4) leverage the databases, systems, and networks available from public and private sector entities, in accordance with all applicable laws, to maximize information sharing;

“(5) develop, publish, and adhere to a privacy and civil liberties policy consistent with Federal, State, and local law;

“(6) provide, in coordination with the Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department, appropriate privacy and civil liberties training for all State, local, tribal, and private sector representatives at the fusion center;

“(7) ensure appropriate security measures are in place for the facility, data, and personnel;

“(8) select and train personnel based on the needs, mission, goals, and functions of that fusion center;

“(9) offer a variety of intelligence and information services and products to recipients of fusion center intelligence and information; and

“(10) incorporate law enforcement officers, other emergency response providers, and, as appropriate, the private sector, into all relevant phases of the intelligence and fusion process, consistent with the mission statement developed under paragraph (1), either through full time representatives or liaison relationships with the fusion center to enable the receipt and sharing of information and intelligence.

“(j) DEFINITIONS.—In this section—

“(1) the term ‘fusion center’ means a collaborative effort of 2 or more Federal, State, local, or tribal government agencies that combines resources, expertise, or information with the goal of maximizing the ability of such agencies to detect, prevent, investigate, apprehend, and respond to criminal or terrorist activity;

“(2) the term ‘information sharing environment’ means the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485);

“(3) the term ‘intelligence analyst’ means an individual who regularly advises, administers, supervises, or performs work in the collection, gathering, analysis, evaluation, reporting, production, or dissemination of information on political, economic, social, cultural, physical, geographical, scientific, or military conditions, trends, or forces in foreign or domestic areas that directly or indirectly affect national security;

“(4) the term ‘intelligence-led policing’ means the collection and analysis of information to produce an intelligence end product designed to inform law enforcement decision making at the tactical and strategic levels; and

“(5) the term ‘terrorism information’ has the meaning given that term in section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

“(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 for each of fiscal years 2008 through 2012, to carry out this section, except for subsection (i), including for hiring officers and intelligence analysts to replace officers and intelligence analysts who are assigned to fusion centers under this section.”.

(b) TRAINING FOR PREDEPLOYED OFFICERS AND ANALYSTS.—An officer or analyst assigned to a fusion center by the Secretary of Homeland Security before the date of the enactment of this Act shall undergo the training described in section 210A(c)(4)(A) of the Homeland Security Act of 2002, as added by subsection (a), by not later than 6 months after such date.

Deadline.
6 USC 124h note.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is further amended by inserting after the item relating to section 210 the following:

“Sec. 210A. Department of Homeland Security State, Local, and Regional Information Fusion Center Initiative.”.

(d) REPORTS.—

(1) CONCEPT OF OPERATIONS.—Not later than 90 days after the date of enactment of this Act and before the Department of Homeland Security State, Local, and Regional Fusion Center Initiative under section 210A of the Homeland Security Act of 2002, as added by subsection (a), (in this section referred to as the “program”) has been implemented, the Secretary, in consultation with the Privacy Officer of the Department, the Officer for Civil Rights and Civil Liberties of the Department, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that contains a concept of operations for the program, which shall—

(A) include a clear articulation of the purposes, goals, and specific objectives for which the program is being developed;

(B) identify stakeholders in the program and provide an assessment of their needs;

(C) contain a developed set of quantitative metrics to measure, to the extent possible, program output;

(D) contain a developed set of qualitative instruments (including surveys and expert interviews) to assess the extent to which stakeholders believe their needs are being met; and

(E) include a privacy and civil liberties impact assessment.

Deadline.
Reports.

(2) **PRIVACY AND CIVIL LIBERTIES.**—Not later than 1 year after the date of the enactment of this Act, the Privacy Officer of the Department of Homeland Security and the Officer for Civil Liberties and Civil Rights of the Department of Homeland Security, consistent with any policies of the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, the Secretary of Homeland Security, the Under Secretary of Homeland Security for Intelligence and Analysis, and the Privacy and Civil Liberties Oversight Board a report on the privacy and civil liberties impact of the program.

SEC. 512. HOMELAND SECURITY INFORMATION SHARING FELLOWS PROGRAM.

(a) **ESTABLISHMENT OF PROGRAM.**—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is further amended by adding at the end the following:

6 USC 124i.

“SEC. 210B. HOMELAND SECURITY INFORMATION SHARING FELLOWS PROGRAM.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Intelligence and Analysis, and in consultation with the Chief Human Capital Officer, shall establish a fellowship program in accordance with this section for the purpose of—

“(A) detailing State, local, and tribal law enforcement officers and intelligence analysts to the Department in accordance with subchapter VI of chapter 33 of title 5, United States Code, to participate in the work of the Office of Intelligence and Analysis in order to become familiar with—

“(i) the relevant missions and capabilities of the Department and other Federal agencies; and

“(ii) the role, programs, products, and personnel of the Office of Intelligence and Analysis; and

“(B) promoting information sharing between the Department and State, local, and tribal law enforcement officers and intelligence analysts by assigning such officers and analysts to—

“(i) serve as a point of contact in the Department to assist in the representation of State, local, and tribal information requirements;

“(ii) identify information within the scope of the information sharing environment, including homeland

security information, terrorism information, and weapons of mass destruction information, that is of interest to State, local, and tribal law enforcement officers, intelligence analysts, and other emergency response providers;

“(iii) assist Department analysts in preparing and disseminating products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, that are tailored to State, local, and tribal law enforcement officers and intelligence analysts and designed to prepare for and thwart acts of terrorism; and

“(iv) assist Department analysts in preparing products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, that are tailored to State, local, and tribal emergency response providers and assist in the dissemination of such products through appropriate Department channels.

“(2) PROGRAM NAME.—The program under this section shall be known as the ‘Homeland Security Information Sharing Fellows Program’.

“(b) ELIGIBILITY.—

“(1) IN GENERAL.—In order to be eligible for selection as an Information Sharing Fellow under the program under this section, an individual shall—

“(A) have homeland security-related responsibilities;

“(B) be eligible for an appropriate security clearance;

“(C) possess a valid need for access to classified information, as determined by the Under Secretary for Intelligence and Analysis;

“(D) be an employee of an eligible entity; and

“(E) have undergone appropriate privacy and civil liberties training that is developed, supported, or sponsored by the Privacy Officer and the Officer for Civil Rights and Civil Liberties, in consultation with the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note).

“(2) ELIGIBLE ENTITIES.—In this subsection, the term ‘eligible entity’ means—

“(A) a State, local, or regional fusion center;

“(B) a State or local law enforcement or other government entity that serves a major metropolitan area, suburban area, or rural area, as determined by the Secretary;

“(C) a State or local law enforcement or other government entity with port, border, or agricultural responsibilities, as determined by the Secretary;

“(D) a tribal law enforcement or other authority; or

“(E) such other entity as the Secretary determines is appropriate.

“(c) OPTIONAL PARTICIPATION.—No State, local, or tribal law enforcement or other government entity shall be required to participate in the Homeland Security Information Sharing Fellows Program.

“(d) PROCEDURES FOR NOMINATION AND SELECTION.—

“(1) IN GENERAL.—The Under Secretary for Intelligence and Analysis shall establish procedures to provide for the nomination and selection of individuals to participate in the Homeland Security Information Sharing Fellows Program.

“(2) LIMITATIONS.—The Under Secretary for Intelligence and Analysis shall—

“(A) select law enforcement officers and intelligence analysts representing a broad cross-section of State, local, and tribal agencies; and

“(B) ensure that the number of Information Sharing Fellows selected does not impede the activities of the Office of Intelligence and Analysis.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is further amended by inserting after the item relating to section 210A the following:

“Sec. 210B. Homeland Security Information Sharing Fellows Program.”.

(c) REPORTS.—

(1) CONCEPT OF OPERATIONS.—Not later than 90 days after the date of enactment of this Act, and before the implementation of the Homeland Security Information Sharing Fellows Program under section 210B of the Homeland Security Act of 2002, as added by subsection (a), (in this section referred to as the “Program”) the Secretary, in consultation with the Privacy Officer of the Department, the Officer for Civil Rights and Civil Liberties of the Department, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that contains a concept of operations for the Program, which shall include a privacy and civil liberties impact assessment.

(2) REVIEW OF PRIVACY IMPACT.—Not later than 1 year after the date on which the program is implemented, the Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department, consistent with any policies of the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, the Secretary of Homeland Security, the Under Secretary of Homeland Security for Intelligence and Analysis, and the Privacy and Civil Liberties Oversight Board, a report on the privacy and civil liberties impact of the program.

SEC. 513. RURAL POLICING INSTITUTE.

(a) **ESTABLISHMENT.**—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is further amended by adding at the end the following:

“SEC. 210C. RURAL POLICING INSTITUTE.

6 USC 124j.

“(a) **IN GENERAL.**—The Secretary shall establish a Rural Policing Institute, which shall be administered by the Federal Law Enforcement Training Center, to target training to law enforcement agencies and other emergency response providers located in rural areas. The Secretary, through the Rural Policing Institute, shall—

“(1) evaluate the needs of law enforcement agencies and other emergency response providers in rural areas;

“(2) develop expert training programs designed to address the needs of law enforcement agencies and other emergency response providers in rural areas as identified in the evaluation conducted under paragraph (1), including training programs about intelligence-led policing and protections for privacy, civil rights, and civil liberties;

“(3) provide the training programs developed under paragraph (2) to law enforcement agencies and other emergency response providers in rural areas; and

“(4) conduct outreach efforts to ensure that local and tribal governments in rural areas are aware of the training programs developed under paragraph (2) so they can avail themselves of such programs.

“(b) **CURRICULA.**—The training at the Rural Policing Institute established under subsection (a) shall—

“(1) be configured in a manner so as not to duplicate or displace any law enforcement or emergency response program of the Federal Law Enforcement Training Center or a local or tribal government entity in existence on the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007; and

“(2) to the maximum extent practicable, be delivered in a cost-effective manner at facilities of the Department, on closed military installations with adequate training facilities, or at facilities operated by the participants.

“(c) **DEFINITION.**—In this section, the term ‘rural’ means an area that is not located in a metropolitan statistical area, as defined by the Office of Management and Budget.

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section (including for contracts, staff, and equipment)—

“(1) \$10,000,000 for fiscal year 2008; and

“(2) \$5,000,000 for each of fiscal years 2009 through 2013.”.

(b) **CLERICAL AMENDMENT.**—The table of contents in section 1(b) of such Act is further amended by inserting after the item relating to section 210B the following:

“Sec. 210C. Rural Policing Institute.”.

Subtitle C—Interagency Threat Assessment and Coordination Group

SEC. 521. INTERAGENCY THREAT ASSESSMENT AND COORDINATION GROUP.

(a) ESTABLISHMENT.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is further amended by adding at the end the following:

6 USC 124k.

“SEC. 210D. INTERAGENCY THREAT ASSESSMENT AND COORDINATION GROUP.

“(a) IN GENERAL.—To improve the sharing of information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) with State, local, tribal, and private sector officials, the Director of National Intelligence, through the program manager for the information sharing environment, in coordination with the Secretary, shall coordinate and oversee the creation of an Interagency Threat Assessment and Coordination Group (referred to in this section as the ‘ITACG’).

“(b) COMPOSITION OF ITACG.—The ITACG shall consist of—

“(1) an ITACG Advisory Council to set policy and develop processes for the integration, analysis, and dissemination of federally-coordinated information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information; and

“(2) an ITACG Detail comprised of State, local, and tribal homeland security and law enforcement officers and intelligence analysts detailed to work in the National Counterterrorism Center with Federal intelligence analysts for the purpose of integrating, analyzing, and assisting in the dissemination of federally-coordinated information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, through appropriate channels identified by the ITACG Advisory Council.

Deadline.
Reports.

“(c) RESPONSIBILITIES OF PROGRAM MANAGER.—The program manager, in consultation with the Information Sharing Council, shall—

“(1) monitor and assess the efficacy of the ITACG; and

“(2) not later than 180 days after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and at least annually thereafter, submit to the Secretary, the Attorney General, the Director of National Intelligence, the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the progress of the ITACG.

“(d) RESPONSIBILITIES OF SECRETARY.—The Secretary, or the Secretary’s designee, in coordination with the Director of the National Counterterrorism Center and the ITACG Advisory Council, shall—

“(1) create policies and standards for the creation of information products derived from information within the scope of the information sharing environment, including homeland

security information, terrorism information, and weapons of mass destruction information, that are suitable for dissemination to State, local, and tribal governments and the private sector;

“(2) evaluate and develop processes for the timely dissemination of federally-coordinated information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, to State, local, and tribal governments and the private sector;

“(3) establish criteria and a methodology for indicating to State, local, and tribal governments and the private sector the reliability of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, disseminated to them; Criteria.

“(4) educate the intelligence community about the requirements of the State, local, and tribal homeland security, law enforcement, and other emergency response providers regarding information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information;

“(5) establish and maintain the ITACG Detail, which shall assign an appropriate number of State, local, and tribal homeland security and law enforcement officers and intelligence analysts to work in the National Counterterrorism Center who shall— Establishment.

“(A) educate and advise National Counterterrorism Center intelligence analysts about the requirements of the State, local, and tribal homeland security and law enforcement officers, and other emergency response providers regarding information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information;

“(B) assist National Counterterrorism Center intelligence analysts in integrating, analyzing, and otherwise preparing versions of products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information that are unclassified or classified at the lowest possible level and suitable for dissemination to State, local, and tribal homeland security and law enforcement agencies in order to help deter and prevent terrorist attacks;

“(C) implement, in coordination with National Counterterrorism Center intelligence analysts, the policies, processes, procedures, standards, and guidelines developed by the ITACG Advisory Council;

“(D) assist in the dissemination of products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, to State, local, and tribal jurisdictions only through appropriate channels identified by the ITACG Advisory Council; and

“(E) report directly to the senior intelligence official from the Department under paragraph (6);

“(6) detail a senior intelligence official from the Department of Homeland Security to the National Counterterrorism Center, who shall—

“(A) manage the day-to-day operations of the ITACG Detail;

“(B) report directly to the Director of the National Counterterrorism Center or the Director’s designee; and

“(C) in coordination with the Director of the Federal Bureau of Investigation, and subject to the approval of the Director of the National Counterterrorism Center, select a deputy from the pool of available detailees from the Federal Bureau of Investigation in the National Counterterrorism Center; and

“(7) establish, within the ITACG Advisory Council, a mechanism to select law enforcement officers and intelligence analysts for placement in the National Counterterrorism Center consistent with paragraph (5), using criteria developed by the ITACG Advisory Council that shall encourage participation from a broadly representative group of State, local, and tribal homeland security and law enforcement agencies.

“(e) MEMBERSHIP.—The Secretary, or the Secretary’s designee, shall serve as the chair of the ITACG Advisory Council, which shall include—

“(1) representatives of—

“(A) the Department;

“(B) the Federal Bureau of Investigation;

“(C) the National Counterterrorism Center;

“(D) the Department of Defense;

“(E) the Department of Energy;

“(F) the Department of State; and

“(G) other Federal entities as appropriate;

“(2) the program manager of the information sharing environment, designated under section 1016(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485(f)), or the program manager’s designee; and

“(3) executive level law enforcement and intelligence officials from State, local, and tribal governments.

“(f) CRITERIA.—The Secretary, in consultation with the Director of National Intelligence, the Attorney General, and the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), shall—

Procedures.

“(1) establish procedures for selecting members of the ITACG Advisory Council and for the proper handling and safeguarding of products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, by those members; and

“(2) ensure that at least 50 percent of the members of the ITACG Advisory Council are from State, local, and tribal governments.

Deadline.

“(g) OPERATIONS.—

“(1) IN GENERAL.—Beginning not later than 90 days after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the ITACG Advisory

Council shall meet regularly, but not less than quarterly, at the facilities of the National Counterterrorism Center of the Office of the Director of National Intelligence.

“(2) MANAGEMENT.—Pursuant to section 119(f)(E) of the National Security Act of 1947 (50 U.S.C. 404o(f)(E)), the Director of the National Counterterrorism Center, acting through the senior intelligence official from the Department of Homeland Security detailed pursuant to subsection (d)(6), shall ensure that—

“(A) the products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, prepared by the National Counterterrorism Center and the ITACG Detail for distribution to State, local, and tribal homeland security and law enforcement agencies reflect the requirements of such agencies and are produced consistently with the policies, processes, procedures, standards, and guidelines established by the ITACG Advisory Council;

“(B) in consultation with the ITACG Advisory Council and consistent with sections 102A(f)(1)(B)(iii) and 119(f)(E) of the National Security Act of 1947 (50 U.S.C. 402 et seq.), all products described in subparagraph (A) are disseminated through existing channels of the Department and the Department of Justice and other appropriate channels to State, local, and tribal government officials and other entities;

“(C) all detailees under subsection (d)(5) have appropriate access to all relevant information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, available at the National Counterterrorism Center in order to accomplish the objectives under that paragraph;

“(D) all detailees under subsection (d)(5) have the appropriate security clearances and are trained in the procedures for handling, processing, storing, and disseminating classified products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information; and

“(E) all detailees under subsection (d)(5) complete appropriate privacy and civil liberties training.

“(h) INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the ITACG or any subsidiary groups thereof.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012 to carry out this section, including to obtain security clearances for the State, local, and tribal participants in the ITACG.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 210C the following:

6 USC 101 *et seq.*

“Sec. 210D. Interagency Threat Assessment and Coordination Group.”.

Deadline.

(c) **PRIVACY AND CIVIL LIBERTIES IMPACT ASSESSMENT.**—Not later than 90 days after the date of the enactment of this Act, the Privacy Officer and the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security and the Chief Privacy and Civil Liberties Officer for the Department of Justice, in consultation with the Civil Liberties Protection Officer of the Office of the Director of National Intelligence, shall submit to the Secretary of Homeland Security, the Director of the Federal Bureau of Investigation, the Attorney General, the Director of the National Counterterrorism Center, the Director of National Intelligence, the Privacy and Civil Liberties Oversight Board, and the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives, a privacy and civil liberties impact assessment of the Interagency Threat Assessment and Coordination Group under section 210D of the Homeland Security Act of 2002, as added by subsection (a), including the use of State, local, and tribal detailees at the National Counterterrorism Center, as described in subsection (d)(5) of that section.

Subtitle D—Homeland Security Intelligence Offices Reorganization

SEC. 531. OFFICE OF INTELLIGENCE AND ANALYSIS AND OFFICE OF INFRASTRUCTURE PROTECTION.

6 USC 121.

(a) **IN GENERAL.**—Section 201 of the Homeland Security Act of 2002 (6 U.S.C. 201) is amended—

(1) in the section heading, by striking “**DIRECTORATE FOR INFORMATION**” and inserting “**INFORMATION AND**”;

(2) by striking subsections (a) through (c) and inserting the following:

“(a) **INTELLIGENCE AND ANALYSIS AND INFRASTRUCTURE PROTECTION.**—There shall be in the Department an Office of Intelligence and Analysis and an Office of Infrastructure Protection.

President.

“(b) **UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS AND ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.**—

“(1) **OFFICE OF INTELLIGENCE AND ANALYSIS.**—The Office of Intelligence and Analysis shall be headed by an Under Secretary for Intelligence and Analysis, who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) **CHIEF INTELLIGENCE OFFICER.**—The Under Secretary for Intelligence and Analysis shall serve as the Chief Intelligence Officer of the Department.

“(3) **OFFICE OF INFRASTRUCTURE PROTECTION.**—The Office of Infrastructure Protection shall be headed by an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

“(c) **DISCHARGE OF RESPONSIBILITIES.**—The Secretary shall ensure that the responsibilities of the Department relating to information analysis and infrastructure protection, including those described in subsection (d), are carried out through the Under Secretary for Intelligence and Analysis or the Assistant Secretary for Infrastructure Protection, as appropriate.”;

(3) in subsection (d)—

(A) in the subsection heading, by striking “UNDER SECRETARY” and inserting “SECRETARY RELATING TO INTELLIGENCE AND ANALYSIS AND INFRASTRUCTURE PROTECTION”;

(B) in the matter preceding paragraph (1), by striking “Subject to the direction” and all that follows through “Infrastructure Protection” and inserting the following: “The responsibilities of the Secretary relating to intelligence and analysis and infrastructure protection”;

(C) in paragraph (9), as redesignated under section 510(a)(2)(A)(ii), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”;

(D) in paragraph (11)(B), as so redesignated, by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”;

(E) by redesignating paragraph (18), as so redesignated, as paragraph (24); and

(F) by inserting after paragraph (17), as so redesignated, the following:

“(18) To coordinate and enhance integration among the intelligence components of the Department, including through strategic oversight of the intelligence activities of such components.

“(19) To establish the intelligence collection, processing, analysis, and dissemination priorities, policies, processes, standards, guidelines, and procedures for the intelligence components of the Department, consistent with any directions from the President and, as applicable, the Director of National Intelligence.

“(20) To establish a structure and process to support the missions and goals of the intelligence components of the Department.

“(21) To ensure that, whenever possible, the Department—

“(A) produces and disseminates unclassified reports and analytic products based on open-source information; and

“(B) produces and disseminates such reports and analytic products contemporaneously with reports or analytic products concerning the same or similar information that the Department produced and disseminated in a classified format.

“(22) To establish within the Office of Intelligence and Analysis an internal continuity of operations plan.

“(23) Based on intelligence priorities set by the President, and guidance from the Secretary and, as appropriate, the Director of National Intelligence—

“(A) to provide to the heads of each intelligence component of the Department guidance for developing the budget pertaining to the activities of such component; and

“(B) to present to the Secretary a recommendation for a consolidated budget for the intelligence components of the Department, together with any comments from the heads of such components.”;

(4) in subsection (e)(1)—

(A) by striking “Directorate” the first place that term appears and inserting “Office of Intelligence and Analysis and the Office of Infrastructure Protection”; and

(B) by striking “the Directorate in discharging” and inserting “such offices in discharging”;

(5) in subsection (f)(1), by striking “Directorate” and inserting “Office of Intelligence and Analysis and the Office of Infrastructure Protection”; and

(6) In subsection (g), in the matter preceding paragraph (1), by striking “Under Secretary for Information Analysis and Infrastructure Protection” and inserting “Office of Intelligence and Analysis and the Office of Infrastructure Protection”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Such Act is further amended—

6 USC 143. (A) in section 223, by striking “Under Secretary for Information Analysis and Infrastructure Protection” and inserting “Under Secretary for Intelligence and Analysis, in cooperation with the Assistant Secretary for Infrastructure Protection”;

6 USC 144. (B) in section 224, by striking “Under Secretary for Information Analysis and Infrastructure Protection” and inserting “Assistant Secretary for Infrastructure Protection”;

6 USC 182. (C) in section 302(3), by striking “Under Secretary for Information Analysis and Infrastructure Protection” and inserting “Under Secretary for Intelligence and Analysis and the Assistant Secretary for Infrastructure Protection”; and

6 USC 321. (D) in section 521(d)—
 (i) in paragraph (1), by striking “Directorate for Information Analysis and Infrastructure Protection” and inserting “Office of Intelligence and Analysis”; and
 (ii) in paragraph (2), by striking “Under Secretary for Information Analysis and Infrastructure Protection” and inserting “Under Secretary for Intelligence and Analysis”.

(2) ADDITIONAL UNDER SECRETARY.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(A) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(B) by inserting after paragraph (7) the following:

“(8) An Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs of the Department.”

(3) HEADING.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended in the subtitle heading by striking “**Directorate for Information**” and inserting “**Information and**”.

(4) TABLE OF CONTENTS.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended in the table of contents in section 1(b) by striking the items relating to subtitle A of title II and section 201 and inserting the following:

“Subtitle A—Information and Analysis and Infrastructure Protection; Access to Information

“Sec. 201. Information and Analysis and Infrastructure Protection.”.

(5) NATIONAL SECURITY ACT OF 1947.—Section 106(b)(2)(I) of the National Security Act of 1947 (50 U.S.C. 403–6) is amended to read as follows:

“(I) The Under Secretary of Homeland Security for Intelligence and Analysis.”

(c) **TREATMENT OF INCUMBENT.**—The individual administratively performing the duties of the Under Secretary for Intelligence and Analysis as of the date of the enactment of this Act may continue to perform such duties after the date on which the President nominates an individual to serve as the Under Secretary pursuant to section 201 of the Homeland Security Act of 2002, as amended by this section, and until the individual so appointed assumes the duties of the position.

President.
6 USC 121 note.

Subtitle E—Authorization of Appropriations

SEC. 541. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for each of fiscal years 2008 through 2012 such sums as may be necessary to carry out this title and the amendments made by this title.

TITLE VI—CONGRESSIONAL OVERSIGHT OF INTELLIGENCE

SEC. 601. AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.

50 USC 415c.

(a) **AMOUNTS APPROPRIATED EACH FISCAL YEAR.**—Not later than 30 days after the end of each fiscal year beginning with fiscal year 2007, the Director of National Intelligence shall disclose to the public the aggregate amount of funds appropriated by Congress for the National Intelligence Program for such fiscal year.

Deadline.

(b) **WAIVER.**—Beginning with fiscal year 2009, the President may waive or postpone the disclosure required by subsection (a) for any fiscal year by, not later than 30 days after the end of such fiscal year, submitting to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives—

President.
Deadline.
Submission.

(1) a statement, in unclassified form, that the disclosure required in subsection (a) for that fiscal year would damage national security; and

(2) a statement detailing the reasons for the waiver or postponement, which may be submitted in classified form.

(c) **DEFINITION.**—As used in this section, the term “National Intelligence Program” has the meaning given the term in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6)).

SEC. 602. PUBLIC INTEREST DECLASSIFICATION BOARD.

The Public Interest Declassification Act of 2000 (50 U.S.C. 435 note) is amended—

(1) by striking “Director of Central Intelligence” each place that term appears and inserting “Director of National Intelligence”;

(2) in section 704(e)—

(A) by striking “If requested” and inserting the following:

“(1) **IN GENERAL.**—If requested”; and

50 USC 435 note.

(B) by adding at the end the following:

“(2) **AUTHORITY OF BOARD.**—Upon receiving a congressional request described in section 703(b)(5), the Board may conduct the review and make the recommendations described in that section, regardless of whether such a review is requested by the President.

“(3) **REPORTING.**—Any recommendations submitted to the President by the Board under section 703(b)(5), shall be submitted to the chairman and ranking minority member of the committee of Congress that made the request relating to such recommendations.”;

50 USC 435 note.

(3) in section 705(c), in the subsection heading, by striking “DIRECTOR OF CENTRAL INTELLIGENCE” and inserting “DIRECTOR OF NATIONAL INTELLIGENCE”; and

50 USC 435 note.

(4) in section 710(b), by striking “8 years after the date” and all that follows and inserting “on December 31, 2012.”.

SEC. 603. SENSE OF THE SENATE REGARDING A REPORT ON THE 9/11 COMMISSION RECOMMENDATIONS WITH RESPECT TO INTELLIGENCE REFORM AND CONGRESSIONAL INTELLIGENCE OVERSIGHT REFORM.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The National Commission on Terrorist Attacks Upon the United States (referred to in this section as the “9/11 Commission”) conducted a lengthy review of the facts and circumstances relating to the terrorist attacks of September 11, 2001, including those relating to the intelligence community, law enforcement agencies, and the role of congressional oversight and resource allocation.

(2) In its final report, the 9/11 Commission found that—

(A) congressional oversight of the intelligence activities of the United States is dysfunctional;

(B) under the rules of the Senate and the House of Representatives in effect at the time the report was completed, the committees of Congress charged with oversight of the intelligence activities lacked the power, influence, and sustained capability to meet the daunting challenges faced by the intelligence community of the United States;

(C) as long as such oversight is governed by such rules of the Senate and the House of Representatives, the people of the United States will not get the security they want and need;

(D) a strong, stable, and capable congressional committee structure is needed to give the intelligence community of the United States appropriate oversight, support, and leadership; and

(E) the reforms recommended by the 9/11 Commission in its final report will not succeed if congressional oversight of the intelligence community in the United States is not changed.

(3) The 9/11 Commission recommended structural changes to Congress to improve the oversight of intelligence activities.

(4) Congress has enacted some of the recommendations made by the 9/11 Commission and is considering implementing additional recommendations of the 9/11 Commission.

(5) The Senate adopted Senate Resolution 445 in the 108th Congress to address some of the intelligence oversight recommendations of the 9/11 Commission by abolishing term limits for the members of the Select Committee on Intelligence, clarifying jurisdiction for intelligence-related nominations, and streamlining procedures for the referral of intelligence-related legislation, but other aspects of the 9/11 Commission recommendations regarding intelligence oversight have not been implemented.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate each, or jointly, should—

(1) undertake a review of the recommendations made in the final report of the 9/11 Commission with respect to intelligence reform and congressional intelligence oversight reform;

(2) review and consider any other suggestions, options, or recommendations for improving intelligence oversight; and

(3) not later than December 21, 2007, submit to the Senate a report that includes the recommendations of the committees, if any, for carrying out such reforms.

SEC. 604. AVAILABILITY OF FUNDS FOR THE PUBLIC INTEREST DECLASSIFICATION BOARD.

Section 21067 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289; 120 Stat. 1311), as amended by Public Law 109–369 (120 Stat. 2642), Public Law 109–383 (120 Stat. 2678), and Public Law 110–5, is amended by adding at the end the following new subsection:

“(c) From the amount provided by this section, the National Archives and Records Administration may obligate monies necessary to carry out the activities of the Public Interest Declassification Board.”.

SEC. 605. AVAILABILITY OF THE EXECUTIVE SUMMARY OF THE REPORT ON CENTRAL INTELLIGENCE AGENCY ACCOUNTABILITY REGARDING THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

(a) PUBLIC AVAILABILITY.—Not later than 30 days after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall prepare and make available to the public a version of the Executive Summary of the report entitled the “Office of Inspector General Report on Central Intelligence Agency Accountability Regarding Findings and Conclusions of the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001” issued in June 2005 that is declassified to the maximum extent possible, consistent with national security.

(b) REPORT TO CONGRESS.—The Director of the Central Intelligence Agency shall submit to Congress a classified annex to the redacted Executive Summary made available under subsection (a) that explains the reason that any redacted material in the Executive Summary was withheld from the public.

TITLE VII—STRENGTHENING EFFORTS TO PREVENT TERRORIST TRAVEL

Subtitle A—Terrorist Travel

SEC. 701. REPORT ON INTERNATIONAL COLLABORATION TO INCREASE BORDER SECURITY, ENHANCE GLOBAL DOCUMENT SECURITY, AND EXCHANGE TERRORIST INFORMATION.

(a) **REPORT REQUIRED.**—Not later than 270 days after the date of the enactment of this Act, the Secretary of State and the Secretary of Homeland Security, in conjunction with the Director of National Intelligence and the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report on efforts of the Government of the United States to collaborate with international partners and allies of the United States to increase border security, enhance global document security, and exchange terrorism information.

(b) **CONTENTS.**—The report required by subsection (a) shall outline—

(1) all presidential directives, programs, and strategies for carrying out and increasing United States Government efforts described in subsection (a);

(2) the goals and objectives of each of these efforts;

(3) the progress made in each of these efforts; and

(4) the projected timelines for each of these efforts to become fully functional and effective.

(c) **DEFINITION.**—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Foreign Affairs, the Committee on Homeland Security, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate.

Subtitle B—Visa Waiver

SEC. 711. MODERNIZATION OF THE VISA WAIVER PROGRAM.

(a) **SHORT TITLE.**—This section may be cited as the “Secure Travel and Counterterrorism Partnership Act of 2007”.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the United States should modernize and strengthen the security of the visa waiver program under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) by simultaneously—

(A) enhancing program security requirements; and

(B) extending visa-free travel privileges to nationals of foreign countries that are partners in the war on terrorism—

(i) that are actively cooperating with the United States to prevent terrorist travel, including sharing

Secure Travel
and
Counterterrorism
Partnership Act
of 2007.
8 USC 1101 note.
8 USC 1187 note.

counterterrorism and law enforcement information; and

(ii) whose nationals have demonstrated their compliance with the provisions of the Immigration and Nationality Act regarding the purpose and duration of their admission to the United States; and

(2) the modernization described in paragraph (1) will—

(A) enhance bilateral cooperation on critical counterterrorism and information sharing initiatives;

(B) support and expand tourism and business opportunities to enhance long-term economic competitiveness; and

(C) strengthen bilateral relationships.

(c) DISCRETIONARY VISA WAIVER PROGRAM EXPANSION.—Section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)) is amended by adding at the end the following new paragraphs:

“(8) NONIMMIGRANT VISA REFUSAL RATE FLEXIBILITY.—

“(A) CERTIFICATION.—

“(i) IN GENERAL.—On the date on which an air exit system is in place that can verify the departure of not less than 97 percent of foreign nationals who exit through airports of the United States and the electronic travel authorization system required under subsection (h)(3) is fully operational, the Secretary of Homeland Security shall certify to Congress that such air exit system and electronic travel authorization system are in place.

“(ii) NOTIFICATION TO CONGRESS.—The Secretary shall notify Congress in writing of the date on which the air exit system under clause (i) fully satisfies the biometric requirements specified in subsection (i).

“(iii) TEMPORARY SUSPENSION OF WAIVER AUTHORITY.—Notwithstanding any certification made under clause (i), if the Secretary has not notified Congress in accordance with clause (ii) by June 30, 2009, the Secretary’s waiver authority under subparagraph (B) shall be suspended beginning on July 1, 2009, until such time as the Secretary makes such notification.

“(iv) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as in any way abrogating the reporting requirements under subsection (i)(3).

“(B) WAIVER.—After certification by the Secretary under subparagraph (A), the Secretary, in consultation with the Secretary of State, may waive the application of paragraph (2)(A) for a country if—

“(i) the country meets all security requirements of this section;

“(ii) the Secretary of Homeland Security determines that the totality of the country’s security risk mitigation measures provide assurance that the country’s participation in the program would not compromise the law enforcement, security interests, or enforcement of the immigration laws of the United States;

“(iii) there has been a sustained reduction in the rate of refusals for nonimmigrant visas for nationals

of the country and conditions exist to continue such reduction;

“(iv) the country cooperated with the Government of the United States on counterterrorism initiatives, information sharing, and preventing terrorist travel before the date of its designation as a program country, and the Secretary of Homeland Security and the Secretary of State determine that such cooperation will continue; and

“(v)(I) the rate of refusals for nonimmigrant visitor visas for nationals of the country during the previous full fiscal year was not more than ten percent; or

“(II) the visa overstay rate for the country for the previous full fiscal year does not exceed the maximum visa overstay rate, once such rate is established under subparagraph (C).

“(C) MAXIMUM VISA OVERSTAY RATE.—

“(i) REQUIREMENT TO ESTABLISH.—After certification by the Secretary under subparagraph (A), the Secretary and the Secretary of State jointly shall use information from the air exit system referred to in such subparagraph to establish a maximum visa overstay rate for countries participating in the program pursuant to a waiver under subparagraph (B). The Secretary of Homeland Security shall certify to Congress that such rate would not compromise the law enforcement, security interests, or enforcement of the immigration laws of the United States.

“(ii) VISA OVERSTAY RATE DEFINED.—In this paragraph the term ‘visa overstay rate’ means, with respect to a country, the ratio of—

“(I) the total number of nationals of that country who were admitted to the United States on the basis of a nonimmigrant visa whose periods of authorized stays ended during a fiscal year but who remained unlawfully in the United States beyond such periods; to

“(II) the total number of nationals of that country who were admitted to the United States on the basis of a nonimmigrant visa during that fiscal year.

“(iii) REPORT AND PUBLICATION.—The Secretary of Homeland Security shall on the same date submit to Congress and publish in the Federal Register information relating to the maximum visa overstay rate established under clause (i). Not later than 60 days after such date, the Secretary shall issue a final maximum visa overstay rate above which a country may not participate in the program.

“(9) DISCRETIONARY SECURITY-RELATED CONSIDERATIONS.—In determining whether to waive the application of paragraph (2)(A) for a country, pursuant to paragraph (8), the Secretary of Homeland Security, in consultation with the Secretary of State, shall take into consideration other factors affecting the security of the United States, including—

“(A) airport security standards in the country;

Certification.

Federal Register,
publication.

“(B) whether the country assists in the operation of an effective air marshal program;

“(C) the standards of passports and travel documents issued by the country; and

“(D) other security-related factors, including the country’s cooperation with the United States’ initiatives toward combating terrorism and the country’s cooperation with the United States intelligence community in sharing information regarding terrorist threats.”

(d) SECURITY ENHANCEMENTS TO THE VISA WAIVER PROGRAM.—

(1) IN GENERAL.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(A) in subsection (a), in the flush text following paragraph (9)—

(i) by striking “Operators of aircraft” and inserting the following:

“(10) ELECTRONIC TRANSMISSION OF IDENTIFICATION INFORMATION.—Operators of aircraft”; and

(ii) by adding at the end the following new paragraph:

“(11) ELIGIBILITY DETERMINATION UNDER THE ELECTRONIC TRAVEL AUTHORIZATION SYSTEM.—Beginning on the date on which the electronic travel authorization system developed under subsection (h)(3) is fully operational, each alien traveling under the program shall, before applying for admission to the United States, electronically provide to the system biographical information and such other information as the Secretary of Homeland Security shall determine necessary to determine the eligibility of, and whether there exists a law enforcement or security risk in permitting, the alien to travel to the United States. Upon review of such biographical information, the Secretary of Homeland Security shall determine whether the alien is eligible to travel to the United States under the program.”;

(B) in subsection (c)—

(i) in paragraph (2)—

(I) by amending subparagraph (D) to read as follows:

“(D) REPORTING LOST AND STOLEN PASSPORTS.—The government of the country enters into an agreement with the United States to report, or make available through Interpol or other means as designated by the Secretary of Homeland Security, to the United States Government information about the theft or loss of passports within a strict time limit and in a manner specified in the agreement.”; and

(II) by adding at the end the following new subparagraphs:

“(E) REPATRIATION OF ALIENS.—The government of the country accepts for repatriation any citizen, former citizen, or national of the country against whom a final executable order of removal is issued not later than three weeks after the issuance of the final order of removal. Nothing in this subparagraph creates any duty for the United States or any right for any alien with respect to removal or release. Nothing in this subparagraph gives rise to any cause of action or claim under this paragraph or any other law against any official of the United States or of any State

to compel the release, removal, or consideration for release or removal of any alien.

“(F) PASSENGER INFORMATION EXCHANGE.—The government of the country enters into an agreement with the United States to share information regarding whether citizens and nationals of that country traveling to the United States represent a threat to the security or welfare of the United States or its citizens.”;

(ii) in paragraph (5)—

(I) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

(II) in subparagraph (A)(i)—

(aa) in subclause (II), by striking “and” at the end;

(bb) in subclause (III)—

(AA) by striking “and the Committee on International Relations” and inserting “, the Committee on Foreign Affairs, and the Committee on Homeland Security,” and by striking “and the Committee on Foreign Relations” and inserting “, the Committee on Foreign Relations, and the Committee on Homeland Security and Governmental Affairs”; and

(BB) by striking the period at the end and inserting “; and”; and

(cc) by adding at the end the following new subclause:

“(IV) shall submit to Congress a report regarding the implementation of the electronic travel authorization system under subsection (h)(3) and the participation of new countries in the program through a waiver under paragraph (8).”; and

(III) in subparagraph (B), by adding at the end the following new clause:

“(iv) PROGRAM SUSPENSION AUTHORITY.—The Director of National Intelligence shall immediately inform the Secretary of Homeland Security of any current and credible threat which poses an imminent danger to the United States or its citizens and originates from a country participating in the visa waiver program. Upon receiving such notification, the Secretary, in consultation with the Secretary of State—

“(I) may suspend a country from the visa waiver program without prior notice;

“(II) shall notify any country suspended under subclause (I) and, to the extent practicable without disclosing sensitive intelligence sources and methods, provide justification for the suspension; and

“(III) shall restore the suspended country’s participation in the visa waiver program upon a determination that the threat no longer poses an imminent danger to the United States or its citizens.”; and

Reports.

Notification.

(iii) by adding at the end the following new paragraphs:

“(10) TECHNICAL ASSISTANCE.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall provide technical assistance to program countries to assist those countries in meeting the requirements under this section. The Secretary of Homeland Security shall ensure that the program office within the Department of Homeland Security is adequately staffed and has resources to be able to provide such technical assistance, in addition to its duties to effectively monitor compliance of the countries participating in the program with all the requirements of the program.

“(11) INDEPENDENT REVIEW.—

“(A) IN GENERAL.—Prior to the admission of a new country into the program under this section, and in conjunction with the periodic evaluations required under subsection (c)(5)(A), the Director of National Intelligence shall conduct an independent intelligence assessment of a nominated country and member of the program.

“(B) REPORTING REQUIREMENT.—The Director shall provide to the Secretary of Homeland Security, the Secretary of State, and the Attorney General the independent intelligence assessment required under subparagraph (A).

“(C) CONTENTS.—The independent intelligence assessment conducted by the Director shall include—

“(i) a review of all current, credible terrorist threats of the subject country;

“(ii) an evaluation of the subject country’s counterterrorism efforts;

“(iii) an evaluation as to the extent of the country’s sharing of information beneficial to suppressing terrorist movements, financing, or actions;

“(iv) an assessment of the risks associated with including the subject country in the program; and

“(v) recommendations to mitigate the risks identified in clause (iv).”;

(C) in subsection (d)—

(i) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(ii) by adding at the end the following new sentence: “The Secretary of Homeland Security may not waive any eligibility requirement under this section unless the Secretary notifies, with respect to the House of Representatives, the Committee on Homeland Security, the Committee on the Judiciary, the Committee on Foreign Affairs, and the Committee on Appropriations, and with respect to the Senate, the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Appropriations not later than 30 days before the effective date of such waiver.”;

(D) in subsection (f)(5)—

(i) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

Notification.
Deadline.

(ii) by striking “of blank” and inserting “or loss of”;

(E) in subsection (h), by adding at the end the following new paragraph:

“(3) ELECTRONIC TRAVEL AUTHORIZATION SYSTEM.—

“(A) SYSTEM.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a fully automated electronic travel authorization system (referred to in this paragraph as the ‘System’) to collect such biographical and other information as the Secretary of Homeland Security determines necessary to determine, in advance of travel, the eligibility of, and whether there exists a law enforcement or security risk in permitting, the alien to travel to the United States.

“(B) FEES.—The Secretary of Homeland Security may charge a fee for the use of the System, which shall be—

“(i) set at a level that will ensure recovery of the full costs of providing and administering the System; and

“(ii) available to pay the costs incurred to administer the System.

“(C) VALIDITY.—

“(i) PERIOD.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall prescribe regulations that provide for a period, not to exceed three years, during which a determination of eligibility to travel under the program will be valid. Notwithstanding any other provision under this section, the Secretary of Homeland Security may revoke any such determination at any time and for any reason.

“(ii) LIMITATION.—A determination by the Secretary of Homeland Security that an alien is eligible to travel to the United States under the program is not a determination that the alien is admissible to the United States.

“(iii) NOT A DETERMINATION OF VISA ELIGIBILITY.—A determination by the Secretary of Homeland Security that an alien who applied for authorization to travel to the United States through the System is not eligible to travel under the program is not a determination of eligibility for a visa to travel to the United States and shall not preclude the alien from applying for a visa.

“(iv) JUDICIAL REVIEW.—Notwithstanding any other provision of law, no court shall have jurisdiction to review an eligibility determination under the System.

“(D) REPORT.—Not later than 60 days before publishing notice regarding the implementation of the System in the Federal Register, the Secretary of Homeland Security shall submit a report regarding the implementation of the system to—

“(i) the Committee on Homeland Security of the House of Representatives;

“(ii) the Committee on the Judiciary of the House of Representatives;

“(iii) the Committee on Foreign Affairs of the House of Representatives;

“(iv) the Permanent Select Committee on Intelligence of the House of Representatives;

“(v) the Committee on Appropriations of the House of Representatives;

“(vi) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(vii) the Committee on the Judiciary of the Senate;

“(viii) the Committee on Foreign Relations of the Senate;

“(ix) the Select Committee on Intelligence of the Senate; and

“(x) the Committee on Appropriations of the Senate.”; and

(F) by adding at the end the following new subsection:

“(i) EXIT SYSTEM.—

“(1) IN GENERAL.—Not later than one year after the date of the enactment of this subsection, the Secretary of Homeland Security shall establish an exit system that records the departure on a flight leaving the United States of every alien participating in the visa waiver program established under this section. Deadline.

“(2) SYSTEM REQUIREMENTS.—The system established under paragraph (1) shall—

“(A) match biometric information of the alien against relevant watch lists and immigration information; and

“(B) compare such biometric information against manifest information collected by air carriers on passengers departing the United States to confirm such aliens have departed the United States.

“(3) REPORT.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall submit to Congress a report that describes—

“(A) the progress made in developing and deploying the exit system established under this subsection; and

“(B) the procedures by which the Secretary shall improve the method of calculating the rates of non-immigrants who overstay their authorized period of stay in the United States.”.

(2) EFFECTIVE DATE.—Section 217(a)(11) of the Immigration and Nationality Act, as added by paragraph (1)(A)(ii), shall take effect on the date that is 60 days after the date on which the Secretary of Homeland Security publishes notice in the Federal Register of the requirement under such paragraph.

Federal Register,
publication.
8 USC 1187 note.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section and the amendments made by this section.

Subtitle C—Strengthening Terrorism Prevention Programs

SEC. 721. STRENGTHENING THE CAPABILITIES OF THE HUMAN SMUGGLING AND TRAFFICKING CENTER.

(a) IN GENERAL.—Section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1777) is amended—

(1) in subsection (c)(1), by striking “address” and inserting “integrate and disseminate intelligence and information related to”;

(2) by redesignating subsections (d) and (e) as subsections (g) and (h), respectively; and

(3) by inserting after subsection (c) the following new subsections:

“(d) DIRECTOR.—The Secretary of Homeland Security shall nominate an official of the Government of the United States to serve as the Director of the Center, in accordance with the requirements of the memorandum of understanding entitled the ‘Human Smuggling and Trafficking Center (HSTC) Charter’.

“(e) STAFFING OF THE CENTER.—

“(1) IN GENERAL.—The Secretary of Homeland Security, in cooperation with heads of other relevant agencies and departments, shall ensure that the Center is staffed with not fewer than 40 full-time equivalent positions, including, as appropriate, detailees from the following:

“(A) Agencies and offices within the Department of Homeland Security, including the following:

“(i) The Office of Intelligence and Analysis.

“(ii) The Transportation Security Administration.

“(iii) United States Citizenship and Immigration Services.

“(iv) United States Customs and Border Protection.

“(v) The United States Coast Guard.

“(vi) United States Immigration and Customs Enforcement.

“(B) Other departments, agencies, or entities, including the following:

“(i) The Central Intelligence Agency.

“(ii) The Department of Defense.

“(iii) The Department of the Treasury.

“(iv) The National Counterterrorism Center.

“(v) The National Security Agency.

“(vi) The Department of Justice.

“(vii) The Department of State.

“(viii) Any other relevant agency or department.

“(2) EXPERTISE OF DETAILEES.—The Secretary of Homeland Security, in cooperation with the head of each agency, department, or other entity referred to in paragraph (1), shall ensure that the detailees provided to the Center under such paragraph include an adequate number of personnel who are—

“(A) intelligence analysts or special agents with demonstrated experience related to human smuggling, trafficking in persons, or terrorist travel; and

“(B) personnel with experience in the areas of—

“(i) consular affairs;

“(ii) counterterrorism;

- “(iii) criminal law enforcement;
- “(iv) intelligence analysis;
- “(v) prevention and detection of document fraud;
- “(vi) border inspection;
- “(vii) immigration enforcement; or
- “(viii) human trafficking and combating severe forms of trafficking in persons.

“(3) ENHANCED PERSONNEL MANAGEMENT.—

“(A) INCENTIVES FOR SERVICE IN CERTAIN POSITIONS.—

“(i) IN GENERAL.—The Secretary of Homeland Security, and the heads of other relevant agencies, shall prescribe regulations or promulgate personnel policies to provide incentives for service on the staff of the Center, particularly for serving terms of at least two years duration.

“(ii) FORMS OF INCENTIVES.—Incentives under clause (i) may include financial incentives, bonuses, and such other awards and incentives as the Secretary and the heads of other relevant agencies, consider appropriate.

“(B) ENHANCED PROMOTION FOR SERVICE AT THE CENTER.—Notwithstanding any other provision of law, the Secretary of Homeland Security, and the heads of other relevant agencies, shall ensure that personnel who are assigned or detailed to service at the Center shall be considered for promotion at rates equivalent to or better than similarly situated personnel of such agencies who are not so assigned or detailed, except that this subparagraph shall not apply in the case of personnel who are subject to the provisions of the Foreign Service Act of 1980.

“(f) ADMINISTRATIVE SUPPORT AND FUNDING.—The Secretary of Homeland Security shall provide to the Center the administrative support and funding required for its maintenance, including funding for personnel, leasing of office space, supplies, equipment, technology, training, and travel expenses necessary for the Center to carry out its functions.”

(b) REPORT.—Subsection (g) of section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004, as redesignated by subsection (a)(2), is amended to read as follows:

“(g) REPORT.—

President.

“(1) INITIAL REPORT.—Not later than 180 days after December 17, 2004, the President shall transmit to Congress a report regarding the implementation of this section, including a description of the staffing and resource needs of the Center.

“(2) FOLLOW-UP REPORT.—Not later than 180 days after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the President shall transmit to Congress a report regarding the operation of the Center and the activities carried out by the Center, including a description of—

“(A) the roles and responsibilities of each agency or department that is participating in the Center;

“(B) the mechanisms used to share information among each such agency or department;

“(C) the personnel provided to the Center by each such agency or department;

“(D) the type of information and reports being disseminated by the Center;

“(E) any efforts by the Center to create a centralized Federal Government database to store information related to unlawful travel of foreign nationals, including a description of any such database and of the manner in which information utilized in such a database would be collected, stored, and shared;

“(F) how each agency and department shall utilize its resources to ensure that the Center uses intelligence to focus and drive its efforts;

“(G) efforts to consolidate networked systems for the Center;

“(H) the mechanisms for the sharing of homeland security information from the Center to the Office of Intelligence and Analysis, including how such sharing shall be consistent with section 1016(b);

“(I) the ability of participating personnel in the Center to freely access necessary databases and share information regarding issues related to human smuggling, trafficking in persons, and terrorist travel;

“(J) how the assignment of personnel to the Center is incorporated into the civil service career path of such personnel; and

“(K) cooperation and coordination efforts, including any memorandums of understanding, among participating agencies and departments regarding issues related to human smuggling, trafficking in persons, and terrorist travel.”.

8 USC 1777. (c) COORDINATION WITH THE OFFICE OF INTELLIGENCE AND ANALYSIS.—Section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 is amended by adding after subsection (h), as redesignated by subsection (a)(2), the following new subsection:

Reports. “(i) COORDINATION WITH THE OFFICE OF INTELLIGENCE AND ANALYSIS.—The Office of Intelligence and Analysis, in coordination with the Center, shall submit to relevant State, local, and tribal law enforcement agencies periodic reports regarding terrorist threats related to human smuggling, human trafficking, and terrorist travel.”.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security \$20,000,000 for fiscal year 2008 to carry out section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by this section.

SEC. 722. ENHANCEMENTS TO THE TERRORIST TRAVEL PROGRAM.

Section 7215 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 123) is amended to read as follows:

“SEC. 7215. TERRORIST TRAVEL PROGRAM.

Deadline. “(a) REQUIREMENT TO ESTABLISH.—Not later than 90 days after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security, in consultation with the Director of the National Counterterrorism Center and consistent with the strategy developed under section 7201, shall establish a program to oversee the

implementation of the Secretary's responsibilities with respect to terrorist travel.

“(b) HEAD OF THE PROGRAM.—The Secretary of Homeland Security shall designate an official of the Department of Homeland Security to be responsible for carrying out the program. Such official shall be—

“(1) the Assistant Secretary for Policy of the Department of Homeland Security; or

“(2) an official appointed by the Secretary who reports directly to the Secretary.

“(c) DUTIES.—The official designated under subsection (b) shall assist the Secretary of Homeland Security in improving the Department's ability to prevent terrorists from entering the United States or remaining in the United States undetected by—

“(1) developing relevant strategies and policies;

“(2) reviewing the effectiveness of existing programs and recommending improvements, if necessary;

“(3) making recommendations on budget requests and on the allocation of funding and personnel;

“(4) ensuring effective coordination, with respect to policies, programs, planning, operations, and dissemination of intelligence and information related to terrorist travel—

“(A) among appropriate subdivisions of the Department of Homeland Security, as determined by the Secretary and including—

“(i) United States Customs and Border Protection;

“(ii) United States Immigration and Customs Enforcement;

“(iii) United States Citizenship and Immigration Services;

“(iv) the Transportation Security Administration; and

“(v) the United States Coast Guard; and

“(B) between the Department of Homeland Security and other appropriate Federal agencies; and

“(5) serving as the Secretary's primary point of contact with the National Counterterrorism Center for implementing initiatives related to terrorist travel and ensuring that the recommendations of the Center related to terrorist travel are carried out by the Department.

“(d) REPORT.—Not later than 180 days after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the implementation of this section.”.

SEC. 723. ENHANCED DRIVER'S LICENSE.

Section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended—

(1) in subparagraph (B)—

(A) in clause (vi), by striking “and” at the end;

(B) in clause (vii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new clause:

“(viii) the signing of a memorandum of agreement to initiate a pilot program with not less than one State to determine if an enhanced driver’s license, which is machine-readable and tamper proof, not valid for certification of citizenship for any purpose other than admission into the United States from Canada or Mexico, and issued by such State to an individual, may permit the individual to use the driver’s license to meet the documentation requirements under subparagraph (A) for entry into the United States from Canada or Mexico at land and sea ports of entry.”; and

(2) by adding at the end the following new subparagraph:

“(C) REPORT.—Not later than 180 days after the initiation of the pilot program described in subparagraph (B)(viii), the Secretary of Homeland Security and the Secretary of State shall submit to the appropriate congressional committees a report which includes—

“(i) an analysis of the impact of the pilot program on national security;

“(ii) recommendations on how to expand the pilot program to other States;

“(iii) any appropriate statutory changes to facilitate the expansion of the pilot program to additional States and to citizens of Canada;

“(iv) a plan to screen individuals participating in the pilot program against United States terrorist watch lists; and

“(v) a recommendation for the type of machine-readable technology that should be used in enhanced driver’s licenses, based on individual privacy considerations and the costs and feasibility of incorporating any new technology into existing driver’s licenses.”.

8 USC 1185 note.

SEC. 724. WESTERN HEMISPHERE TRAVEL INITIATIVE.

Regulations,
Federal Register,
publication.

Before the Secretary of Homeland Security publishes a final rule in the Federal Register implementing section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note)—

(1) the Secretary of Homeland Security shall complete a cost-benefit analysis of the Western Hemisphere Travel Initiative, authorized under such section 7209; and

(2) the Secretary of State shall develop proposals for reducing the execution fee charged for the passport card, proposed at 71 Fed. Reg. 60928-32 (October 17, 2006), including the use of mobile application teams, during implementation of the land and sea phase of the Western Hemisphere Travel Initiative, in order to encourage United States citizens to apply for the passport card.

8 USC 1752a.

SEC. 725. MODEL PORTS-OF-ENTRY.

(a) IN GENERAL.—The Secretary of Homeland Security shall—

(1) establish a model ports-of-entry program for the purpose of providing a more efficient and welcoming international arrival process in order to facilitate and promote business and tourist travel to the United States, while also improving security; and

(2) implement the program initially at the 20 United States international airports that have the highest number of foreign visitors arriving annually as of the date of the enactment of this Act.

(b) PROGRAM ELEMENTS.—The program shall include—

(1) enhanced queue management in the Federal Inspection Services area leading up to primary inspection;

(2) assistance for foreign travelers once they have been admitted to the United States, in consultation, as appropriate, with relevant governmental and nongovernmental entities; and

(3) instructional videos, in English and such other languages as the Secretary determines appropriate, in the Federal Inspection Services area that explain the United States inspection process and feature national, regional, or local welcome videos.

(c) ADDITIONAL CUSTOMS AND BORDER PROTECTION OFFICERS FOR HIGH-VOLUME PORTS.—Subject to the availability of appropriations, not later than the end of fiscal year 2008 the Secretary of Homeland Security shall employ not fewer than an additional 200 Customs and Border Protection officers over the number of such positions for which funds were appropriated for the proceeding fiscal year to address staff shortages at the 20 United States international airports that have the highest number of foreign visitors arriving annually as of the date of the enactment of this Act. Deadline.

Subtitle D—Miscellaneous Provisions

SEC. 731. REPORT REGARDING BORDER SECURITY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report regarding ongoing initiatives of the Department of Homeland Security to improve security along the northern border of the United States.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) address the vulnerabilities along the northern border of the United States; and

(2) provide recommendations to address such vulnerabilities, including required resources needed to protect the northern border of the United States.

(c) GOVERNMENT ACCOUNTABILITY OFFICE.—Not later than 270 days after the date of the submission of the report under subsection (a), the Comptroller General of the United States shall submit to Congress a report that—

(1) reviews and comments on the report under subsection (a); and

(2) provides recommendations regarding any additional actions necessary to protect the northern border of the United States.

TITLE VIII—PRIVACY AND CIVIL LIBERTIES

SEC. 801. MODIFICATION OF AUTHORITIES RELATING TO PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) MODIFICATION OF AUTHORITIES.—Section 1061 of the National Security Intelligence Reform Act of 2004 (5 U.S.C. 601 note) is amended to read as follows:

“SEC. 1061. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

Establishment.

“(a) IN GENERAL.—There is established as an independent agency within the executive branch a Privacy and Civil Liberties Oversight Board (referred to in this section as the ‘Board’).

“(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

“(1) In conducting the war on terrorism, the Government may need additional powers and may need to enhance the use of its existing powers.

“(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the Government uses its powers for the purposes for which the powers were given.

“(3) The National Commission on Terrorist Attacks Upon the United States correctly concluded that ‘The choice between security and liberty is a false choice, as nothing is more likely to endanger America’s liberties than the success of a terrorist attack at home. Our history has shown us that insecurity threatens liberty. Yet, if our liberties are curtailed, we lose the values that we are struggling to defend.’

“(c) PURPOSE.—The Board shall—

“(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

“(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

“(d) FUNCTIONS.—

“(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

“(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under subsections (d) and (f) of section 1016;

“(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under subsections (d) and (f) of section 1016;

“(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in

the development and implementation of such legislation, regulations, policies, and guidelines; and

“(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the department, agency, or element of the executive branch has established—

“(i) that the need for the power is balanced with the need to protect privacy and civil liberties;

“(ii) that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties; and

“(iii) that there are adequate guidelines and oversight to properly confine its use.

“(2) OVERSIGHT.—The Board shall continually review—

“(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch relating to efforts to protect the Nation from terrorism to ensure that privacy and civil liberties are protected;

“(B) the information sharing practices of the departments, agencies, and elements of the executive branch relating to efforts to protect the Nation from terrorism to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines issued or developed under subsections (d) and (f) of section 1016 and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

“(C) other actions by the executive branch relating to efforts to protect the Nation from terrorism to determine whether such actions—

“(i) appropriately protect privacy and civil liberties; and

“(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

“(3) RELATIONSHIP WITH PRIVACY AND CIVIL LIBERTIES OFFICERS.—The Board shall—

“(A) receive and review reports and other information from privacy officers and civil liberties officers under section 1062;

“(B) when appropriate, make recommendations to such privacy officers and civil liberties officers regarding their activities; and

“(C) when appropriate, coordinate the activities of such privacy officers and civil liberties officers on relevant inter-agency matters.

“(4) TESTIMONY.—The members of the Board shall appear and testify before Congress upon request.

“(e) REPORTS.—

“(1) IN GENERAL.—The Board shall—

“(A) receive and review reports from privacy officers and civil liberties officers under section 1062; and

“(B) periodically submit, not less than semiannually, reports—

“(i) to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House

of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

“(II) to the President; and

“(ii) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

“(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

“(A) a description of the major activities of the Board during the preceding period;

“(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d);

“(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d);

“(D) each proposal reviewed by the Board under subsection (d)(1) that—

“(i) the Board advised against implementation; and

“(ii) notwithstanding such advice, actions were taken to implement; and

“(E) for the preceding period, any requests submitted under subsection (g)(1)(D) for the issuance of subpoenas that were modified or denied by the Attorney General.

“(f) INFORMING THE PUBLIC.—The Board shall—

“(1) make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

“(2) hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

“(g) ACCESS TO INFORMATION.—

“(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

“(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee of any such department, agency, or element, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

“(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee of any such department, agency, or element;

“(C) request information or assistance from any State, tribal, or local government; and

“(D) at the direction of a majority of the members of the Board, submit a written request to the Attorney General of the United States that the Attorney General require, by subpoena, persons (other than departments, agencies, and elements of the executive branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

“(2) REVIEW OF SUBPOENA REQUEST.—

Deadlines.

“(A) IN GENERAL.—Not later than 30 days after the date of receipt of a request by the Board under paragraph (1)(D), the Attorney General shall—

“(i) issue the subpoena as requested; or

“(ii) provide the Board, in writing, with an explanation of the grounds on which the subpoena request has been modified or denied.

“(B) NOTIFICATION.—If a subpoena request is modified or denied under subparagraph (A)(ii), the Attorney General shall, not later than 30 days after the date of that modification or denial, notify the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

“(3) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued pursuant to paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

“(4) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

“(h) MEMBERSHIP.—

“(1) MEMBERS.—The Board shall be composed of a full-time chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

President.
Congress.

“(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience, and without regard to political affiliation, but in no event shall more than 3 members of the Board be members of the same political party. The President shall, before appointing an individual who is not a member of the same political party as the President, consult with the leadership of that party, if any, in the Senate and House of Representatives.

President.

“(3) INCOMPATIBLE OFFICE.—An individual appointed to the Board may not, while serving on the Board, be an elected official, officer, or employee of the Federal Government, other than in the capacity as a member of the Board.

“(4) TERM.—Each member of the Board shall serve a term of 6 years, except that—

“(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term; and

“(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member’s successor has been appointed and qualified, except that no member may serve under this subparagraph—

“(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

“(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted.

“(5) QUORUM AND MEETINGS.—The Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

“(i) COMPENSATION AND TRAVEL EXPENSES.—

“(1) COMPENSATION.—

“(A) CHAIRMAN.—The chairman of the Board shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(B) MEMBERS.—Each member of the Board shall be compensated at a rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

“(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

“(j) STAFF.—

“(1) APPOINTMENT AND COMPENSATION.—The chairman of the Board, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

“(2) DETAILEES.—Any Federal employee may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee’s regular employment without interruption.

“(3) CONSULTANT SERVICES.—The Board may procure the temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code,

at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

“(k) SECURITY CLEARANCES.—

“(1) IN GENERAL.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

“(2) RULES AND PROCEDURES.—After consultation with the Secretary of Defense, the Attorney General, and the Director of National Intelligence, the Board shall adopt rules and procedures of the Board for physical, communications, computer, document, personnel, and other security relating to carrying out the functions of the Board.

“(l) TREATMENT AS AGENCY, NOT AS ADVISORY COMMITTEE.—

The Board—

“(1) is an agency (as defined in section 551(1) of title 5, United States Code); and

“(2) is not an advisory committee (as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)).

“(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section amounts as follows:

“(1) For fiscal year 2008, \$5,000,000.

“(2) For fiscal year 2009, \$6,650,000.

“(3) For fiscal year 2010, \$8,300,000.

“(4) For fiscal year 2011, \$10,000,000.

“(5) For fiscal year 2012 and each subsequent fiscal year, such sums as may be necessary.”

(b) SECURITY RULES AND PROCEDURES.—The Privacy and Civil Liberties Oversight Board shall promptly adopt the security rules and procedures required under section 1061(k)(2) of the National Security Intelligence Reform Act of 2004 (as added by subsection (a) of this section).

42 USC 2000ee
note.

(c) TRANSITION PROVISIONS.—

42 USC 2000ee
note.

(1) TREATMENT OF INCUMBENT MEMBERS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—

(A) CONTINUATION OF SERVICE.—Any individual who is a member of the Privacy and Civil Liberties Oversight Board on the date of enactment of this Act may continue to serve on the Board until 180 days after the date of enactment of this Act.

(B) TERMINATION OF TERMS.—The term of any individual who is a member of the Privacy and Civil Liberties Oversight Board on the date of enactment of this Act shall terminate 180 days after the date of enactment of this Act.

(2) APPOINTMENTS.—

President.
Congress.

(A) IN GENERAL.—The President and the Senate shall take such actions as necessary for the President, by and with the advice and consent of the Senate, to appoint members to the Privacy and Civil Liberties Oversight Board as constituted under the amendments made by subsection (a) in a timely manner to provide for the continuing operation of the Board and orderly implementation of this section.

(B) DESIGNATIONS.—In making the appointments described under subparagraph (A) of the first members of the Privacy and Civil Liberties Oversight Board as constituted under the amendments made by subsection (a), the President shall provide for the members to serve terms of 2, 3, 4, 5, and 6 years beginning on the effective date described under subsection (d)(1), with the term of each such member to be designated by the President.

42 USC 2000ee
note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) and subsection (b) shall take effect 180 days after the date of enactment of this Act.

(2) TRANSITION PROVISIONS.—Subsection (c) shall take effect on the date of enactment of this Act.

SEC. 802. DEPARTMENT PRIVACY OFFICER.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) by inserting “(a) APPOINTMENT AND RESPONSIBILITIES.—” before “The Secretary”; and

(2) by adding at the end the following:

“(b) AUTHORITY TO INVESTIGATE.—

“(1) IN GENERAL.—The senior official appointed under subsection (a) may—

“(A) have access to all records, reports, audits, reviews, documents, papers, recommendations, and other materials available to the Department that relate to programs and operations with respect to the responsibilities of the senior official under this section;

“(B) make such investigations and reports relating to the administration of the programs and operations of the Department as are, in the senior official’s judgment, necessary or desirable;

“(C) subject to the approval of the Secretary, require by subpoena the production, by any person other than a Federal agency, of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to performance of the responsibilities of the senior official under this section; and

“(D) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary to performance of the responsibilities of the senior official under this section.

“(2) ENFORCEMENT OF SUBPOENAS.—Any subpoena issued under paragraph (1)(C) shall, in the case of contumacy or refusal to obey, be enforceable by order of any appropriate United States district court.

“(3) EFFECT OF OATHS.—Any oath, affirmation, or affidavit administered or taken under paragraph (1)(D) by or before an employee of the Privacy Office designated for that purpose by the senior official appointed under subsection (a) shall have the same force and effect as if administered or taken by or before an officer having a seal of office.

“(c) SUPERVISION AND COORDINATION.—

“(1) IN GENERAL.—The senior official appointed under subsection (a) shall—

“(A) report to, and be under the general supervision of, the Secretary; and

“(B) coordinate activities with the Inspector General of the Department in order to avoid duplication of effort.

“(2) COORDINATION WITH THE INSPECTOR GENERAL.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the senior official appointed under subsection (a) may investigate any matter relating to possible violations or abuse concerning the administration of any program or operation of the Department relevant to the purposes under this section.

“(B) COORDINATION.—

“(i) REFERRAL.—Before initiating any investigation described under subparagraph (A), the senior official shall refer the matter and all related complaints, allegations, and information to the Inspector General of the Department.

“(ii) DETERMINATIONS AND NOTIFICATIONS BY THE INSPECTOR GENERAL.—

Deadlines.

“(I) IN GENERAL.—Not later than 30 days after the receipt of a matter referred under clause (i), the Inspector General shall—

“(aa) make a determination regarding whether the Inspector General intends to initiate an audit or investigation of the matter referred under clause (i); and

“(bb) notify the senior official of that determination.

“(II) INVESTIGATION NOT INITIATED.—If the Inspector General notifies the senior official under subclause (I)(bb) that the Inspector General intended to initiate an audit or investigation, but does not initiate that audit or investigation within 90 days after providing that notification, the Inspector General shall further notify the senior official that an audit or investigation was not initiated. The further notification under this subclause shall be made not later than 3 days after the end of that 90-day period.

“(iii) INVESTIGATION BY SENIOR OFFICIAL.—The senior official may investigate a matter referred under clause (i) if—

“(I) the Inspector General notifies the senior official under clause (ii)(I)(bb) that the Inspector General does not intend to initiate an audit or investigation relating to that matter; or

Notification.

“(II) the Inspector General provides a further notification under clause (ii)(II) relating to that matter.

“(iv) PRIVACY TRAINING.—Any employee of the Office of Inspector General who audits or investigates any matter referred under clause (i) shall be required to receive adequate training on privacy laws, rules, and regulations, to be provided by an entity approved by the Inspector General in consultation with the senior official appointed under subsection (a).

“(d) NOTIFICATION TO CONGRESS ON REMOVAL.—If the Secretary removes the senior official appointed under subsection (a) or transfers that senior official to another position or location within the Department, the Secretary shall—

“(1) promptly submit a written notification of the removal or transfer to Houses of Congress; and

“(2) include in any such notification the reasons for the removal or transfer.

“(e) REPORTS BY SENIOR OFFICIAL TO CONGRESS.—The senior official appointed under subsection (a) shall—

“(1) submit reports directly to the Congress regarding performance of the responsibilities of the senior official under this section, without any prior comment or amendment by the Secretary, Deputy Secretary, or any other officer or employee of the Department or the Office of Management and Budget; and

“(2) inform the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives not later than—

“(A) 30 days after the Secretary disapproves the senior official’s request for a subpoena under subsection (b)(1)(C) or the Secretary substantively modifies the requested subpoena; or

“(B) 45 days after the senior official’s request for a subpoena under subsection (b)(1)(C), if that subpoena has not either been approved or disapproved by the Secretary.”.

SEC. 803. PRIVACY AND CIVIL LIBERTIES OFFICERS.

(a) IN GENERAL.—Section 1062 of the National Security Intelligence Reform Act of 2004 (title I of Public Law 108-458; 118 Stat. 3688) is amended to read as follows:

“SEC. 1062. PRIVACY AND CIVIL LIBERTIES OFFICERS.

“(a) DESIGNATION AND FUNCTIONS.—The Attorney General, the Secretary of Defense, the Secretary of State, the Secretary of the Treasury, the Secretary of Health and Human Services, the Secretary of Homeland Security, the Director of National Intelligence, the Director of the Central Intelligence Agency, and the head of any other department, agency, or element of the executive branch designated by the Privacy and Civil Liberties Oversight Board under section 1061 to be appropriate for coverage under this section shall designate not less than 1 senior officer to serve as the principal advisor to—

“(1) assist the head of such department, agency, or element and other officials of such department, agency, or element in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;

“(2) periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering privacy and civil liberties in its actions;

“(3) ensure that such department, agency, or element has adequate procedures to receive, investigate, respond to, and

redress complaints from individuals who allege such department, agency, or element has violated their privacy or civil liberties; and

“(4) in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether such department, agency, or element has established—

“(A) that the need for the power is balanced with the need to protect privacy and civil liberties;

“(B) that there is adequate supervision of the use by such department, agency, or element of the power to ensure protection of privacy and civil liberties; and

“(C) that there are adequate guidelines and oversight to properly confine its use.

“(b) EXCEPTION TO DESIGNATION AUTHORITY.—

“(1) PRIVACY OFFICERS.—In any department, agency, or element referred to in subsection (a) or designated by the Privacy and Civil Liberties Oversight Board, which has a statutorily created privacy officer, such officer shall perform the functions specified in subsection (a) with respect to privacy.

“(2) CIVIL LIBERTIES OFFICERS.—In any department, agency, or element referred to in subsection (a) or designated by the Board, which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) with respect to civil liberties.

“(c) SUPERVISION AND COORDINATION.—Each privacy officer or civil liberties officer described in subsection (a) or (b) shall—

“(1) report directly to the head of the department, agency, or element concerned; and

“(2) coordinate their activities with the Inspector General of such department, agency, or element to avoid duplication of effort.

“(d) AGENCY COOPERATION.—The head of each department, agency, or element shall ensure that each privacy officer and civil liberties officer—

“(1) has the information, material, and resources necessary to fulfill the functions of such officer;

“(2) is advised of proposed policy changes;

“(3) is consulted by decision makers; and

“(4) is given access to material and personnel the officer determines to be necessary to carry out the functions of such officer.

“(e) REPRISAL FOR MAKING COMPLAINT.—No action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to a privacy officer or civil liberties officer described in subsection (a) or (b), or to the Privacy and Civil Liberties Oversight Board, that indicates a possible violation of privacy protections or civil liberties in the administration of the programs and operations of the Federal Government relating to efforts to protect the Nation from terrorism shall be taken by any Federal employee in a position to take such action, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

“(f) PERIODIC REPORTS.—

“(1) IN GENERAL.—The privacy officers and civil liberties officers of each department, agency, or element referred to or described in subsection (a) or (b) shall periodically, but

not less than quarterly, submit a report on the activities of such officers—

“(A)(i) to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives;

“(ii) to the head of such department, agency, or element; and

“(iii) to the Privacy and Civil Liberties Oversight Board; and

“(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

“(2) CONTENTS.—Each report submitted under paragraph (1) shall include information on the discharge of each of the functions of the officer concerned, including—

“(A) information on the number and types of reviews undertaken;

“(B) the type of advice provided and the response given to such advice;

“(C) the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and

“(D) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

“(g) INFORMING THE PUBLIC.—Each privacy officer and civil liberties officer shall—

“(1) make the reports of such officer, including reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

“(2) otherwise inform the public of the activities of such officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.

“(h) SAVINGS CLAUSE.—Nothing in this section shall be construed to limit or otherwise supplant any other authorities or responsibilities provided by law to privacy officers or civil liberties officers.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is amended by striking the item relating to section 1062 and inserting the following new item:

“Sec. 1062. Privacy and civil liberties officers.”.

Federal Agency
Data Mining
Reporting Act
of 2007.
42 USC
2000ee–3.

SEC. 804. FEDERAL AGENCY DATA MINING REPORTING ACT OF 2007.

(a) SHORT TITLE.—This section may be cited as the “Federal Agency Data Mining Reporting Act of 2007”.

(b) DEFINITIONS.—In this section:

(1) DATA MINING.—The term “data mining” means a program involving pattern-based queries, searches, or other analyses of 1 or more electronic databases, where—

(A) a department or agency of the Federal Government, or a non-Federal entity acting on behalf of the Federal Government, is conducting the queries, searches, or other analyses to discover or locate a predictive pattern or anomaly indicative of terrorist or criminal activity on the part of any individual or individuals;

(B) the queries, searches, or other analyses are not subject-based and do not use personal identifiers of a specific individual, or inputs associated with a specific individual or group of individuals, to retrieve information from the database or databases; and

(C) the purpose of the queries, searches, or other analyses is not solely—

(i) the detection of fraud, waste, or abuse in a Government agency or program; or

(ii) the security of a Government computer system.

(2) DATABASE.—The term “database” does not include telephone directories, news reporting, information publicly available to any member of the public without payment of a fee, or databases of judicial and administrative opinions or other legal research sources.

(c) REPORTS ON DATA MINING ACTIVITIES BY FEDERAL AGENCIES.—

(1) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data mining shall submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be produced in coordination with the privacy officer of that department or agency, if applicable, and shall be made available to the public, except for an annex described in subparagraph (C).

(2) CONTENT OF REPORT.—Each report submitted under subparagraph (A) shall include, for each activity to use or develop data mining, the following information:

(A) A thorough description of the data mining activity, its goals, and, where appropriate, the target dates for the deployment of the data mining activity.

(B) A thorough description of the data mining technology that is being used or will be used, including the basis for determining whether a particular pattern or anomaly is indicative of terrorist or criminal activity.

(C) A thorough description of the data sources that are being or will be used.

(D) An assessment of the efficacy or likely efficacy of the data mining activity in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the data mining activity.

(E) An assessment of the impact or likely impact of the implementation of the data mining activity on the privacy and civil liberties of individuals, including a thorough description of the actions that are being taken or will be taken with regard to the property, privacy, or other rights or privileges of any individual or individuals as a result of the implementation of the data mining activity.

(F) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used in conjunction with the data mining activity, to the extent applicable in the context of the data mining activity.

(G) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such data mining activity in order to—

(i) protect the privacy and due process rights of individuals, such as redress procedures; and

(ii) ensure that only accurate and complete information is collected, reviewed, gathered, analyzed, or used, and guard against any harmful consequences of potential inaccuracies.

(3) ANNEX.—

(A) IN GENERAL.—A report under subparagraph (A) shall include in an annex any necessary—

(i) classified information;

(ii) law enforcement sensitive information;

(iii) proprietary business information; or

(iv) trade secrets (as that term is defined in section 1839 of title 18, United States Code).

(B) AVAILABILITY.—Any annex described in clause (i)—

(i) shall be available, as appropriate, and consistent with the National Security Act of 1947 (50 U.S.C. 401 et seq.), to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives; and

(ii) shall not be made available to the public.

(4) TIME FOR REPORT.—Each report required under subparagraph (A) shall be—

(A) submitted not later than 180 days after the date of enactment of this Act; and

(B) updated not less frequently than annually thereafter, to include any activity to use or develop data mining engaged in after the date of the prior report submitted under subparagraph (A).

TITLE IX—PRIVATE SECTOR PREPAREDNESS

SEC. 901. PRIVATE SECTOR PREPAREDNESS.

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by section 409, is further amended by adding at the end the following:

“SEC. 523. GUIDANCE AND RECOMMENDATIONS.

6 USC 321l.

“(a) IN GENERAL.—Consistent with their responsibilities and authorities under law, as of the day before the date of the enactment of this section, the Administrator and the Assistant Secretary for Infrastructure Protection, in consultation with the private sector, may develop guidance or recommendations and identify best practices to assist or foster action by the private sector in—

“(1) identifying potential hazards and assessing risks and impacts;

“(2) mitigating the impact of a wide variety of hazards, including weapons of mass destruction;

“(3) managing necessary emergency preparedness and response resources;

“(4) developing mutual aid agreements;

“(5) developing and maintaining emergency preparedness and response plans, and associated operational procedures;

“(6) developing and conducting training and exercises to support and evaluate emergency preparedness and response plans and operational procedures;

“(7) developing and conducting training programs for security guards to implement emergency preparedness and response plans and operations procedures; and

“(8) developing procedures to respond to requests for information from the media or the public.

“(b) ISSUANCE AND PROMOTION.—Any guidance or recommendations developed or best practices identified under subsection (a) shall be—

“(1) issued through the Administrator; and

“(2) promoted by the Secretary to the private sector.

“(c) SMALL BUSINESS CONCERNS.—In developing guidance or recommendations or identifying best practices under subsection (a), the Administrator and the Assistant Secretary for Infrastructure Protection shall take into consideration small business concerns (under the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632)), including any need for separate guidance or recommendations or best practices, as necessary and appropriate.

“(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to supersede any requirement established under any other provision of law.

“SEC. 524. VOLUNTARY PRIVATE SECTOR PREPAREDNESS ACCREDITATION AND CERTIFICATION PROGRAM.

6 USC 321m.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary, acting through the officer designated under paragraph (2), shall establish and implement the voluntary private sector preparedness accreditation and certification program in accordance with this section.

“(2) DESIGNATION OF OFFICER.—The Secretary shall designate an officer responsible for the accreditation and certification program under this section. Such officer (hereinafter referred to in this section as the ‘designated officer’) shall be one of the following:

“(A) The Administrator, based on consideration of—

“(i) the expertise of the Administrator in emergency management and preparedness in the United States; and

“(ii) the responsibilities of the Administrator as the principal advisor to the President for all matters relating to emergency management in the United States.

“(B) The Assistant Secretary for Infrastructure Protection, based on consideration of the expertise of the Assistant Secretary in, and responsibilities for—

“(i) protection of critical infrastructure;

“(ii) risk assessment methodologies; and

“(iii) interacting with the private sector on the issues described in clauses (i) and (ii).

“(C) The Under Secretary for Science and Technology, based on consideration of the expertise of the Under Secretary in, and responsibilities associated with, standards.

“(3) COORDINATION.—In carrying out the accreditation and certification program under this section, the designated officer shall coordinate with—

“(A) the other officers of the Department referred to in paragraph (2), using the expertise and responsibilities of such officers; and

“(B) the Special Assistant to the Secretary for the Private Sector, based on consideration of the expertise of the Special Assistant in, and responsibilities for, interacting with the private sector.

“(b) VOLUNTARY PRIVATE SECTOR PREPAREDNESS STANDARDS; VOLUNTARY ACCREDITATION AND CERTIFICATION PROGRAM FOR THE PRIVATE SECTOR.—

Deadline.

“(1) ACCREDITATION AND CERTIFICATION PROGRAM.—Not later than 210 days after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the designated officer shall—

“(A) begin supporting the development and updating, as necessary, of voluntary preparedness standards through appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards and voluntary consensus standards development organizations; and

“(B) in consultation with representatives of appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards, appropriate voluntary consensus standards development organizations, each private sector advisory council created under section 102(f)(4), appropriate representatives of State and local governments, including emergency management officials, and appropriate private sector advisory groups, such as sector coordinating councils and information sharing and analysis centers—

“(i) develop and promote a program to certify the preparedness of private sector entities that voluntarily choose to seek certification under the program; and

“(ii) implement the program under this subsection through any entity with which the designated officer enters into an agreement under paragraph (3)(A), which shall accredit third parties to carry out the certification process under this section.

“(2) PROGRAM ELEMENTS.—

“(A) IN GENERAL.—

“(i) PROGRAM.—The program developed and implemented under this subsection shall assess whether a private sector entity complies with voluntary preparedness standards.

“(ii) GUIDELINES.—In developing the program under this subsection, the designated officer shall develop guidelines for the accreditation and certification processes established under this subsection.

“(B) STANDARDS.—The designated officer, in consultation with representatives of appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards, representatives of appropriate voluntary consensus standards development organizations, each private sector advisory council created under section 102(f)(4), appropriate representatives of State and local governments, including emergency management officials, and appropriate private sector advisory groups such as sector coordinating councils and information sharing and analysis centers—

“(i) shall adopt one or more appropriate voluntary preparedness standards that promote preparedness, which may be tailored to address the unique nature of various sectors within the private sector, as necessary and appropriate, that shall be used in the accreditation and certification program under this subsection; and

“(ii) after the adoption of one or more standards under clause (i), may adopt additional voluntary preparedness standards or modify or discontinue the use of voluntary preparedness standards for the accreditation and certification program, as necessary and appropriate to promote preparedness.

“(C) SUBMISSION OF RECOMMENDATIONS.—In adopting one or more standards under subparagraph (B), the designated officer may receive recommendations from any entity described in that subparagraph relating to appropriate voluntary preparedness standards, including appropriate sector specific standards, for adoption in the program.

“(D) SMALL BUSINESS CONCERNS.—The designated officer and any entity with which the designated officer enters into an agreement under paragraph (3)(A) shall establish separate classifications and methods of certification for small business concerns (under the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632)) for the program under this subsection.

“(E) CONSIDERATIONS.—In developing and implementing the program under this subsection, the designated officer shall—

“(i) consider the unique nature of various sectors within the private sector, including preparedness standards, business continuity standards, or best practices, established—

“(I) under any other provision of Federal law;

or

“(II) by any sector-specific agency, as defined under Homeland Security Presidential Directive—7; and

“(ii) coordinate the program, as appropriate, with—
“(I) other Department private sector related programs; and

“(II) preparedness and business continuity programs in other Federal agencies.

“(3) ACCREDITATION AND CERTIFICATION PROCESSES.—

“(A) AGREEMENT.—

Deadline.

“(i) IN GENERAL.—Not later than 210 days after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the designated officer shall enter into one or more agreements with a highly qualified nongovernmental entity with experience or expertise in coordinating and facilitating the development and use of voluntary consensus standards and in managing or implementing accreditation and certification programs for voluntary consensus standards, or a similarly qualified private sector entity, to carry out accreditations and oversee the certification process under this subsection. An entity entering into an agreement with the designated officer under this clause (hereinafter referred to in this section as a ‘selected entity’) shall not perform certifications under this subsection.

“(ii) CONTENTS.—A selected entity shall manage the accreditation process and oversee the certification process in accordance with the program established under this subsection and accredit qualified third parties to carry out the certification program established under this subsection.

“(B) PROCEDURES AND REQUIREMENTS FOR ACCREDITATION AND CERTIFICATION.—

“(i) IN GENERAL.—Any selected entity shall collaborate to develop procedures and requirements for the accreditation and certification processes under this subsection, in accordance with the program established under this subsection and guidelines developed under paragraph (2)(A)(ii).

“(ii) CONTENTS AND USE.—The procedures and requirements developed under clause (i) shall—

“(I) ensure reasonable uniformity in any accreditation and certification processes if there is more than one selected entity; and

“(II) be used by any selected entity in conducting accreditations and overseeing the certification process under this subsection.

“(iii) DISAGREEMENT.—Any disagreement among selected entities in developing procedures under clause (i) shall be resolved by the designated officer.

“(C) DESIGNATION.—A selected entity may accredit any qualified third party to carry out the certification process under this subsection.

“(D) DISADVANTAGED BUSINESS INVOLVEMENT.—In accrediting qualified third parties to carry out the certification process under this subsection, a selected entity shall

ensure, to the extent practicable, that the third parties include qualified small, minority, women-owned, or disadvantaged business concerns when appropriate. The term ‘disadvantaged business concern’ means a small business that is owned and controlled by socially and economically disadvantaged individuals, as defined in section 124 of title 13, United States Code of Federal Regulations.

“(E) TREATMENT OF OTHER CERTIFICATIONS.—At the request of any entity seeking certification, any selected entity may consider, as appropriate, other relevant certifications acquired by the entity seeking certification. If the selected entity determines that such other certifications are sufficient to meet the certification requirement or aspects of the certification requirement under this section, the selected entity may give credit to the entity seeking certification, as appropriate, to avoid unnecessarily duplicative certification requirements.

“(F) THIRD PARTIES.—To be accredited under subparagraph (C), a third party shall—

“(i) demonstrate that the third party has the ability to certify private sector entities in accordance with the procedures and requirements developed under subparagraph (B);

“(ii) agree to perform certifications in accordance with such procedures and requirements;

“(iii) agree not to have any beneficial interest in or any direct or indirect control over—

“(I) a private sector entity for which that third party conducts a certification under this subsection; or

“(II) any organization that provides preparedness consulting services to private sector entities;

“(iv) agree not to have any other conflict of interest with respect to any private sector entity for which that third party conducts a certification under this subsection;

“(v) maintain liability insurance coverage at policy limits in accordance with the requirements developed under subparagraph (B); and

“(vi) enter into an agreement with the selected entity accrediting that third party to protect any proprietary information of a private sector entity obtained under this subsection.

“(G) MONITORING.—

“(i) IN GENERAL.—The designated officer and any selected entity shall regularly monitor and inspect the operations of any third party conducting certifications under this subsection to ensure that the third party is complying with the procedures and requirements established under subparagraph (B) and all other applicable requirements.

“(ii) REVOCATION.—If the designated officer or any selected entity determines that a third party is not meeting the procedures or requirements established under subparagraph (B), the selected entity shall—

“(I) revoke the accreditation of that third party to conduct certifications under this subsection; and

“(II) review any certification conducted by that third party, as necessary and appropriate.

“(4) ANNUAL REVIEW.—

“(A) IN GENERAL.—The designated officer, in consultation with representatives of appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards, appropriate voluntary consensus standards development organizations, appropriate representatives of State and local governments, including emergency management officials, and each private sector advisory council created under section 102(f)(4), shall annually review the voluntary accreditation and certification program established under this subsection to ensure the effectiveness of such program (including the operations and management of such program by any selected entity and the selected entity’s inclusion of qualified disadvantaged business concerns under paragraph (3)(D)) and make improvements and adjustments to the program as necessary and appropriate.

“(B) REVIEW OF STANDARDS.—Each review under subparagraph (A) shall include an assessment of the voluntary preparedness standard or standards used in the program under this subsection.

“(5) VOLUNTARY PARTICIPATION.—Certification under this subsection shall be voluntary for any private sector entity.

“(6) PUBLIC LISTING.—The designated officer shall maintain and make public a listing of any private sector entity certified as being in compliance with the program established under this subsection, if that private sector entity consents to such listing.

“(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed as—

“(1) a requirement to replace any preparedness, emergency response, or business continuity standards, requirements, or best practices established—

“(A) under any other provision of federal law; or

“(B) by any sector-specific agency, as those agencies are defined under Homeland Security Presidential Directive-7; or

“(2) exempting any private sector entity seeking certification or meeting certification requirements under subsection (b) from compliance with all applicable statutes, regulations, directives, policies, and industry codes of practice.”.

(b) REPORT TO CONGRESS.—Not later than 210 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives a report detailing—

(1) any action taken to implement section 524(b) of the Homeland Security Act of 2002, as added by subsection (a), including a discussion of—

(A) the separate methods of classification and certification for small business concerns (under the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632)) as compared to other private sector entities; and

(B) whether the separate classifications and methods of certification for small business concerns are likely to help to ensure that such measures are not overly burdensome and are adequate to meet the voluntary preparedness standard or standards adopted by the program under section 524(b) of the Homeland Security Act of 2002, as added by subsection (a); and

(2) the status, as of the date of that report, of the implementation of that subsection.

(c) DEADLINE FOR DESIGNATION OF OFFICER.—The Secretary of Homeland Security shall designate the officer as described in section 524 of the Homeland Security Act of 2002, as added by subsection (a), by not later than 30 days after the date of the enactment of this Act.

6 USC 321m
note.

(d) DEFINITION.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following:

“(18) The term ‘voluntary preparedness standards’ means a common set of criteria for preparedness, disaster management, emergency management, and business continuity programs, such as the American National Standards Institute’s National Fire Protection Association Standard on Disaster/Emergency Management and Business Continuity Programs (ANSI/NFPA 1600).”.

(e) CLERICAL AMENDMENTS.—The table of contents in section 1(b) of such Act is further amended by adding at the end the following:

“Sec. 523. Guidance and recommendations.

“Sec. 524. Voluntary private sector preparedness accreditation and certification program.”.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 902. RESPONSIBILITIES OF THE PRIVATE SECTOR OFFICE OF THE DEPARTMENT.

(a) IN GENERAL.—Section 102(f) of the Homeland Security Act of 2002 (6 U.S.C. 112(f)) is amended—

(1) by redesignating paragraphs (8) through (10) as paragraphs (9) through (11), respectively; and

(2) by inserting after paragraph (7) the following:

“(8) providing information to the private sector regarding voluntary preparedness standards and the business justification for preparedness and promoting to the private sector the adoption of voluntary preparedness standards;”.

(b) PRIVATE SECTOR ADVISORY COUNCILS.—Section 102(f)(4) of the Homeland Security Act of 2002 (6 U.S.C. 112(f)(4)) is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B), by inserting “and” after the semicolon at the end; and

(3) by adding at the end the following:

“(C) advise the Secretary on private sector preparedness issues, including effective methods for—

“(i) promoting voluntary preparedness standards to the private sector; and

“(ii) assisting the private sector in adopting voluntary preparedness standards;”.

TITLE X—IMPROVING CRITICAL INFRASTRUCTURE SECURITY

SEC. 1001. NATIONAL ASSET DATABASE.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002, as amended by title V, is further amended by adding at the end the following new section:

6 USC 124l.

“SEC. 210E. NATIONAL ASSET DATABASE.

“(a) ESTABLISHMENT.—

“(1) NATIONAL ASSET DATABASE.—The Secretary shall establish and maintain a national database of each system or asset that—

“(A) the Secretary, in consultation with appropriate homeland security officials of the States, determines to be vital and the loss, interruption, incapacity, or destruction of which would have a negative or debilitating effect on the economic security, public health, or safety of the United States, any State, or any local government; or

“(B) the Secretary determines is appropriate for inclusion in the database.

“(2) PRIORITIZED CRITICAL INFRASTRUCTURE LIST.—In accordance with Homeland Security Presidential Directive–7, as in effect on January 1, 2007, the Secretary shall establish and maintain a single classified prioritized list of systems and assets included in the database under paragraph (1) that the Secretary determines would, if destroyed or disrupted, cause national or regional catastrophic effects.

“(b) USE OF DATABASE.—The Secretary shall use the database established under subsection (a)(1) in the development and implementation of Department plans and programs as appropriate.

“(c) MAINTENANCE OF DATABASE.—

“(1) IN GENERAL.—The Secretary shall maintain and annually update the database established under subsection (a)(1) and the list established under subsection (a)(2), including—

“(A) establishing data collection guidelines and providing such guidelines to the appropriate homeland security official of each State;

“(B) regularly reviewing the guidelines established under subparagraph (A), including by consulting with the appropriate homeland security officials of States, to solicit feedback about the guidelines, as appropriate;

“(C) after providing the homeland security official of a State with the guidelines under subparagraph (A), allowing the official a reasonable amount of time to submit to the Secretary any data submissions recommended by the official for inclusion in the database established under subsection (a)(1);

“(D) examining the contents and identifying any submissions made by such an official that are described incorrectly or that do not meet the guidelines established under subparagraph (A); and

“(E) providing to the appropriate homeland security official of each relevant State a list of submissions identified under subparagraph (D) for review and possible correction

before the Secretary finalizes the decision of which submissions will be included in the database established under subsection (a)(1).

“(2) ORGANIZATION OF INFORMATION IN DATABASE.—The Secretary shall organize the contents of the database established under subsection (a)(1) and the list established under subsection (a)(2) as the Secretary determines is appropriate. Any organizational structure of such contents shall include the categorization of the contents—

“(A) according to the sectors listed in National Infrastructure Protection Plan developed pursuant to Homeland Security Presidential Directive-7; and

“(B) by the State and county of their location.

“(3) PRIVATE SECTOR INTEGRATION.—The Secretary shall identify and evaluate methods, including the Department’s Protected Critical Infrastructure Information Program, to acquire relevant private sector information for the purpose of using that information to generate any database or list, including the database established under subsection (a)(1) and the list established under subsection (a)(2).

“(4) RETENTION OF CLASSIFICATION.—The classification of information required to be provided to Congress, the Department, or any other department or agency under this section by a sector-specific agency, including the assignment of a level of classification of such information, shall be binding on Congress, the Department, and that other Federal agency.

“(d) REPORTS.—

“(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and annually thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the database established under subsection (a)(1) and the list established under subsection (a)(2).

“(2) CONTENTS OF REPORT.—Each such report shall include the following:

“(A) The name, location, and sector classification of each of the systems and assets on the list established under subsection (a)(2).

“(B) The name, location, and sector classification of each of the systems and assets on such list that are determined by the Secretary to be most at risk to terrorism.

“(C) Any significant challenges in compiling the list of the systems and assets included on such list or in the database established under subsection (a)(1).

“(D) Any significant changes from the preceding report in the systems and assets included on such list or in such database.

“(E) If appropriate, the extent to which such database and such list have been used, individually or jointly, for allocating funds by the Federal Government to prevent, reduce, mitigate, or respond to acts of terrorism.

“(F) The amount of coordination between the Department and the private sector, through any entity of the Department that meets with representatives of private sector industries for purposes of such coordination, for the

purpose of ensuring the accuracy of such database and such list.

“(G) Any other information the Secretary deems relevant.

“(3) CLASSIFIED INFORMATION.—The report shall be submitted in unclassified form but may contain a classified annex.

Deadline.

“(e) INSPECTOR GENERAL STUDY.—By not later than two years after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department shall conduct a study of the implementation of this section.

“(f) NATIONAL INFRASTRUCTURE PROTECTION CONSORTIUM.—The Secretary may establish a consortium to be known as the ‘National Infrastructure Protection Consortium’. The Consortium may advise the Secretary on the best way to identify, generate, organize, and maintain any database or list of systems and assets established by the Secretary, including the database established under subsection (a)(1) and the list established under subsection (a)(2). If the Secretary establishes the National Infrastructure Protection Consortium, the Consortium may—

“(1) be composed of national laboratories, Federal agencies, State and local homeland security organizations, academic institutions, or national Centers of Excellence that have demonstrated experience working with and identifying critical infrastructure and key resources; and

“(2) provide input to the Secretary on any request pertaining to the contents of such database or such list.”.

6 USC 124I note.

(b) DEADLINES FOR IMPLEMENTATION AND NOTIFICATION OF CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit the first report required under section 210E(d) of the Homeland Security Act of 2002, as added by subsection (a).

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is further amended by inserting after the item relating to section 210D the following:

“Sec. 210E. National Asset Database.”.

SEC. 1002. RISK ASSESSMENTS AND REPORT.

(a) RISK ASSESSMENTS.—Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following new paragraph:

“(25) To prepare and submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security in the House of Representatives, and to other appropriate congressional committees having jurisdiction over the critical infrastructure or key resources, for each sector identified in the National Infrastructure Protection Plan, a report on the comprehensive assessments carried out by the Secretary of the critical infrastructure and key resources of the United States, evaluating threat, vulnerability, and consequence, as required under this subsection. Each such report—

“(A) shall contain, if applicable, actions or countermeasures recommended or taken by the Secretary or the head of another Federal agency to address issues identified in the assessments;

“(B) shall be required for fiscal year 2007 and each subsequent fiscal year and shall be submitted not later

than 35 days after the last day of the fiscal year covered by the report; and

“(C) may be classified.”.

(b) **REPORT ON INDUSTRY PREPAREDNESS.**—Not later than 6 months after the last day of fiscal year 2007 and each subsequent fiscal year, the Secretary of Homeland Security, in cooperation with the Secretary of Commerce, the Secretary of Transportation, the Secretary of Defense, and the Secretary of Energy, shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Financial Services and the Committee on Homeland Security of the House of Representatives a report that details the actions taken by the Federal Government to ensure, in accordance with subsections (a) and (c) of section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071), the preparedness of industry to reduce interruption of critical infrastructure and key resource operations during an act of terrorism, natural catastrophe, or other similar national emergency.

50 USC app.
2071 note.

**SEC. 1003. SENSE OF CONGRESS REGARDING THE INCLUSION OF
LEVEES IN THE NATIONAL INFRASTRUCTURE PROTECTION PLAN.**

It is the sense of Congress that the Secretary should ensure that levees are included in one of the critical infrastructure and key resources sectors identified in the National Infrastructure Protection Plan.

**TITLE XI—ENHANCED DEFENSES
AGAINST WEAPONS OF MASS DESTRUCTION**

SEC. 1101. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

(a) **IN GENERAL.**—Title III of the Homeland Security Act of 2002 (6 U.S.C. et seq.) is amended by adding at the end the following:

“SEC. 316. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

“(a) **ESTABLISHMENT.**—The Secretary shall establish, operate, and maintain a National Biosurveillance Integration Center (referred to in this section as the ‘NBIC’), which shall be headed by a Directing Officer, under an office or directorate of the Department that is in existence as of the date of the enactment of this section.

“(b) **PRIMARY MISSION.**—The primary mission of the NBIC is to—

“(1) enhance the capability of the Federal Government to—

“(A) rapidly identify, characterize, localize, and track a biological event of national concern by integrating and analyzing data relating to human health, animal, plant, food, and environmental monitoring systems (both national and international); and

“(B) disseminate alerts and other information to Member Agencies and, in coordination with (and where possible through) Member Agencies, to agencies of State, local, and tribal governments, as appropriate, to enhance

the ability of such agencies to respond to a biological event of national concern; and

“(2) oversee development and operation of the National Biosurveillance Integration System.

“(c) REQUIREMENTS.—The NBIC shall detect, as early as possible, a biological event of national concern that presents a risk to the United States or the infrastructure or key assets of the United States, including by—

“(1) consolidating data from all relevant surveillance systems maintained by Member Agencies to detect biological events of national concern across human, animal, and plant species;

“(2) seeking private sources of surveillance, both foreign and domestic, when such sources would enhance coverage of critical surveillance gaps;

“(3) using an information technology system that uses the best available statistical and other analytical tools to identify and characterize biological events of national concern in as close to real-time as is practicable;

“(4) providing the infrastructure for such integration, including information technology systems and space, and support for personnel from Member Agencies with sufficient expertise to enable analysis and interpretation of data;

“(5) working with Member Agencies to create information technology systems that use the minimum amount of patient data necessary and consider patient confidentiality and privacy issues at all stages of development and apprise the Privacy Officer of such efforts; and

“(6) alerting Member Agencies and, in coordination with (and where possible through) Member Agencies, public health agencies of State, local, and tribal governments regarding any incident that could develop into a biological event of national concern.

“(d) RESPONSIBILITIES OF THE DIRECTING OFFICER OF THE NBIC.—

“(1) IN GENERAL.—The Directing Officer of the NBIC shall—

“(A) on an ongoing basis, monitor the availability and appropriateness of surveillance systems used by the NBIC and those systems that could enhance biological situational awareness or the overall performance of the NBIC;

“(B) on an ongoing basis, review and seek to improve the statistical and other analytical methods used by the NBIC;

“(C) receive and consider other relevant homeland security information, as appropriate; and

“(D) provide technical assistance, as appropriate, to all Federal, regional, State, local, and tribal government entities and private sector entities that contribute data relevant to the operation of the NBIC.

“(2) ASSESSMENTS.—The Directing Officer of the NBIC shall—

“(A) on an ongoing basis, evaluate available data for evidence of a biological event of national concern; and

“(B) integrate homeland security information with NBIC data to provide overall situational awareness and determine whether a biological event of national concern has occurred.

“(3) INFORMATION SHARING.—

“(A) IN GENERAL.—The Directing Officer of the NBIC shall—

“(i) establish a method of real-time communication with the National Operations Center;

“(ii) in the event that a biological event of national concern is detected, notify the Secretary and disseminate results of NBIC assessments relating to that biological event of national concern to appropriate Federal response entities and, in coordination with relevant Member Agencies, regional, State, local, and tribal governmental response entities in a timely manner;

“(iii) provide any report on NBIC assessments to Member Agencies and, in coordination with relevant Member Agencies, any affected regional, State, local, or tribal government, and any private sector entity considered appropriate that may enhance the mission of such Member Agencies, governments, or entities or the ability of the Nation to respond to biological events of national concern; and

“(iv) share NBIC incident or situational awareness reports, and other relevant information, consistent with the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) and any policies, guidelines, procedures, instructions, or standards established under that section.

“(B) CONSULTATION.—The Directing Officer of the NBIC shall implement the activities described in subparagraph (A) consistent with the policies, guidelines, procedures, instructions, or standards established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) and in consultation with the Director of National Intelligence, the Under Secretary for Intelligence and Analysis, and other offices or agencies of the Federal Government, as appropriate.

“(e) RESPONSIBILITIES OF THE NBIC MEMBER AGENCIES.—

“(1) IN GENERAL.—Each Member Agency shall—

“(A) use its best efforts to integrate biosurveillance information into the NBIC, with the goal of promoting information sharing between Federal, State, local, and tribal governments to detect biological events of national concern;

“(B) provide timely information to assist the NBIC in maintaining biological situational awareness for accurate detection and response purposes;

“(C) enable the NBIC to receive and use biosurveillance information from member agencies to carry out its requirements under subsection (c);

“(D) connect the biosurveillance data systems of that Member Agency to the NBIC data system under mutually agreed protocols that are consistent with subsection (c)(5);

“(E) participate in the formation of strategy and policy for the operation of the NBIC and its information sharing;

“(F) provide personnel to the NBIC under an inter-agency personnel agreement and consider the qualifications of such personnel necessary to provide human, animal,

and environmental data analysis and interpretation support to the NBIC; and

“(G) retain responsibility for the surveillance and intelligence systems of that department or agency, if applicable.

“(f) ADMINISTRATIVE AUTHORITIES.—

“(1) HIRING OF EXPERTS.—The Directing Officer of the NBIC shall hire individuals with the necessary expertise to develop and operate the NBIC.

“(2) DETAIL OF PERSONNEL.—Upon the request of the Directing Officer of the NBIC, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Department to assist the NBIC in carrying out this section.

Establishment.

“(g) NBIC INTERAGENCY WORKING GROUP.—The Directing Officer of the NBIC shall—

“(1) establish an interagency working group to facilitate interagency cooperation and to advise the Directing Officer of the NBIC regarding recommendations to enhance the biosurveillance capabilities of the Department; and

“(2) invite Member Agencies to serve on that working group.

“(h) RELATIONSHIP TO OTHER DEPARTMENTS AND AGENCIES.—The authority of the Directing Officer of the NBIC under this section shall not affect any authority or responsibility of any other department or agency of the Federal Government with respect to biosurveillance activities under any program administered by that department or agency.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

“(j) DEFINITIONS.—In this section:

“(1) The terms ‘biological agent’ and ‘toxin’ have the meanings given those terms in section 178 of title 18, United States Code.

“(2) The term ‘biological event of national concern’ means—

“(A) an act of terrorism involving a biological agent or toxin; or

“(B) a naturally occurring outbreak of an infectious disease that may result in a national epidemic.

“(3) The term ‘homeland security information’ has the meaning given that term in section 892.

“(4) The term ‘Member Agency’ means any Federal department or agency that, at the discretion of the head of that department or agency, has entered a memorandum of understanding regarding participation in the NBIC.

“(5) The term ‘Privacy Officer’ means the Privacy Officer appointed under section 222.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 315 the following:

“Sec. 316. National Biosurveillance Integration Center.”.

6 USC 195b note.

(c) DEADLINE FOR IMPLEMENTATION.—The National Biosurveillance Integration Center under section 316 of the Homeland Security Act, as added by subsection (a), shall be fully operational by not later than September 30, 2008.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives an interim report on the status of the operations at the National Biosurveillance Integration Center that addresses the efforts of the Center to integrate the surveillance efforts of Federal, State, local, and tribal governments. When the National Biosurveillance Integration Center is fully operational, the Secretary shall submit to such committees a final report on the status of such operations.

SEC. 1102. BIOSURVEILLANCE EFFORTS.

The Comptroller General of the United States shall submit to Congress a report—

- (1) describing the state of Federal, State, local, and tribal government biosurveillance efforts as of the date of such report;
- (2) describing any duplication of effort at the Federal, State, local, or tribal government level to create biosurveillance systems; and
- (3) providing the recommendations of the Comptroller General regarding—
 - (A) the integration of biosurveillance systems;
 - (B) the effective use of biosurveillance resources; and
 - (C) the effective use of the expertise of Federal, State, local, and tribal governments.

SEC. 1103. INTERAGENCY COORDINATION TO ENHANCE DEFENSES AGAINST NUCLEAR AND RADIOLOGICAL WEAPONS OF MASS DESTRUCTION.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 1906, as redesignated by section 104, the following:

“SEC. 1907. JOINT ANNUAL INTERAGENCY REVIEW OF GLOBAL NUCLEAR DETECTION ARCHITECTURE. 6 USC 596a.

“(a) ANNUAL REVIEW.—

“(1) IN GENERAL.—The Secretary, the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of National Intelligence shall jointly ensure interagency coordination on the development and implementation of the global nuclear detection architecture by ensuring that, not less frequently than once each year—

“(A) each relevant agency, office, or entity—

“(i) assesses its involvement, support, and participation in the development, revision, and implementation of the global nuclear detection architecture; and

“(ii) examines and evaluates components of the global nuclear detection architecture (including associated strategies and acquisition plans) relating to the operations of that agency, office, or entity, to determine whether such components incorporate and address current threat assessments, scenarios, or intelligence analyses developed by the Director of National Intelligence or other agencies regarding threats relating to nuclear or radiological weapons of mass destruction; and

“(B) each agency, office, or entity deploying or operating any nuclear or radiological detection technology under the global nuclear detection architecture—

“(i) evaluates the deployment and operation of nuclear or radiological detection technologies under the global nuclear detection architecture by that agency, office, or entity;

“(ii) identifies performance deficiencies and operational or technical deficiencies in nuclear or radiological detection technologies deployed under the global nuclear detection architecture; and

“(iii) assesses the capacity of that agency, office, or entity to implement the responsibilities of that agency, office, or entity under the global nuclear detection architecture.

“(2) TECHNOLOGY.—Not less frequently than once each year, the Secretary shall examine and evaluate the development, assessment, and acquisition of radiation detection technologies deployed or implemented in support of the domestic portion of the global nuclear detection architecture.

“(b) ANNUAL REPORT ON JOINT INTERAGENCY REVIEW.—

“(1) IN GENERAL.—Not later than March 31 of each year, the Secretary, the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of National Intelligence, shall jointly submit a report regarding the implementation of this section and the results of the reviews required under subsection (a) to—

“(A) the President;

“(B) the Committee on Appropriations, the Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(C) the Committee on Appropriations, the Committee on Armed Services, the Permanent Select Committee on Intelligence, the Committee on Homeland Security, and the Committee on Science and Technology of the House of Representatives.

“(2) FORM.—The annual report submitted under paragraph (1) shall be submitted in unclassified form to the maximum extent practicable, but may include a classified annex.

“(c) DEFINITION.—In this section, the term ‘global nuclear detection architecture’ means the global nuclear detection architecture developed under section 1902.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 note) is amended by inserting after the item relating to section 1906, as added by section 104, the following:

“Sec. 1907. Joint annual interagency review of global nuclear detection architecture.”.

6 USC 921a.

SEC. 1104. INTEGRATION OF DETECTION EQUIPMENT AND TECHNOLOGIES.

(a) RESPONSIBILITY OF SECRETARY.—The Secretary of Homeland Security shall have responsibility for ensuring that domestic chemical, biological, radiological, and nuclear detection equipment and technologies are integrated, as appropriate, with other border security systems and detection technologies.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a plan to develop a departmental technology assessment process to determine and certify the technology readiness levels of chemical, biological, radiological, and nuclear detection technologies before the full deployment of such technologies within the United States.

TITLE XII—TRANSPORTATION SECURITY PLANNING AND INFORMATION SHARING

SEC. 1201. DEFINITIONS.

6 USC 1101.

For purposes of this title, the following terms apply:

(1) DEPARTMENT.—The term “Department” means the Department of Homeland Security.

(2) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

SEC. 1202. TRANSPORTATION SECURITY STRATEGIC PLANNING.

(a) IN GENERAL.—Section 114(t)(1)(B) of title 49, United States Code, is amended to read as follows:

“(B) transportation modal security plans addressing security risks, including threats, vulnerabilities, and consequences, for aviation, railroad, ferry, highway, maritime, pipeline, public transportation, over-the-road bus, and other transportation infrastructure assets.”.

(b) CONTENTS OF THE NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—Section 114(t)(3) of such title is amended—

(1) in subparagraph (B), by inserting “, based on risk assessments conducted or received by the Secretary of Homeland Security (including assessments conducted under the Implementing Recommendations of the 9/11 Commission Act of 2007” after “risk based priorities”;

(2) in subparagraph (D)—

(A) by striking “and local” and inserting “local, and tribal”; and

(B) by striking “private sector cooperation and participation” and inserting “cooperation and participation by private sector entities, including nonprofit employee labor organizations,”;

(3) in subparagraph (E)—

(A) by striking “response” and inserting “prevention, response,”; and

(B) by inserting “and threatened and executed acts of terrorism outside the United States to the extent such acts affect United States transportation systems” before the period at the end;

(4) in subparagraph (F), by adding at the end the following: “Transportation security research and development projects shall be based, to the extent practicable, on such prioritization. Nothing in the preceding sentence shall be construed to require the termination of any research or development project initiated by the Secretary of Homeland Security or the Secretary of

Transportation before the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.”; and

(5) by adding at the end the following:

“(G) A 3- and 10-year budget for Federal transportation security programs that will achieve the priorities of the National Strategy for Transportation Security.

“(H) Methods for linking the individual transportation modal security plans and the programs contained therein, and a plan for addressing the security needs of intermodal transportation.

“(I) Transportation modal security plans described in paragraph (1)(B), including operational recovery plans to expedite, to the maximum extent practicable, the return to operation of an adversely affected transportation system following a major terrorist attack on that system or other incident. These plans shall be coordinated with the resumption of trade protocols required under section 202 of the SAFE Port Act (6 U.S.C. 942) and the National Maritime Transportation Security Plan required under section 70103(a) of title 46.”.

(c) PERIODIC PROGRESS REPORTS.—Section 114(t)(4) of such title is amended—

(1) in subparagraph (C)—

(A) in clause (i) by inserting “, including the transportation modal security plans” before the period at the end; and

(B) by striking clause (ii) and inserting the following:

“(ii) CONTENT.—Each progress report submitted under this subparagraph shall include, at a minimum, the following:

“(I) Recommendations for improving and implementing the National Strategy for Transportation Security and the transportation modal and intermodal security plans that the Secretary of Homeland Security, in consultation with the Secretary of Transportation, considers appropriate.

“(II) An accounting of all grants for transportation security, including grants and contracts for research and development, awarded by the Secretary of Homeland Security in the most recent fiscal year and a description of how such grants accomplished the goals of the National Strategy for Transportation Security.

“(III) An accounting of all—

“(aa) funds requested in the President’s budget submitted pursuant to section 1105 of title 31 for the most recent fiscal year for transportation security, by mode;

“(bb) personnel working on transportation security by mode, including the number of contractors; and

“(cc) information on the turnover in the previous year among senior staff of the Department of Homeland Security, including component agencies, working on transportation security issues. Such information shall

include the number of employees who have permanently left the office, agency, or area in which they worked, and the amount of time that they worked for the Department.

“(iii) WRITTEN EXPLANATION OF TRANSPORTATION SECURITY ACTIVITIES NOT DELINEATED IN THE NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—At the end of each fiscal year, the Secretary of Homeland Security shall submit to the appropriate congressional committees a written explanation of any Federal transportation security activity that is inconsistent with the National Strategy for Transportation Security, including the amount of funds to be expended for the activity and the number of personnel involved.”; and

(2) by striking subparagraph (E) and inserting the following:

“(E) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term ‘appropriate congressional committees’ means the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Homeland Security and Governmental Affairs, and the Committee on Banking, Housing, and Urban Affairs of the Senate.”.

(d) PRIORITY STATUS.—Section 114(t)(5)(B) of such title is amended—

- (1) in clause (iii), by striking “and” at the end;
- (2) by redesignating clause (iv) as clause (v); and
- (3) by inserting after clause (iii) the following:

“(iv) the transportation sector specific plan required under Homeland Security Presidential Directive-7; and”.

(e) COORDINATION AND PLAN DISTRIBUTION.—Section 114(t) of such title is amended by adding at the end the following:

“(6) COORDINATION.—In carrying out the responsibilities under this section, the Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall consult, as appropriate, with Federal, State, and local agencies, tribal governments, private sector entities (including nonprofit employee labor organizations), institutions of higher learning, and other entities.

“(7) PLAN DISTRIBUTION.—The Secretary of Homeland Security shall make available and appropriately publicize an unclassified version of the National Strategy for Transportation Security, including its component transportation modal security plans, to Federal, State, regional, local and tribal authorities, transportation system owners or operators, private sector stakeholders, including nonprofit employee labor organizations representing transportation employees, institutions of higher learning, and other appropriate entities.”.

SEC. 1203. TRANSPORTATION SECURITY INFORMATION SHARING.

(a) IN GENERAL.—Section 114 of title 49, United States Code, is amended by adding at the end the following:

“(u) TRANSPORTATION SECURITY INFORMATION SHARING PLAN.—

“(1) DEFINITIONS.—In this subsection:

“(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ has the meaning given that term in subsection (t).

“(B) PLAN.—The term ‘Plan’ means the Transportation Security Information Sharing Plan established under paragraph (2).

“(C) PUBLIC AND PRIVATE STAKEHOLDERS.—The term ‘public and private stakeholders’ means Federal, State, and local agencies, tribal governments, and appropriate private entities, including nonprofit employee labor organizations representing transportation employees.

“(D) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(E) TRANSPORTATION SECURITY INFORMATION.—The term ‘transportation security information’ means information relating to the risks to transportation modes, including aviation, public transportation, railroad, ferry, highway, maritime, pipeline, and over-the-road bus transportation, and may include specific and general intelligence products, as appropriate.

“(2) ESTABLISHMENT OF PLAN.—The Secretary of Homeland Security, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Secretary of Transportation, and public and private stakeholders, shall establish a Transportation Security Information Sharing Plan. In establishing the Plan, the Secretary shall gather input on the development of the Plan from private and public stakeholders and the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

“(3) PURPOSE OF PLAN.—The Plan shall promote sharing of transportation security information between the Department of Homeland Security and public and private stakeholders.

“(4) CONTENT OF PLAN.—The Plan shall include—

“(A) a description of how intelligence analysts within the Department of Homeland Security will coordinate their activities within the Department and with other Federal, State, and local agencies, and tribal governments, including coordination with existing modal information sharing centers and the center described in section 1410 of the Implementing Recommendations of the 9/11 Commission Act of 2007;

“(B) the establishment of a point of contact, which may be a single point of contact within the Department of Homeland Security, for each mode of transportation for the sharing of transportation security information with public and private stakeholders, including an explanation and justification to the appropriate congressional committees if the point of contact established pursuant to this subparagraph differs from the agency within the Department that has the primary authority, or has been delegated such authority by the Secretary, to regulate the security of that transportation mode;

“(C) a reasonable deadline by which the Plan will be implemented; and

“(D) a description of resource needs for fulfilling the Plan.

“(5) COORDINATION WITH INFORMATION SHARING.—The Plan shall be—

“(A) implemented in coordination, as appropriate, with the program manager for the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485); and

“(B) consistent with the establishment of the information sharing environment and any policies, guidelines, procedures, instructions, or standards established by the President or the program manager for the implementation and management of the information sharing environment.

“(6) REPORTS TO CONGRESS.—

“(A) IN GENERAL.—Not later than 150 days after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit to the appropriate congressional committees, a report containing the Plan.

“(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall submit to the appropriate congressional committees a report on updates to and the implementation of the Plan.

“(7) SURVEY AND REPORT.—

“(A) IN GENERAL.—The Comptroller General of the United States shall conduct a biennial survey of the satisfaction of recipients of transportation intelligence reports disseminated under the Plan.

“(B) INFORMATION SOUGHT.—The survey conducted under subparagraph (A) shall seek information about the quality, speed, regularity, and classification of the transportation security information products disseminated by the Department of Homeland Security to public and private stakeholders.

“(C) REPORT.—Not later than 1 year after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and every even numbered year thereafter, the Comptroller General shall submit to the appropriate congressional committees, a report on the results of the survey conducted under subparagraph (A). The Comptroller General shall also provide a copy of the report to the Secretary.

“(8) SECURITY CLEARANCES.—The Secretary shall, to the greatest extent practicable, take steps to expedite the security clearances needed for designated public and private stakeholders to receive and obtain access to classified information distributed under this section, as appropriate.

“(9) CLASSIFICATION OF MATERIAL.—The Secretary, to the greatest extent practicable, shall provide designated public and private stakeholders with transportation security information in an unclassified format.”.

(b) CONGRESSIONAL OVERSIGHT OF SECURITY ASSURANCE FOR PUBLIC AND PRIVATE STAKEHOLDERS.— 49 USC 114 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall provide a semiannual report to the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the Reports.

Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

(A) the number of public and private stakeholders who were provided with each report;

(B) a description of the measures the Secretary has taken, under section 114(u)(7) of title 49, United States Code, as added by this section, or otherwise, to ensure proper treatment and security for any classified information to be shared with the public and private stakeholders under the Plan; and

(C) an explanation of the reason for the denial of transportation security information to any stakeholder who had previously received such information.

(2) NO REPORT REQUIRED IF NO CHANGES IN STAKEHOLDERS.—The Secretary is not required to provide a semiannual report under paragraph (1) if no stakeholders have been added to or removed from the group of persons with whom transportation security information is shared under the plan since the end of the period covered by the last preceding semiannual report.

Establishment.
6 USC 1102.

SEC. 1204. NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM.

(a) IN GENERAL.—The Secretary is authorized to establish, operate, and maintain a National Domestic Preparedness Consortium within the Department.

(b) MEMBERS.—Members of the National Domestic Preparedness Consortium shall consist of—

(1) the Center for Domestic Preparedness;

(2) the National Energetic Materials Research and Testing Center, New Mexico Institute of Mining and Technology;

(3) the National Center for Biomedical Research and Training, Louisiana State University;

(4) the National Emergency Response and Rescue Training Center, Texas A&M University;

(5) the National Exercise, Test, and Training Center, Nevada Test Site;

(6) the Transportation Technology Center, Incorporated, in Pueblo, Colorado; and

(7) the National Disaster Preparedness Training Center, University of Hawaii.

(c) DUTIES.—The National Domestic Preparedness Consortium shall identify, develop, test, and deliver training to State, local, and tribal emergency response providers, provide on-site and mobile training at the performance and management and planning levels, and facilitate the delivery of training by the training partners of the Department.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary—

(1) for the Center for Domestic Preparedness—

(A) \$57,000,000 for fiscal year 2008;

(B) \$60,000,000 for fiscal year 2009;

(C) \$63,000,000 for fiscal year 2010; and

(D) \$66,000,000 for fiscal year 2011; and

(2) for the National Energetic Materials Research and Testing Center, the National Center for Biomedical Research

and Training, the National Emergency Response and Rescue Training Center, the National Exercise, Test, and Training Center, the Transportation Technology Center, Incorporated, and the National Disaster Preparedness Training Center each—

- (A) \$22,000,000 for fiscal year 2008;
- (B) \$23,000,000 for fiscal year 2009;
- (C) \$24,000,000 for fiscal year 2010; and
- (D) \$25,500,000 for fiscal year 2011.

(e) SAVINGS PROVISION.—From the amounts appropriated pursuant to this section, the Secretary shall ensure that future amounts provided to each of the following entities are not less than the amounts provided to each such entity for participation in the Consortium in fiscal year 2007—

- (1) the Center for Domestic Preparedness;
- (2) the National Energetic Materials Research and Testing Center, New Mexico Institute of Mining and Technology;
- (3) the National Center for Biomedical Research and Training, Louisiana State University;
- (4) the National Emergency Response and Rescue Training Center, Texas A&M University; and
- (5) the National Exercise, Test, and Training Center, Nevada Test Site.

SEC. 1205. NATIONAL TRANSPORTATION SECURITY CENTER OF EXCELLENCE. 6 USC 1103.

(a) ESTABLISHMENT.—The Secretary shall establish a National Transportation Security Center of Excellence to conduct research and education activities, and to develop or provide professional security training, including the training of transportation employees and transportation professionals.

(b) DESIGNATION.—The Secretary shall select one of the institutions identified in subsection (c) as the lead institution responsible for coordinating the National Transportation Security Center of Excellence.

(c) MEMBER INSTITUTIONS.—

(1) CONSORTIUM.—The institution of higher education selected under subsection (b) shall execute agreements with the other institutions of higher education identified in this subsection and other institutions designated by the Secretary to develop a consortium to assist in accomplishing the goals of the Center.

(2) MEMBERS.—The National Transportation Security Center of Excellence shall consist of—

- (A) Texas Southern University in Houston, Texas;
- (B) the National Transit Institute at Rutgers, The State University of New Jersey;
- (C) Tougaloo College;
- (D) the Connecticut Transportation Institute at the University of Connecticut;
- (E) the Homeland Security Management Institute, Long Island University;
- (F) the Mack-Blackwell National Rural Transportation Study Center at the University of Arkansas; and
- (G) any additional institutions or facilities designated by the Secretary.

(3) CERTAIN INCLUSIONS.—To the extent practicable, the Secretary shall ensure that an appropriate number of any additional consortium colleges or universities designated by the Secretary under this subsection are Historically Black Colleges and Universities, Hispanic Serving Institutions, and Indian Tribally Controlled Colleges and Universities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

- (1) \$18,000,000 for fiscal year 2008;
- (2) \$18,000,000 for fiscal year 2009;
- (3) \$18,000,000 for fiscal year 2010; and
- (4) \$18,000,000 for fiscal year 2011.

6 USC 1104.

SEC. 1206. IMMUNITY FOR REPORTS OF SUSPECTED TERRORIST ACTIVITY OR SUSPICIOUS BEHAVIOR AND RESPONSE.

(a) IMMUNITY FOR REPORTS OF SUSPECTED TERRORIST ACTIVITY OR SUSPICIOUS BEHAVIOR.—

(1) IN GENERAL.—Any person who, in good faith and based on objectively reasonable suspicion, makes, or causes to be made, a voluntary report of covered activity to an authorized official shall be immune from civil liability under Federal, State, and local law for such report.

(2) FALSE REPORTS.—Paragraph (1) shall not apply to any report that the person knew to be false or was made with reckless disregard for the truth at the time that person made that report.

(b) IMMUNITY FOR RESPONSE.—

(1) IN GENERAL.—Any authorized official who observes, or receives a report of, covered activity and takes reasonable action in good faith to respond to such activity shall have qualified immunity from civil liability for such action, consistent with applicable law in the relevant jurisdiction. An authorized official as defined by subsection (d)(1)(A) not entitled to assert the defense of qualified immunity shall nevertheless be immune from civil liability under Federal, State, and local law if such authorized official takes reasonable action, in good faith, to respond to the reported activity.

(2) SAVINGS CLAUSE.—Nothing in this subsection shall affect the ability of any authorized official to assert any defense, privilege, or immunity that would otherwise be available, and this subsection shall not be construed as affecting any such defense, privilege, or immunity.

(c) ATTORNEY FEES AND COSTS.—Any person or authorized official found to be immune from civil liability under this section shall be entitled to recover from the plaintiff all reasonable costs and attorney fees.

(d) DEFINITIONS.—In this section:

(1) AUTHORIZED OFFICIAL.—The term “authorized official” means—

(A) any employee or agent of a passenger transportation system or other person with responsibilities relating to the security of such systems;

(B) any officer, employee, or agent of the Department of Homeland Security, the Department of Transportation, or the Department of Justice with responsibilities relating to the security of passenger transportation systems; or

(C) any Federal, State, or local law enforcement officer.

(2) COVERED ACTIVITY.—The term “covered activity” means any suspicious transaction, activity, or occurrence that involves, or is directed against, a passenger transportation system or vehicle or its passengers indicating that an individual may be engaging, or preparing to engage, in a violation of law relating to—

(A) a threat to a passenger transportation system or passenger safety or security; or

(B) an act of terrorism (as that term is defined in section 3077 of title 18, United States Code).

(3) PASSENGER TRANSPORTATION.—The term “passenger transportation” means—

(A) public transportation, as defined in section 5302 of title 49, United States Code;

(B) over-the-road bus transportation, as defined in title XV of this Act, and school bus transportation;

(C) intercity passenger rail transportation as defined in section 24102 of title 49, United States Code;

(D) the transportation of passengers onboard a passenger vessel as defined in section 2101 of title 46, United States Code;

(E) other regularly scheduled waterborne transportation service of passengers by vessel of at least 20 gross tons; and

(F) air transportation, as defined in section 40102 of title 49, United States Code, of passengers.

(4) PASSENGER TRANSPORTATION SYSTEM.—The term “passenger transportation system” means an entity or entities organized to provide passenger transportation using vehicles, including the infrastructure used to provide such transportation.

(5) VEHICLE.—The term “vehicle” has the meaning given to that term in section 1992(16) of title 18, United States Code.

(e) EFFECTIVE DATE.—This section shall take effect on October 1, 2006, and shall apply to all activities and claims occurring on or after such date.

TITLE XIII—TRANSPORTATION SECURITY ENHANCEMENTS

SEC. 1301. DEFINITIONS.

6 USC 1111.

For purposes of this title, the following terms apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Commerce, Science, and Transportation, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) DEPARTMENT.—The term “Department” means the Department of Homeland Security.

(3) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

(4) STATE.—The term “State” means any one of the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(5) TERRORISM.—The term “terrorism” has the meaning that term has in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(6) UNITED STATES.—The term “United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

SEC. 1302. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—Section 114 of title 49, United States Code, as amended by section 1203 of this Act, is further amended by adding at the end the following:

“(v) ENFORCEMENT OF REGULATIONS AND ORDERS OF THE SECRETARY OF HOMELAND SECURITY.—

“(1) APPLICATION OF SUBSECTION.—

“(A) IN GENERAL.—This subsection applies to the enforcement of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of chapter 701 of title 46 and under a provision of this title other than a provision of chapter 449 (in this subsection referred to as an ‘applicable provision of this title’).

“(B) VIOLATIONS OF CHAPTER 449.—The penalties for violations of regulations prescribed and orders issued by the Secretary of Homeland Security under chapter 449 of this title are provided under chapter 463 of this title.

“(C) NONAPPLICATION TO CERTAIN VIOLATIONS.—

“(i) Paragraphs (2) through (5) do not apply to violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title—

“(I) involving the transportation of personnel or shipments of materials by contractors where the Department of Defense has assumed control and responsibility;

“(II) by a member of the armed forces of the United States when performing official duties; or

“(III) by a civilian employee of the Department of Defense when performing official duties.

“(ii) Violations described in subclause (I), (II), or (III) of clause (i) shall be subject to penalties as determined by the Secretary of Defense or the Secretary’s designee.

“(2) CIVIL PENALTY.—

“(A) IN GENERAL.—A person is liable to the United States Government for a civil penalty of not more than \$10,000 for a violation of a regulation prescribed, or order issued, by the Secretary of Homeland Security under an applicable provision of this title.

“(B) REPEAT VIOLATIONS.—A separate violation occurs under this paragraph for each day the violation continues.

“(3) ADMINISTRATIVE IMPOSITION OF CIVIL PENALTIES.—

“(A) IN GENERAL.—The Secretary of Homeland Security may impose a civil penalty for a violation of a regulation

prescribed, or order issued, under an applicable provision of this title. The Secretary shall give written notice of the finding of a violation and the penalty. Notification.

“(B) SCOPE OF CIVIL ACTION.—In a civil action to collect a civil penalty imposed by the Secretary under this subsection, a court may not re-examine issues of liability or the amount of the penalty.

“(C) JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction of civil actions to collect a civil penalty imposed by the Secretary under this subsection if—

“(i) the amount in controversy is more than—

“(I) \$400,000, if the violation was committed by a person other than an individual or small business concern; or

“(II) \$50,000 if the violation was committed by an individual or small business concern;

“(ii) the action is in rem or another action in rem based on the same violation has been brought; or

“(iii) another action has been brought for an injunction based on the same violation.

“(D) MAXIMUM PENALTY.—The maximum civil penalty the Secretary administratively may impose under this paragraph is—

“(i) \$400,000, if the violation was committed by a person other than an individual or small business concern; or

“(ii) \$50,000, if the violation was committed by an individual or small business concern.

“(E) NOTICE AND OPPORTUNITY TO REQUEST HEARING.—Before imposing a penalty under this section the Secretary shall provide to the person against whom the penalty is to be imposed—

“(i) written notice of the proposed penalty; and

“(ii) the opportunity to request a hearing on the proposed penalty, if the Secretary receives the request not later than 30 days after the date on which the person receives notice. Deadline.

“(4) COMPROMISE AND SETOFF.—

“(A) The Secretary may compromise the amount of a civil penalty imposed under this subsection.

“(B) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

“(5) INVESTIGATIONS AND PROCEEDINGS.—Chapter 461 shall apply to investigations and proceedings brought under this subsection to the same extent that it applies to investigations and proceedings brought with respect to aviation security duties designated to be carried out by the Secretary. Applicability.

“(6) DEFINITIONS.—In this subsection:

“(A) PERSON.—The term ‘person’ does not include—

“(i) the United States Postal Service; or

“(ii) the Department of Defense.

“(B) SMALL BUSINESS CONCERN.—The term ‘small business concern’ has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

“(7) ENFORCEMENT TRANSPARENCY.—

Deadline.

“(A) IN GENERAL.—Not later than December 31, 2008, and annually thereafter, the Secretary shall—

Public
information.

“(i) provide an annual summary to the public of all enforcement actions taken by the Secretary under this subsection; and

“(ii) include in each such summary the docket number of each enforcement action, the type of alleged violation, the penalty or penalties proposed, and the final assessment amount of each penalty.

“(B) ELECTRONIC AVAILABILITY.—Each summary under this paragraph shall be made available to the public by electronic means.

“(C) RELATIONSHIP TO THE FREEDOM OF INFORMATION ACT AND THE PRIVACY ACT.—Nothing in this subsection shall be construed to require disclosure of information or records that are exempt from disclosure under sections 552 or 552a of title 5.

Deadline.
Reports.
Public
information.

“(D) ENFORCEMENT GUIDANCE.—Not later than 180 days after the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary shall provide a report to the public describing the enforcement process established under this subsection.”.

(b) CONFORMING AMENDMENT.—Section 46301(a)(4) of title 49, United States Code, is amended by striking “or another requirement under this title administered by the Under Secretary of Transportation for Security”.

6 USC 1112.

SEC. 1303. AUTHORIZATION OF VISIBLE INTERMODAL PREVENTION AND RESPONSE TEAMS.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Transportation Security Administration, may develop Visible Intermodal Prevention and Response (referred to in this section as “VIPR”) teams to augment the security of any mode of transportation at any location within the United States. In forming a VIPR team, the Secretary—

(1) may use any asset of the Department, including Federal air marshals, surface transportation security inspectors, canine detection teams, and advanced screening technology;

(2) may determine when a VIPR team shall be deployed, as well as the duration of the deployment;

(3) shall, prior to and during the deployment, consult with local security and law enforcement officials in the jurisdiction where the VIPR team is or will be deployed, to develop and agree upon the appropriate operational protocols and provide relevant information about the mission of the VIPR team, as appropriate; and

(4) shall, prior to and during the deployment, consult with all transportation entities directly affected by the deployment of a VIPR team, as appropriate, including railroad carriers, air carriers, airport owners, over-the-road bus operators and terminal owners and operators, motor carriers, public transportation agencies, owners or operators of highways, port operators and facility owners, vessel owners and operators and pipeline operators.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section such sums as necessary for fiscal years 2007 through 2011.

SEC. 1304. SURFACE TRANSPORTATION SECURITY INSPECTORS.

6 USC 1113.

(a) **IN GENERAL.**—The Secretary, acting through the Administrator of the Transportation Security Administration, is authorized to train, employ, and utilize surface transportation security inspectors.

(b) **MISSION.**—The Secretary shall use surface transportation security inspectors to assist surface transportation carriers, operators, owners, entities, and facilities to enhance their security against terrorist attack and other security threats and to assist the Secretary in enforcing applicable surface transportation security regulations and directives.

(c) **AUTHORITIES.**—Surface transportation security inspectors employed pursuant to this section shall be authorized such powers and delegated such responsibilities as the Secretary determines appropriate, subject to subsection (e).

(d) **REQUIREMENTS.**—The Secretary shall require that surface transportation security inspectors have relevant transportation experience and other security and inspection qualifications, as determined appropriate.

(e) **LIMITATIONS.**—

(1) **INSPECTORS.**—Surface transportation inspectors shall be prohibited from issuing fines to public transportation agencies, as defined in title XIV, for violations of the Department's regulations or orders except through the process described in paragraph (2).

(2) **CIVIL PENALTIES.**—The Secretary shall be prohibited from assessing civil penalties against public transportation agencies, as defined in title XIV, for violations of the Department's regulations or orders, except in accordance with the following:

(A) In the case of a public transportation agency that is found to be in violation of a regulation or order issued by the Secretary, the Secretary shall seek correction of the violation through a written notice to the public transportation agency and shall give the public transportation agency reasonable opportunity to correct the violation or propose an alternative means of compliance acceptable to the Secretary.

Notification.

(B) If the public transportation agency does not correct the violation or propose an alternative means of compliance acceptable to the Secretary within a reasonable time period that is specified in the written notice, the Secretary may take any action authorized in section 114 of title 49, United States Code, as amended by this Act.

(3) **LIMITATION ON SECRETARY.**—The Secretary shall not initiate civil enforcement actions for violations of administrative and procedural requirements pertaining to the application for, and expenditure of, funds awarded under transportation security grant programs under this Act.

(f) **NUMBER OF INSPECTORS.**—The Secretary shall employ up to a total of—

(1) 100 surface transportation security inspectors in fiscal year 2007;

(2) 150 surface transportation security inspectors in fiscal year 2008;

(3) 175 surface transportation security inspectors in fiscal year 2009; and

(4) 200 surface transportation security inspectors in fiscal years 2010 and 2011.

(g) COORDINATION.—The Secretary shall ensure that the mission of the surface transportation security inspectors is consistent with any relevant risk assessments required by this Act or completed by the Department, the modal plans required under section 114(t) of title 49, United States Code, the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities, dated September 28, 2004, and any and all subsequent annexes to this Memorandum of Understanding, and other relevant documents setting forth the Department's transportation security strategy, as appropriate.

(h) CONSULTATION.—The Secretary shall periodically consult with the surface transportation entities which are or may be inspected by the surface transportation security inspectors, including, as appropriate, railroad carriers, over-the-road bus operators and terminal owners and operators, motor carriers, public transportation agencies, owners or operators of highways, and pipeline operators on—

(1) the inspectors' duties, responsibilities, authorities, and mission; and

(2) strategies to improve transportation security and to ensure compliance with transportation security requirements.

(i) REPORT.—Not later than September 30, 2008, the Department of Homeland Security Inspector General shall transmit a report to the appropriate congressional committees on the performance and effectiveness of surface transportation security inspectors, whether there is a need for additional inspectors, and other recommendations.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) \$11,400,000 for fiscal year 2007;

(2) \$17,100,000 for fiscal year 2008;

(3) \$19,950,000 for fiscal year 2009;

(4) \$22,800,000 for fiscal year 2010; and

(5) \$22,800,000 for fiscal year 2011.

6 USC 1114.

SEC. 1305. SURFACE TRANSPORTATION SECURITY TECHNOLOGY INFORMATION SHARING.

(a) IN GENERAL.—

(1) INFORMATION SHARING.—The Secretary, in consultation with the Secretary of Transportation, shall establish a program to provide appropriate information that the Department has gathered or developed on the performance, use, and testing of technologies that may be used to enhance railroad, public transportation, and surface transportation security to surface transportation entities, including railroad carriers, over-the-road bus operators and terminal owners and operators, motor carriers, public transportation agencies, owners or operators of highways, pipeline operators, and State, local, and tribal governments that provide security assistance to such entities.

(2) DESIGNATION OF QUALIFIED ANTITERRORISM TECHNOLOGIES.—The Secretary shall include in such information

provided in paragraph (1) whether the technology is designated as a qualified antiterrorism technology under the Support Antiterrorism by Fostering Effective Technologies Act of 2002 (Public Law 107–296), as appropriate.

(b) PURPOSE.—The purpose of the program is to assist eligible grant recipients under this Act and others, as appropriate, to purchase and use the best technology and equipment available to meet the security needs of the Nation’s surface transportation system.

(c) COORDINATION.—The Secretary shall ensure that the program established under this section makes use of and is consistent with other Department technology testing, information sharing, evaluation, and standards-setting programs, as appropriate.

SEC. 1306. TSA PERSONNEL LIMITATIONS.

6 USC 1115.

Any statutory limitation on the number of employees in the Transportation Security Administration does not apply to employees carrying out this title and titles XII, XIV, and XV.

SEC. 1307. NATIONAL EXPLOSIVES DETECTION CANINE TEAM TRAINING PROGRAM.

6 USC 1116.

(a) DEFINITIONS.—For purposes of this section, the term “explosives detection canine team” means a canine and a canine handler that are trained to detect explosives, radiological materials, chemical, nuclear or biological weapons, or other threats as defined by the Secretary.

(b) IN GENERAL.—

(1) INCREASED CAPACITY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall—

Deadline.

(A) begin to increase the number of explosives detection canine teams certified by the Transportation Security Administration for the purposes of transportation-related security by up to 200 canine teams annually by the end of 2010; and

(B) encourage State, local, and tribal governments and private owners of high-risk transportation facilities to strengthen security through the use of highly trained explosives detection canine teams.

(2) EXPLOSIVES DETECTION CANINE TEAMS.—The Secretary of Homeland Security shall increase the number of explosives detection canine teams by—

(A) using the Transportation Security Administration’s National Explosives Detection Canine Team Training Center, including expanding and upgrading existing facilities, procuring and breeding additional canines, and increasing staffing and oversight commensurate with the increased training and deployment capabilities;

(B) partnering with other Federal, State, or local agencies, nonprofit organizations, universities, or the private sector to increase the training capacity for canine detection teams;

(C) procuring explosives detection canines trained by nonprofit organizations, universities, or the private sector provided they are trained in a manner consistent with the standards and requirements developed pursuant to subsection (c) or other criteria developed by the Secretary; or

(D) a combination of subparagraphs (A), (B), and (C), as appropriate.

(c) STANDARDS FOR EXPLOSIVES DETECTION CANINE TEAMS.—

(1) IN GENERAL.—Based on the feasibility in meeting the ongoing demand for quality explosives detection canine teams, the Secretary shall establish criteria, including canine training curricula, performance standards, and other requirements approved by the Transportation Security Administration necessary to ensure that explosives detection canine teams trained by nonprofit organizations, universities, and private sector entities are adequately trained and maintained.

(2) EXPANSION.—In developing and implementing such curriculum, performance standards, and other requirements, the Secretary shall—

(A) coordinate with key stakeholders, including international, Federal, State, and local officials, and private sector and academic entities to develop best practice guidelines for such a standardized program, as appropriate;

(B) require that explosives detection canine teams trained by nonprofit organizations, universities, or private sector entities that are used or made available by the Secretary be trained consistent with specific training criteria developed by the Secretary; and

(C) review the status of the private sector programs on at least an annual basis to ensure compliance with training curricula, performance standards, and other requirements.

(d) DEPLOYMENT.—The Secretary shall—

(1) use the additional explosives detection canine teams as part of the Department's efforts to strengthen security across the Nation's transportation network, and may use the canine teams on a more limited basis to support other homeland security missions, as determined appropriate by the Secretary;

(2) make available explosives detection canine teams to all modes of transportation, for high-risk areas or to address specific threats, on an as-needed basis and as otherwise determined appropriate by the Secretary;

(3) encourage, but not require, any transportation facility or system to deploy TSA-certified explosives detection canine teams developed under this section; and

(4) consider specific needs and training requirements for explosives detection canine teams to be deployed across the Nation's transportation network, including in venues of multiple modes of transportation, as appropriate.

(e) CANINE PROCUREMENT.—The Secretary, acting through the Administrator of the Transportation Security Administration, shall work to ensure that explosives detection canine teams are procured as efficiently as possible and at the best price, while maintaining the needed level of quality, including, if appropriate, through increased domestic breeding.

(f) STUDY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall report to the appropriate congressional committees on the utilization of explosives detection canine teams to strengthen security and the capacity of the national explosive detection canine team program.

Deadline.
Reports.

(g) **AUTHORIZATION.**—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section for fiscal years 2007 through 2011.

SEC. 1308. MARITIME AND SURFACE TRANSPORTATION SECURITY USER FEE STUDY.

(a) **IN GENERAL.**—The Secretary of Homeland Security shall conduct a study of the need for, and feasibility of, establishing a system of maritime and surface transportation-related user fees that may be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for legitimate improvements to, and maintenance of, maritime and surface transportation security, including vessel and facility plans required under section 70103(c) of title 46, United States Code. In developing the study, the Secretary shall consult with maritime and surface transportation carriers, shippers, passengers, facility owners and operators, and other persons as determined by the Secretary. Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees that contains—

Deadline.
Reports.

- (1) the results of the study;
- (2) an assessment of the annual sources of funding collected through maritime and surface transportation at ports of entry and a detailed description of the distribution and use of such funds, including the amount and percentage of such sources that are dedicated to improve and maintain security;
- (3) an assessment of—
 - (A) the fees, charges, and standards imposed on United States ports, port terminal operators, shippers, carriers, and other persons who use United States ports of entry compared with the fees and charges imposed on Canadian and Mexican ports, Canadian and Mexican port terminal operators, shippers, carriers, and other persons who use Canadian or Mexican ports of entry; and
 - (B) the impact of such fees, charges, and standards on the competitiveness of United States ports, port terminal operators, railroad carriers, motor carriers, pipelines, other transportation modes, and shippers;
- (4) the private efforts and investments to secure maritime and surface transportation modes, including those that are operational and those that are planned; and
- (5) the Secretary's recommendations based upon the study, and an assessment of the consistency of such recommendations with the international obligations and commitments of the United States.

(b) **DEFINITIONS.**—In this section:

- (1) **PORT OF ENTRY.**—The term “port of entry” means any port or other facility through which foreign goods are permitted to enter the customs territory of a country under official supervision.
- (2) **MARITIME AND SURFACE TRANSPORTATION.**—The term “maritime and surface transportation” includes ocean borne and vehicular transportation.

SEC. 1309. PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO CONVICTED FELONS.

(a) **IN GENERAL.**—Section 70105 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by striking “decides that the individual poses a security risk under subsection (c)” and inserting “determines under subsection (c) that the individual poses a security risk”; and

(2) in subsection (c), by amending paragraph (1) to read as follows:

“(1) DISQUALIFICATIONS.—

“(A) PERMANENT DISQUALIFYING CRIMINAL OFFENSES.—

Except as provided under paragraph (2), an individual is permanently disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following felonies:

“(i) Espionage or conspiracy to commit espionage.

“(ii) Sedition or conspiracy to commit sedition.

“(iii) Treason or conspiracy to commit treason.

“(iv) A Federal crime of terrorism (as defined in section 2332b(g) of title 18), a crime under a comparable State law, or conspiracy to commit such crime.

“(v) A crime involving a transportation security incident.

“(vi) Improper transportation of a hazardous material in violation of section 5104(b) of title 49, or a comparable State law.

“(vii) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipment, transportation, delivery, import, export, or storage of, or dealing in, an explosive or explosive device. In this clause, an explosive or explosive device includes—

“(I) an explosive (as defined in sections 232(5) and 844(j) of title 18);

“(II) explosive materials (as defined in subsections (c) through (f) of section 841 of title 18); and

“(III) a destructive device (as defined in 921(a)(4) of title 18 or section 5845(f) of the Internal Revenue Code of 1986).

“(viii) Murder.

“(ix) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a State or other government facility, a public transportation system, or an infrastructure facility.

“(x) A violation of chapter 96 of title 18, popularly known as the Racketeer Influenced and Corrupt Organizations Act, or a comparable State law, if one of the predicate acts found by a jury or admitted by the defendant consists of one of the crimes listed in this subparagraph.

“(xi) Attempt to commit any of the crimes listed in clauses (i) through (iv).

“(xii) Conspiracy or attempt to commit any of the crimes described in clauses (v) through (x).

“(B) INTERIM DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, during the 7-year period ending on the date on which the individual applies for such card, or was released from incarceration during the 5-year period ending on the date on which the individual applies for such card, of any of the following felonies:

“(i) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipment, transportation, delivery, import, export, or storage of, or dealing in, a firearm or other weapon. In this clause, a firearm or other weapon includes—

“(I) firearms (as defined in section 921(a)(3) of title 18 or section 5845(a) of the Internal Revenue Code of 1986); and

“(II) items contained on the U.S. Munitions Import List under section 447.21 of title 27, Code of Federal Regulations.

“(ii) Extortion.

“(iii) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering if the money laundering is related to a crime described in this subparagraph or subparagraph (A). In this clause, welfare fraud and passing bad checks do not constitute dishonesty, fraud, or misrepresentation.

“(iv) Bribery.

“(v) Smuggling.

“(vi) Immigration violations.

“(vii) Distribution of, possession with intent to distribute, or importation of a controlled substance.

“(viii) Arson.

“(ix) Kidnaping or hostage taking.

“(x) Rape or aggravated sexual abuse.

“(xi) Assault with intent to kill.

“(xii) Robbery.

“(xiii) Conspiracy or attempt to commit any of the crimes listed in this subparagraph.

“(xiv) Fraudulent entry into a seaport in violation of section 1036 of title 18, or a comparable State law.

“(xv) A violation of the chapter 96 of title 18, popularly known as the Racketeer Influenced and Corrupt Organizations Act or a comparable State law, other than any of the violations listed in subparagraph (A)(x).

“(C) UNDER WANT, WARRANT, OR INDICTMENT.—An applicant who is wanted, or under indictment, in any civilian or military jurisdiction for a felony listed in paragraph (1)(A), is disqualified from being issued a biometric transportation security card under subsection (b) until the want or warrant is released or the indictment is dismissed.

“(D) OTHER POTENTIAL DISQUALIFICATIONS.—Except as provided under subparagraphs (A) through (C), an individual may not be denied a transportation security card

under subsection (b) unless the Secretary determines that individual—

“(i) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

“(I) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

“(II) for causing a severe transportation security incident;

“(ii) has been released from incarceration within the preceding 5-year period for committing a felony described in clause (i);

“(iii) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

“(iv) otherwise poses a terrorism security risk to the United States.

“(E) MODIFICATION OF LISTED OFFENSES.—The Secretary may, by rulemaking, add to or modify the list of disqualifying crimes described in paragraph (1)(B).”.

6 USC 1117.

SEC. 1310. ROLES OF THE DEPARTMENT OF HOMELAND SECURITY AND THE DEPARTMENT OF TRANSPORTATION.

The Secretary of Homeland Security is the principal Federal official responsible for transportation security. The roles and responsibilities of the Department of Homeland Security and the Department of Transportation in carrying out this title and titles XII, XIV, and XV are the roles and responsibilities of such Departments pursuant to the Aviation and Transportation Security Act (Public Law 107–71); the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458); the National Infrastructure Protection Plan required by Homeland Security Presidential Directive–7; The Homeland Security Act of 2002; The National Response Plan; Executive Order No. 13416: Strengthening Surface Transportation Security, dated December 5, 2006; the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities, dated September 28, 2004, and any and all subsequent annexes to this Memorandum of Understanding; and any other relevant agreements between the two Departments.

National Transit
Systems Security
Act of 2007.

TITLE XIV—PUBLIC TRANSPORTATION SECURITY

6 USC 1101 note.

SEC. 1401. SHORT TITLE.

This title may be cited as the “National Transit Systems Security Act of 2007”.

6 USC 1131.

SEC. 1402. DEFINITIONS.

For purposes of this title, the following terms apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Banking, Housing, and Urban Affairs, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee

on Transportation and Infrastructure of the House of Representatives.

(2) DEPARTMENT.—The term “Department” means the Department of Homeland Security.

(3) DISADVANTAGED BUSINESSES CONCERNS.—The term “disadvantaged business concerns” means small businesses that are owned and controlled by socially and economically disadvantaged individuals as defined in section 124, title 13, Code of Federal Regulations.

(4) FRONTLINE EMPLOYEE.—The term “frontline employee” means an employee of a public transportation agency who is a transit vehicle driver or operator, dispatcher, maintenance and maintenance support employee, station attendant, customer service employee, security employee, or transit police, or any other employee who has direct contact with riders on a regular basis, and any other employee of a public transportation agency that the Secretary determines should receive security training under section 1408.

(5) PUBLIC TRANSPORTATION AGENCY.—The term “public transportation agency” means a publicly owned operator of public transportation eligible to receive Federal assistance under chapter 53 of title 49, United States Code.

(6) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

SEC. 1403. FINDINGS.

6 USC 1132.

Congress finds that—

(1) 182 public transportation systems throughout the world have been primary targets of terrorist attacks;

(2) more than 6,000 public transportation agencies operate in the United States;

(3) people use public transportation vehicles 33,000,000 times each day;

(4) the Federal Transit Administration has invested \$93,800,000,000 since 1992 for construction and improvements;

(5) the Federal investment in transit security has been insufficient; and

(6) greater Federal investment in transit security improvements per passenger boarding is necessary to better protect the American people, given transit’s vital importance in creating mobility and promoting our Nation’s economy.

SEC. 1404. NATIONAL STRATEGY FOR PUBLIC TRANSPORTATION SECURITY.

6 USC 1133.

(a) NATIONAL STRATEGY.—Not later than 9 months after the date of enactment of this Act and based upon the previous and ongoing security assessments conducted by the Department and the Department of Transportation, the Secretary, consistent with and as required by section 114(t) of title 49, United States Code, shall develop and implement the modal plan for public transportation, entitled the “National Strategy for Public Transportation Security”.

Deadline.

(b) PURPOSE.—

(1) GUIDELINES.—In developing the National Strategy for Public Transportation Security, the Secretary shall establish guidelines for public transportation security that—

(A) minimize security threats to public transportation systems; and

(B) maximize the abilities of public transportation systems to mitigate damage resulting from terrorist attack or other major incident.

(2) ASSESSMENTS AND CONSULTATIONS.—In developing the National Strategy for Public Transportation Security, the Secretary shall—

(A) use established and ongoing public transportation security assessments as the basis of the National Strategy for Public Transportation Security; and

(B) consult with all relevant stakeholders, including public transportation agencies, nonprofit labor organizations representing public transportation employees, emergency responders, public safety officials, and other relevant parties.

(c) CONTENTS.—In the National Strategy for Public Transportation Security, the Secretary shall describe prioritized goals, objectives, policies, actions, and schedules to improve the security of public transportation.

(d) RESPONSIBILITIES.—The Secretary shall include in the National Strategy for Public Transportation Security a description of the roles, responsibilities, and authorities of Federal, State, and local agencies, tribal governments, and appropriate stakeholders. The plan shall also include—

(1) the identification of, and a plan to address, gaps and unnecessary overlaps in the roles, responsibilities, and authorities of Federal agencies; and

(2) a process for coordinating existing or future security strategies and plans for public transportation, including the National Infrastructure Protection Plan required by Homeland Security Presidential Directive–7; Executive Order No. 13416: Strengthening Surface Transportation Security dated December 5, 2006; the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities dated September 28, 2004; and subsequent annexes and agreements.

(e) ADEQUACY OF EXISTING PLANS AND STRATEGIES.—In developing the National Strategy for Public Transportation Security, the Secretary shall use relevant existing risk assessments and strategies developed by the Department or other Federal agencies, including those developed or implemented pursuant to section 114(t) of title 49, United States Code, or Homeland Security Presidential Directive–7.

(f) FUNDING.—There is authorized to be appropriated to the Secretary to carry out this section \$2,000,000 for fiscal year 2008.

6 USC 1134.

Deadlines.

SEC. 1405. SECURITY ASSESSMENTS AND PLANS.

(a) PUBLIC TRANSPORTATION SECURITY ASSESSMENTS.—

(1) SUBMISSION.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Federal Transit Administration of the Department of Transportation shall submit all public transportation security assessments and all other relevant information to the Secretary.

(2) SECRETARIAL REVIEW.—Not later than 60 days after receiving the submission under paragraph (1), the Secretary shall review and augment the security assessments received, and conduct additional security assessments as necessary to ensure that at a minimum, all high risk public transportation

agencies, as determined by the Secretary, will have a completed security assessment.

(3) CONTENT.—The Secretary shall ensure that each completed security assessment includes—

(A) identification of critical assets, infrastructure, and systems and their vulnerabilities; and

(B) identification of any other security weaknesses, including weaknesses in emergency response planning and employee training.

(b) BUS AND RURAL PUBLIC TRANSPORTATION SYSTEMS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall— Deadline.

(1) conduct security assessments, based on a representative sample, to determine the specific needs of—

(A) local bus-only public transportation systems; and

(B) public transportation systems that receive funds under section 5311 of title 49, United States Code; and

(2) make the representative assessments available for use by similarly situated systems.

(c) SECURITY PLANS.—

(1) REQUIREMENT FOR PLAN.—

(A) HIGH RISK AGENCIES.—The Secretary shall require public transportation agencies determined by the Secretary to be at high risk for terrorism to develop a comprehensive security plan. The Secretary shall provide technical assistance and guidance to public transportation agencies in preparing and implementing security plans under this section.

(B) OTHER AGENCIES.—Provided that no public transportation agency that has not been designated high risk shall be required to develop a security plan, the Secretary may also establish a security program for public transportation agencies not designated high risk by the Secretary, to assist those public transportation agencies which request assistance, including—

(i) guidance to assist such agencies in conducting security assessments and preparing and implementing security plans; and

(ii) a process for the Secretary to review and approve such assessments and plans, as appropriate.

(2) CONTENTS OF PLAN.—The Secretary shall ensure that security plans include, as appropriate—

(A) a prioritized list of all items included in the public transportation agency's security assessment that have not yet been addressed;

(B) a detailed list of any additional capital and operational improvements identified by the Department or the public transportation agency and a certification of the public transportation agency's technical capacity for operating and maintaining any security equipment that may be identified in such list;

(C) specific procedures to be implemented or used by the public transportation agency in response to a terrorist attack, including evacuation and passenger communication plans and appropriate evacuation and communication measures for the elderly and individuals with disabilities;

(D) a coordinated response plan that establishes procedures for appropriate interaction with State and local law enforcement agencies, emergency responders, and Federal officials in order to coordinate security measures and plans for response in the event of a terrorist attack or other major incident;

(E) a strategy and timeline for conducting training under section 1408;

(F) plans for providing redundant and other appropriate backup systems necessary to ensure the continued operation of critical elements of the public transportation system in the event of a terrorist attack or other major incident;

(G) plans for providing service capabilities throughout the system in the event of a terrorist attack or other major incident in the city or region which the public transportation system serves;

(H) methods to mitigate damage within a public transportation system in case of an attack on the system, including a plan for communication and coordination with emergency responders; and

(I) other actions or procedures as the Secretary determines are appropriate to address the security of the public transportation system.

Deadline.

(3) REVIEW.—Not later than 6 months after receiving the plans required under this section, the Secretary shall—

(A) review each security plan submitted;

(B) require the public transportation agency to make any amendments needed to ensure that the plan meets the requirements of this section; and

(C) approve any security plan that meets the requirements of this section.

(4) EXEMPTION.—The Secretary shall not require a public transportation agency to develop a security plan under paragraph (1) if the agency does not receive a grant under section 1406.

Notification.

(5) WAIVER.—The Secretary may waive the exemption provided in paragraph (4) to require a public transportation agency to develop a security plan under paragraph (1) in the absence of grant funds under section 1406 if not less than 3 days after making the determination the Secretary provides the appropriate congressional committees and the public transportation agency written notification detailing the need for the security plan, the reasons grant funding has not been made available, and the reason the agency has been designated high risk.

(d) CONSISTENCY WITH OTHER PLANS.—The Secretary shall ensure that the security plans developed by public transportation agencies under this section are consistent with the security assessments developed by the Department and the National Strategy for Public Transportation Security developed under section 1404.

Deadline.

(e) UPDATES.—Not later than September 30, 2008, and annually thereafter, the Secretary shall—

(1) update the security assessments referred to in subsection (a);

(2) update the security improvement priorities required under subsection (f); and

(3) require public transportation agencies to update the security plans required under subsection (c) as appropriate.

(f) SECURITY IMPROVEMENT PRIORITIES.—

(1) IN GENERAL.—Beginning in fiscal year 2008 and each fiscal year thereafter, the Secretary, after consultation with management and nonprofit employee labor organizations representing public transportation employees as appropriate, and with appropriate State and local officials, shall utilize the information developed or received in this section to establish security improvement priorities unique to each individual public transportation agency that has been assessed.

Effective date.

(2) ALLOCATIONS.—The Secretary shall use the security improvement priorities established in paragraph (1) as the basis for allocating risk-based grant funds under section 1406, unless the Secretary notifies the appropriate congressional committees that the Secretary has determined an adjustment is necessary to respond to an urgent threat or other significant national security factors.

(g) SHARED FACILITIES.—The Secretary shall encourage the development and implementation of coordinated assessments and security plans to the extent a public transportation agency shares facilities (such as tunnels, bridges, stations, or platforms) with another public transportation agency, a freight or passenger railroad carrier, or over-the-road bus operator that are geographically close or otherwise co-located.

(h) NONDISCLOSURE OF INFORMATION.—

(1) SUBMISSION OF INFORMATION TO CONGRESS.—Nothing in this section shall be construed as authorizing the withholding of any information from Congress.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this section shall be construed as affecting any authority or obligation of a Federal agency to disclose any record or information that the Federal agency obtains from a public transportation agency under any other Federal law.

(i) DETERMINATION.—In response to a petition by a public transportation agency or at the discretion of the Secretary, the Secretary may recognize existing procedures, protocols, and standards of a public transportation agency that the Secretary determines meet all or part of the requirements of this section regarding security assessments or security plans.

SEC. 1406. PUBLIC TRANSPORTATION SECURITY ASSISTANCE.

6 USC 1135.

(a) SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a program for making grants to eligible public transportation agencies for security improvements described in subsection (b).

(2) ELIGIBILITY.—A public transportation agency is eligible for a grant under this section if the Secretary has performed a security assessment or the agency has developed a security plan under section 1405. Grant funds shall only be awarded for permissible uses under subsection (b) to—

(A) address items included in a security assessment;

or

(B) further a security plan.

(b) USES OF FUNDS.—A recipient of a grant under subsection (a) shall use the grant funds for one or more of the following:

- (1) Capital uses of funds, including—
 - (A) tunnel protection systems;
 - (B) perimeter protection systems, including access control, installation of improved lighting, fencing, and barricades;
 - (C) redundant critical operations control systems;
 - (D) chemical, biological, radiological, or explosive detection systems, including the acquisition of canines used for such detection;
 - (E) surveillance equipment;
 - (F) communications equipment, including mobile service equipment to provide access to wireless Enhanced 911 (E911) emergency services in an underground fixed guideway system;
 - (G) emergency response equipment, including personal protective equipment;
 - (H) fire suppression and decontamination equipment;
 - (I) global positioning or tracking and recovery equipment, and other automated-vehicle-locator-type system equipment;
 - (J) evacuation improvements;
 - (K) purchase and placement of bomb-resistant trash cans throughout public transportation facilities, including subway exits, entrances, and tunnels;
 - (L) capital costs associated with security awareness, security preparedness, and security response training, including training under section 1408 and exercises under section 1407;
 - (M) security improvements for public transportation systems, including extensions thereto, in final design or under construction;
 - (N) security improvements for stations and other public transportation infrastructure, including stations and other public transportation infrastructure owned by State or local governments; and
 - (O) other capital security improvements determined appropriate by the Secretary.
- (2) Operating uses of funds, including—
 - (A) security training, including training under section 1408 and training developed by institutions of higher education and by nonprofit employee labor organizations, for public transportation employees, including frontline employees;
 - (B) live or simulated exercises under section 1407;
 - (C) public awareness campaigns for enhanced public transportation security;
 - (D) canine patrols for chemical, radiological, biological, or explosives detection;
 - (E) development of security plans under section 1405;
 - (F) overtime reimbursement including reimbursement of State, local, and tribal governments, for costs for enhanced security personnel during significant national and international public events;
 - (G) operational costs, including reimbursement of State, local, and tribal governments for costs for personnel assigned to full-time or part-time security or counterterrorism duties related to public transportation,

provided that this expense totals no more than 10 percent of the total grant funds received by a public transportation agency in any 1 year; and

(H) other operational security costs determined appropriate by the Secretary, excluding routine, ongoing personnel costs, other than those set forth in this section.

(c) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants under this section, including application requirements;

(2) pursuant to subsection (a)(2), select the recipients of grants based solely on risk; and

(3) pursuant to subsection (b), establish the priorities for which grant funds may be used under this section.

(d) DISTRIBUTION OF GRANTS.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall determine the most effective and efficient way to distribute grant funds to the recipients of grants determined by the Secretary under subsection (a). Subject to the determination made by the Secretaries, the Secretary may transfer funds to the Secretary of Transportation for the purposes of disbursing funds to the grant recipient. Deadline.

(e) SUBJECT TO CERTAIN TERMS AND CONDITIONS.—Except as otherwise specifically provided in this section, a grant provided under this section shall be subject to the terms and conditions applicable to a grant made under section 5307 of title 49, United States Code, as in effect on January 1, 2007, and such other terms and conditions as are determined necessary by the Secretary.

(f) LIMITATION ON USES OF FUNDS.—Grants made under this section may not be used to make any State or local government cost-sharing contribution under any other Federal law.

(g) ANNUAL REPORTS.—Each recipient of a grant under this section shall report annually to the Secretary on the use of the grant funds.

(h) GUIDELINES.—Before distribution of funds to recipients of grants, the Secretary shall issue guidelines to ensure that, to the extent that recipients of grants under this section use contractors or subcontractors, such recipients shall use small, minority, women-owned, or disadvantaged business concerns as contractors or subcontractors to the extent practicable.

(i) COORDINATION WITH STATE HOMELAND SECURITY PLANS.—In establishing security improvement priorities under section 1405 and in awarding grants for capital security improvements and operational security improvements under subsection (b), the Secretary shall act consistently with relevant State homeland security plans.

(j) MULTISTATE TRANSPORTATION SYSTEMS.—In cases in which a public transportation system operates in more than one State, the Secretary shall give appropriate consideration to the risks of the entire system, including those portions of the States into which the system crosses, in establishing security improvement priorities under section 1405 and in awarding grants for capital security improvements and operational security improvements under subsection (b).

(k) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before the award of any grant under this section, the Secretary Deadline.

shall notify simultaneously, the appropriate congressional committees of the intent to award such grant.

(l) RETURN OF MISSPENT GRANT FUNDS.—The Secretary shall establish a process to require the return of any misspent grant funds received under this section determined to have been spent for a purpose other than those specified in the grant award.

(m) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated to the Secretary to make grants under this section—

(A) such sums as are necessary for fiscal year 2007;

(B) \$650,000,000 for fiscal year 2008, except that not more than 50 percent of such funds may be used for operational costs under subsection (b)(2);

(C) \$750,000,000 for fiscal year 2009, except that not more than 30 percent of such funds may be used for operational costs under subsection (b)(2);

(D) \$900,000,000 for fiscal year 2010, except that not more than 20 percent of such funds may be used for operational costs under subsection (b)(2); and

(E) \$1,100,000,000 for fiscal year 2011, except that not more than 10 percent of such funds may be used for operational costs under subsection (b)(2).

(2) PERIOD OF AVAILABILITY.—Sums appropriated to carry out this section shall remain available until expended.

(3) WAIVER.—The Secretary may waive the limitation on operational costs specified in subparagraphs (B) through (E) of paragraph (1) if the Secretary determines that such a waiver is required in the interest of national security, and if the Secretary provides a written justification to the appropriate congressional committees prior to any such action.

(4) EFFECTIVE DATE.—Funds provided for fiscal year 2007 transit security grants under Public Law 110–28 shall be allocated based on security assessments that are in existence as of the date of enactment of this Act.

6 USC 1136.

SEC. 1407. SECURITY EXERCISES.

(a) IN GENERAL.—The Secretary shall establish a program for conducting security exercises for public transportation agencies for the purpose of assessing and improving the capabilities of entities described in subsection (b) to prevent, prepare for, mitigate against, respond to, and recover from acts of terrorism.

(b) COVERED ENTITIES.—Entities to be assessed under the program shall include—

(1) Federal, State, and local agencies and tribal governments;

(2) public transportation agencies;

(3) governmental and nongovernmental emergency response providers and law enforcement personnel, including transit police; and

(4) any other organization or entity that the Secretary determines appropriate.

(c) REQUIREMENTS.—The Secretary shall ensure that the program—

(1) requires, for public transportation agencies which the Secretary deems appropriate, exercises to be conducted that are—

(A) scaled and tailored to the needs of specific public transportation systems, and include taking into account the needs of the elderly and individuals with disabilities;

(B) live;

(C) coordinated with appropriate officials;

(D) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

(E) inclusive, as appropriate, of frontline employees and managers; and

(F) consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, and other such national initiatives;

(2) provides that exercises described in paragraph (1) will be—

(A) evaluated by the Secretary against clear and consistent performance measures;

(B) assessed by the Secretary to learn best practices, which shall be shared with appropriate Federal, State, local, and tribal officials, governmental and nongovernmental emergency response providers, law enforcement personnel, including railroad and transit police, and appropriate stakeholders; and

(C) followed by remedial action by covered entities in response to lessons learned;

(3) involves individuals in neighborhoods around the infrastructure of a public transportation system; and

(4) assists State, local, and tribal governments and public transportation agencies in designing, implementing, and evaluating exercises that conform to the requirements of paragraph (2).

(d) **NATIONAL EXERCISE PROGRAM.**—The Secretary shall ensure that the exercise program developed under subsection (a) is a component of the National Exercise Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109–295; 6 U.S.C. 748).

(e) **FERRY SYSTEM EXEMPTION.**—This section does not apply to any ferry system for which drills are required to be conducted pursuant to section 70103 of title 46, United States Code.

SEC. 1408. PUBLIC TRANSPORTATION SECURITY TRAINING PROGRAM.

6 USC 1137.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall develop and issue detailed interim final regulations, and not later than 1 year after the date of enactment of this Act, the Secretary shall develop and issue detailed final regulations, for a public transportation security training program to prepare public transportation employees, including frontline employees, for potential security threats and conditions.

Deadlines.
Regulations.

(b) **CONSULTATION.**—The Secretary shall develop the interim final and final regulations under subsection (a) in consultation with—

(1) appropriate law enforcement, fire service, security, and terrorism experts;

(2) representatives of public transportation agencies; and

(3) nonprofit employee labor organizations representing public transportation employees or emergency response personnel.

(c) PROGRAM ELEMENTS.—The interim final and final regulations developed under subsection (a) shall require security training programs to include, at a minimum, elements to address the following:

(1) Determination of the seriousness of any occurrence or threat.

(2) Crew and passenger communication and coordination.

(3) Appropriate responses to defend oneself, including using nonlethal defense devices.

(4) Use of personal protective devices and other protective equipment.

(5) Evacuation procedures for passengers and employees, including individuals with disabilities and the elderly.

(6) Training related to behavioral and psychological understanding of, and responses to, terrorist incidents, including the ability to cope with hijacker behavior, and passenger responses.

(7) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(8) Recognition and reporting of dangerous substances and suspicious packages, persons, and situations.

(9) Understanding security incident procedures, including procedures for communicating with governmental and non-governmental emergency response providers and for on scene interaction with such emergency response providers.

(10) Operation and maintenance of security equipment and systems.

(11) Other security training activities that the Secretary deems appropriate.

Deadlines.

(d) REQUIRED PROGRAMS.—

(1) DEVELOPMENT AND SUBMISSION TO SECRETARY.—Not later than 90 days after a public transportation agency meets the requirements under subsection (e), each such public transportation agency shall develop a security training program in accordance with the regulations developed under subsection (a) and submit the program to the Secretary for approval.

(2) APPROVAL.—Not later than 60 days after receiving a security training program proposal under this subsection, the Secretary shall approve the program or require the public transportation agency that developed the program to make any revisions to the program that the Secretary determines necessary for the program to meet the requirements of the regulations. A public transportation agency shall respond to the Secretary's comments within 30 days after receiving them.

(3) TRAINING.—Not later than 1 year after the Secretary approves a security training program proposal in accordance with this subsection, the public transportation agency that developed the program shall complete the training of all employees covered under the program.

(4) UPDATES OF REGULATIONS AND PROGRAM REVISIONS.—The Secretary shall periodically review and update, as appropriate, the training regulations issued under subsection (a) to reflect new or changing security threats. Each public

transportation agency shall revise its training program accordingly and provide additional training as necessary to its workers within a reasonable time after the regulations are updated.

(e) **APPLICABILITY.**—A public transportation agency that receives a grant award under this title shall be required to develop and implement a security training program pursuant to this section.

(f) **LONG-TERM TRAINING REQUIREMENT.**—Any public transportation agency required to develop a security training program pursuant to this section shall provide routine and ongoing training for employees covered under the program, regardless of whether the public transportation agency receives subsequent grant awards.

(g) **NATIONAL TRAINING PROGRAM.**—The Secretary shall ensure that the training program developed under subsection (a) is a component of the National Training Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109-295; 6 U.S.C. 748).

(h) **FERRY EXEMPTION.**—This section shall not apply to any ferry system for which training is required to be conducted pursuant to section 70103 of title 46, United States Code.

(i) **REPORT.**—Not later than 2 years after the date of issuance of the final regulation, the Comptroller General shall review implementation of the training program, including interviewing a representative sample of public transportation agencies and employees, and report to the appropriate congressional committees, on the number of reviews conducted and the results. The Comptroller General may submit the report in both classified and redacted formats as necessary.

SEC. 1409. PUBLIC TRANSPORTATION RESEARCH AND DEVELOPMENT. 6 USC 1138.

(a) **ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.**—The Secretary shall carry out a research and development program through the Homeland Security Advanced Research Projects Agency in the Science and Technology Directorate and in consultation with the Transportation Security Administration and with the Federal Transit Administration, for the purpose of improving the security of public transportation systems.

(b) **GRANTS AND CONTRACTS AUTHORIZED.**—The Secretary shall award grants or contracts to public or private entities to conduct research and demonstrate technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems.

(c) **USE OF FUNDS.**—Grants or contracts awarded under subsection (a)—

(1) shall be coordinated with activities of the Homeland Security Advanced Research Projects Agency; and

(2) may be used to—

(A) research chemical, biological, radiological, or explosive detection systems that do not significantly impede passenger access;

(B) research imaging technologies;

(C) conduct product evaluations and testing;

(D) improve security and redundancy for critical communications, electrical power, and computer and train control systems;

(E) develop technologies for securing tunnels, transit bridges and aerial structures;

(F) research technologies that mitigate damages in the event of a cyber attack; and

(G) research other technologies or methods for reducing or deterring terrorist attacks against public transportation systems, or mitigating damage from such attacks.

(d) **PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES.**—

(1) **CONSULTATION.**—In carrying out research and development projects under this section, the Secretary shall consult with the Chief Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department, as appropriate, and in accordance with section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142).

(2) **PRIVACY IMPACT ASSESSMENTS.**—In accordance with sections 222 and 705 of the Homeland Security Act of 2002 (6 U.S.C. 142; 345), the Chief Privacy Officer shall conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section.

(e) **REPORTING REQUIREMENT.**—Each entity that is awarded a grant or contract under this section shall report annually to the Department on the use of grant or contract funds received under this section to ensure that the awards made are expended in accordance with the purposes of this title and the priorities developed by the Secretary.

(f) **COORDINATION.**—The Secretary shall ensure that the research is consistent with the priorities established in the National Strategy for Public Transportation Security and is coordinated, to the extent practicable, with other Federal, State, local, tribal, and private sector public transportation, railroad, commuter railroad, and over-the-road bus research initiatives to leverage resources and avoid unnecessary duplicative efforts.

(g) **RETURN OF MISSPENT GRANT OR CONTRACT FUNDS.**—If the Secretary determines that a grantee or contractor used any portion of the grant or contract funds received under this section for a purpose other than the allowable uses specified under subsection (c), the grantee or contractor shall return any amount so used to the Treasury of the United States.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to make grants under this section—

- (1) such sums as necessary for fiscal year 2007;
- (2) \$25,000,000 for fiscal year 2008;
- (3) \$25,000,000 for fiscal year 2009;
- (4) \$25,000,000 for fiscal year 2010; and
- (5) \$25,000,000 for fiscal year 2011.

6 USC 1139.

SEC. 1410. INFORMATION SHARING.

(a) **INTELLIGENCE SHARING.**—The Secretary shall ensure that the Department of Transportation receives appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States.

(b) **INFORMATION SHARING ANALYSIS CENTER.**—

(1) **AUTHORIZATION.**—The Secretary shall provide for the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (referred to in this subsection as the “ISAC”).

(2) **PARTICIPATION.**—The Secretary—

(A) shall require public transportation agencies that the Secretary determines to be at high risk of terrorist attack to participate in the ISAC;

(B) shall encourage all other public transportation agencies to participate in the ISAC;

(C) shall encourage the participation of nonprofit employee labor organizations representing public transportation employees, as appropriate; and

(D) shall not charge a fee for participating in the ISAC.

(c) **REPORT.**—The Comptroller General shall report, not less than 3 years after the date of enactment of this Act, to the appropriate congressional committees, as to the value and efficacy of the ISAC along with any other public transportation information-sharing programs ongoing at the Department. The report shall include an analysis of the user satisfaction of public transportation agencies on the state of information-sharing and the value that each system provides the user, the costs and benefits of all centers and programs, the coordination among centers and programs, how each center or program contributes to implementing the information sharing plan under section 1203, and analysis of the extent to which the ISAC is duplicative with the Department's information-sharing program.

(d) **AUTHORIZATION.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary to carry out this section—

(A) \$600,000 for fiscal year 2008;

(B) \$600,000 for fiscal year 2009;

(C) \$600,000 for fiscal year 2010; and

(D) such sums as may be necessary for 2011, provided the report required in subsection (c) of this section has been submitted to Congress.

(2) **AVAILABILITY OF FUNDS.**—Such sums shall remain available until expended.

SEC. 1411. THREAT ASSESSMENTS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a name-based security background check against the consolidated terrorist watchlist and an immigration status check for all public transportation frontline employees, similar to the threat assessment screening program required for facility employees and longshoremen by the Commandant of the Coast Guard under Coast Guard Notice USCG-2006-24189 (71 Fed. Reg. 25066 (April 8, 2006)).

Deadline.
6 USC 1140.

SEC. 1412. REPORTING REQUIREMENTS.

6 USC 1141.

(a) **ANNUAL REPORT TO CONGRESS.**—

(1) **IN GENERAL.**—Not later than March 31 of each year, the Secretary shall submit a report, containing the information described in paragraph (2), to the appropriate congressional committees.

(2) **CONTENTS.**—The report submitted under paragraph (1) shall include—

(A) a description of the implementation of the provisions of this title;

(B) the amount of funds appropriated to carry out the provisions of this title that have not been expended or obligated;

(C) the National Strategy for Public Transportation Security required under section 1404;

(D) an estimate of the cost to implement the National Strategy for Public Transportation Security which shall break out the aggregated total cost of needed capital and operational security improvements for fiscal years 2008–2018; and

(E) the state of public transportation security in the United States, which shall include detailing the status of security assessments, the progress being made around the country in developing prioritized lists of security improvements necessary to make public transportation facilities and passengers more secure, the progress being made by agencies in developing security plans and how those plans differ from the security assessments and a prioritized list of security improvements being compiled by other agencies, as well as a random sample of an equal number of large- and small-scale projects currently under-way.

(3) **FORMAT.**—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(b) **ANNUAL REPORT TO GOVERNORS.**—

(1) **IN GENERAL.**—Not later than March 31 of each year, the Secretary shall submit a report to the Governor of each State with a public transportation agency that has received a grant under this Act.

(2) **CONTENTS.**—The report submitted under paragraph (1) shall specify—

(A) the amount of grant funds distributed to each such public transportation agency; and

(B) the use of such grant funds.

6 USC 1142.

SEC. 1413. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIONS.

(a) **IN GENERAL.**—A public transportation agency, a contractor or a subcontractor of such agency, or an officer or employee of such agency, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee if such discrimination is due, in whole or in part, to the employee's lawful, good faith act done, or perceived by the employer to have been done or about to be done—

(1) to provide information, directly cause information to be provided, or otherwise directly assist in any investigation regarding any conduct which the employee reasonably believes constitutes a violation of any Federal law, rule, or regulation relating to public transportation safety or security, or fraud, waste, or abuse of Federal grants or other public funds intended to be used for public transportation safety or security, if the information or assistance is provided to or an investigation stemming from the provided information is conducted by—

(A) a Federal, State, or local regulatory or law enforcement agency (including an office of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95-452);

(B) any Member of Congress, any Committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the employee or such other person who has the authority to investigate, discover, or terminate the misconduct;

(2) to refuse to violate or assist in the violation of any Federal law, rule, or regulation relating to public transportation safety or security;

(3) to file a complaint or directly cause to be brought a proceeding related to the enforcement of this section or to testify in that proceeding;

(4) to cooperate with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

(5) to furnish information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with public transportation.

(b) HAZARDOUS SAFETY OR SECURITY CONDITIONS.—(1) A public transportation agency, or a contractor or a subcontractor of such agency, or an officer or employee of such agency, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee for—

(A) reporting a hazardous safety or security condition;

(B) refusing to work when confronted by a hazardous safety or security condition related to the performance of the employee's duties, if the conditions described in paragraph (2) exist; or

(C) refusing to authorize the use of any safety- or security-related equipment, track, or structures, if the employee is responsible for the inspection or repair of the equipment, track, or structures, when the employee believes that the equipment, track, or structures are in a hazardous safety or security condition, if the conditions described in paragraph (2) of this subsection exist.

(2) A refusal is protected under paragraph (1)(B) and (C) if—

(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

(B) a reasonable individual in the circumstances then confronting the employee would conclude that—

(i) the hazardous condition presents an imminent danger of death or serious injury; and

(ii) the urgency of the situation does not allow sufficient time to eliminate the danger without such refusal; and

(C) the employee, where possible, has notified the public transportation agency of the existence of the hazardous condition and the intention not to perform further work, or not to authorize the use of the hazardous equipment, track, or structures, unless the condition is corrected immediately or the equipment, track, or structures are repaired properly or replaced.

(3) In this subsection, only subsection (b)(1)(A) shall apply to security personnel, including transit police, employed or utilized by a public transportation agency to protect riders, equipment, assets, or facilities.

Applicability.

(c) ENFORCEMENT ACTION.—

Deadline.

(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) or (b) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of a complaint filed under this paragraph, the Secretary of Labor shall notify, in writing, the person named in the complaint and the person's employer of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

Deadlines.

(2) INVESTIGATION; PRELIMINARY ORDER.—

Notification.

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complainant has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) or (b) of the Secretary of Labor's findings. If the Secretary of Labor concludes that there is a reasonable cause to believe that a violation of subsection (a) or (b) has occurred, the Secretary of Labor shall accompany the Secretary of Labor's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) REQUIREMENTS.—

(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in subsection (a) or (b) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under clause (i), no investigation otherwise required under paragraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would

have taken the same unfavorable personnel action in the absence of that behavior.

(iii) CRITERIA FOR DETERMINATION BY SECRETARY OF LABOR.—The Secretary of Labor may determine that a violation of subsection (a) or (b) has occurred only if the complainant demonstrates that any behavior described in subsection (a) or (b) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) PROHIBITION.—Relief may not be ordered under paragraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) FINAL ORDER.—

(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) or (b) has occurred, the Secretary of Labor shall order the person who committed such violation to—

- (i) take affirmative action to abate the violation;
- and
- (ii) provide the remedies described in subsection (d).

(C) ORDER.—If an order is issued under subparagraph (B), the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

(D) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer reasonable attorney fees not exceeding \$1,000.

(4) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance

Deadline.

of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(7) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary of Labor.

(d) REMEDIES.—

(1) IN GENERAL.—An employee prevailing in any action under subsection (c) shall be entitled to all relief necessary to make the employee whole.

(2) DAMAGES.—Relief in an action under subsection (c) (including an action described in (c)(7)) shall include—

(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

(B) any backpay, with interest; and

(C) compensatory damages, including compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(3) POSSIBLE RELIEF.—Relief in any action under subsection (c) may include punitive damages in an amount not to exceed \$250,000.

(e) ELECTION OF REMEDIES.—An employee may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the public transportation agency.

(f) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

(g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(h) DISCLOSURE OF IDENTITY.—

(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or the Secretary of Homeland Security may not disclose the name of an employee who has provided information described in subsection (a)(1).

(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement. The Secretary making such disclosure shall provide reasonable advance notice to the affected employee if disclosure of that person's identity or identifying information is to occur.

Notification.

(i) PROCESS FOR REPORTING SECURITY PROBLEMS TO THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ESTABLISHMENT OF PROCESS.—The Secretary shall establish through regulations after an opportunity for notice and comment, and provide information to the public regarding, a process by which any person may submit a report to the Secretary regarding public transportation security problems, deficiencies, or vulnerabilities.

Regulations.
Notice.
Public
information.

(2) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary shall respond promptly to such person and acknowledge receipt of the report.

(3) STEPS TO ADDRESS PROBLEM.—The Secretary shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified.

SEC. 1414. SECURITY BACKGROUND CHECKS OF COVERED INDIVIDUALS FOR PUBLIC TRANSPORTATION.

6 USC 1143.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) SECURITY BACKGROUND CHECK.—The term “security background check” means reviewing the following for the purpose of identifying individuals who may pose a threat to transportation security, national security, or of terrorism:

(A) Relevant criminal history databases.

(B) In the case of an alien (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))), the relevant databases to determine the status of the alien under the immigration laws of the United States.

(C) Other relevant information or databases, as determined by the Secretary.

(2) COVERED INDIVIDUAL.—The term “covered individual” means an employee of a public transportation agency or a contractor or subcontractor of a public transportation agency.

(b) GUIDANCE.—

(1) Any guidance, recommendations, suggested action items, or any other widely disseminated voluntary action item issued by the Secretary to a public transportation agency or a contractor or subcontractor of a public transportation agency relating to performing a security background check of a covered individual shall contain recommendations on the appropriate scope and application of such a security background check, including the time period covered, the types of disqualifying offenses, and a redress process for adversely impacted covered individuals consistent with subsections (c) and (d) of this section.

Deadline.

(2) Not later than 60 days after the date of enactment of this Act, any guidance, recommendations, suggested action items, or any other widely disseminated voluntary action item issued by the Secretary prior to the date of enactment of this Act to a public transportation agency or a contractor or subcontractor of a public transportation agency relating to performing a security background check of a covered individual shall be updated in compliance with paragraph (b)(1).

(3) If a public transportation agency or a contractor or subcontractor of a public transportation agency performs a security background check on a covered individual to fulfill guidance issued by the Secretary under paragraph (1) or (2), the Secretary shall not consider such guidance fulfilled unless an adequate redress process as described in subsection (d) is provided to covered individuals.

(c) REQUIREMENTS.—If the Secretary issues a rule, regulation or directive requiring a public transportation agency or contractor or subcontractor of a public transportation agency to perform a security background check of a covered individual, then the Secretary shall prohibit a public transportation agency or contractor or subcontractor of a public transportation agency from making an adverse employment decision, including removal or suspension of the employee, due to such rule, regulation, or directive with respect to a covered individual unless the public transportation agency or contractor or subcontractor of a public transportation agency determines that the covered individual—

(1) has been convicted of, has been found not guilty of by reason of insanity, or is under want, warrant, or indictment for a permanent disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations;

(2) was convicted of or found not guilty by reason of insanity of an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, within 7 years of the date that the public transportation agency or contractor

or subcontractor of the public transportation agency performs the security background check; or

(3) was incarcerated for an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, and released from incarceration within 5 years of the date that the public transportation agency or contractor or subcontractor of a public transportation agency performs the security background check.

(d) REDRESS PROCESS.—If the Secretary issues a rule, regulation, or directive requiring a public transportation agency or contractor or subcontractor of a public transportation agency to perform a security background check of a covered individual, the Secretary shall—

(1) provide an adequate redress process for a covered individual subjected to an adverse employment decision, including removal or suspension of the employee, due to such rule, regulation, or directive that is consistent with the appeals and waiver process established for applicants for commercial motor vehicle hazardous materials endorsements and transportation workers at ports, as required by section 70105(c) of title 49, United States Code; and

(2) have the authority to order an appropriate remedy, including reinstatement of the covered individual, should the Secretary determine that a public transportation agency or contractor or subcontractor of a public transportation agency wrongfully made an adverse employment decision regarding a covered individual pursuant to such rule, regulation, or directive.

(e) FALSE STATEMENTS.—A public transportation agency or a contractor or subcontractor of a public transportation agency may not knowingly misrepresent to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check. Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a regulation that prohibits a public transportation agency or a contractor or subcontractor of a public transportation agency from knowingly misrepresenting to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check.

Deadline.
Regulations.

(f) RIGHTS AND RESPONSIBILITIES.—Nothing in this section shall be construed to abridge a public transportation agency's or a contractor or subcontractor of a public transportation agency's rights or responsibilities to make adverse employment decisions permitted by other Federal, State, or local laws. Nothing in the section shall be construed to abridge rights and responsibilities of covered individuals, a public transportation agency, or a contractor or subcontractor of a public transportation agency under any other Federal, State, or local laws or collective bargaining agreement.

(g) NO PREEMPTION OF FEDERAL OR STATE LAW.—Nothing in this section shall be construed to preempt a Federal, State, or local law that requires criminal history background checks,

immigration status checks, or other background checks of covered individuals.

(h) **STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to affect the process for review established under section 70105(c) of title 46, United States Code, including regulations issued pursuant to such section.

6 USC 1144.

SEC. 1415. LIMITATION ON FINES AND CIVIL PENALTIES.

(a) **INSPECTORS.**—Surface transportation inspectors shall be prohibited from issuing fines to public transportation agencies for violations of the Department’s regulations or orders except through the process described in subsection (b).

(b) **CIVIL PENALTIES.**—The Secretary shall be prohibited from assessing civil penalties against public transportation agencies for violations of the Department’s regulations or orders, except in accordance with the following:

Notice.

(1) In the case of a public transportation agency that is found to be in violation of a regulation or order issued by the Secretary, the Secretary shall seek correction of the violation through a written notice to the public transportation agency and shall give the public transportation agency reasonable opportunity to correct the violation or propose an alternative means of compliance acceptable to the Secretary.

(2) If the public transportation agency does not correct the violation or propose an alternative means of compliance acceptable to the Secretary within a reasonable time period that is specified in the written notice, the Secretary may take any action authorized in section 114 of title 49, United States Code, as amended by this Act.

(c) **LIMITATION ON SECRETARY.**—The Secretary shall not initiate civil enforcement actions for violations of administrative and procedural requirements pertaining to the application for and expenditure of funds awarded under transportation security grant programs under this title.

TITLE XV—SURFACE TRANSPORTATION SECURITY

Subtitle A—General Provisions

6 USC 1151.

SEC. 1501. DEFINITIONS.

In this title, the following definitions apply:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

(3) **DEPARTMENT.**—The term “Department” means the Department of Homeland Security.

(4) OVER-THE-ROAD BUS.—The term “over-the-road bus” means a bus characterized by an elevated passenger deck located over a baggage compartment.

(5) OVER-THE-ROAD BUS FRONTLINE EMPLOYEES.—In this section, the term “over-the-road bus frontline employees” means over-the-road bus drivers, security personnel, dispatchers, maintenance and maintenance support personnel, ticket agents, other terminal employees, and other employees of an over-the-road bus operator or terminal owner or operator that the Secretary determines should receive security training under this title.

(6) RAILROAD FRONTLINE EMPLOYEES.—In this section, the term “railroad frontline employees” means security personnel, dispatchers, locomotive engineers, conductors, trainmen, other onboard employees, maintenance and maintenance support personnel, bridge tenders, and any other employees of railroad carriers that the Secretary determines should receive security training under this title.

(7) RAILROAD.—The term “railroad” has the meaning that term has in section 20102 of title 49, United States Code.

(8) RAILROAD CARRIER.—The term “railroad carrier” has the meaning that term has in section 20102 of title 49, United States Code.

(9) STATE.—The term “State” means any one of the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(10) TERRORISM.—The term “terrorism” has the meaning that term has in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(11) TRANSPORTATION.—The term “transportation”, as used with respect to an over-the-road bus, means the movement of passengers or property by an over-the-road bus—

(A) in the jurisdiction of the United States between a place in a State and a place outside the State (including a place outside the United States); or

(B) in a State that affects trade, traffic, and transportation described in subparagraph (A).

(12) UNITED STATES.—The term “United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(13) SECURITY-SENSITIVE MATERIAL.—The term “security-sensitive material” means a material, or a group or class of material, in a particular amount and form that the Secretary, in consultation with the Secretary of Transportation, determines, through a rulemaking with opportunity for public comment, poses a significant risk to national security while being transported in commerce due to the potential use of the material in an act of terrorism. In making such a designation, the Secretary shall, at a minimum, consider the following:

(A) Class 7 radioactive materials.

(B) Division 1.1, 1.2, or 1.3 explosives.

(C) Materials poisonous or toxic by inhalation, including Division 2.3 gases and Division 6.1 materials.

(D) A select agent or toxin regulated by the Centers for Disease Control and Prevention under part 73 of title 42, Code of Federal Regulations.

(14) DISADVANTAGED BUSINESS CONCERNS.—The term “disadvantaged business concerns” means small businesses that are owned and controlled by socially and economically disadvantaged individuals as defined in section 124, of title 13, Code of Federal Regulations.

(15) AMTRAK.—The term “Amtrak” means the National Railroad Passenger Corporation.

6 USC 1152.

SEC. 1502. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary, in coordination with Secretary of Transportation for grants awarded to Amtrak, shall establish necessary procedures, including monitoring and audits, to ensure that grants made under this title are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary.

(b) ADDITIONAL AUDITS AND REVIEWS.—The Secretary, and the Secretary of Transportation for grants awarded to Amtrak, may award contracts to undertake additional audits and reviews of the safety, security, procurement, management, and financial compliance of a recipient of amounts under this title.

Deadline.

(c) PROCEDURES FOR GRANT AWARD.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures, and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107(i) and (j) of title 46, United States Code.

(d) ADDITIONAL AUTHORITY.—

(1) ISSUANCE.—The Secretary may issue non-binding letters of intent to recipients of a grant under this title, to commit funding from future budget authority of an amount, not more than the Federal Government’s share of the project’s cost, for a capital improvement project.

(2) SCHEDULE.—The letter of intent under this subsection shall establish a schedule under which the Secretary will reimburse the recipient for the Government’s share of the project’s costs, as amounts become available, if the recipient, after the Secretary issues that letter, carries out the project without receiving amounts under a grant issued under this title.

(3) NOTICE TO SECRETARY.—A recipient that has been issued a letter of intent under this section shall notify the Secretary of the recipient’s intent to carry out a project before the project begins.

(4) NOTICE TO CONGRESS.—The Secretary shall transmit to the appropriate congressional committees a written notification at least 5 days before the issuance of a letter of intent under this subsection.

(5) LIMITATIONS.—A letter of intent issued under this subsection is not an obligation of the Federal Government under section 1501 of title 31, United States Code, and the letter is not deemed to be an administrative commitment for

financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

(e) RETURN OF MISSPENT GRANT FUNDS.—As part of the grant agreement under subsection (c), the Secretary shall require grant applicants to return any misspent grant funds received under this title that the Secretary considers to have been spent for a purpose other than those specified in the grant award. The Secretary shall take all necessary actions to recover such funds.

(f) CONGRESSIONAL NOTIFICATION.—Not later than 5 days before the award of any grant is made under this title, the Secretary shall notify the appropriate congressional committees of the intent to award such grant. Deadline.

(g) GUIDELINES.—The Secretary shall ensure, to the extent practicable, that grant recipients under this title who use contractors or subcontractors use small, minority, women-owned, or disadvantaged business concerns as contractors or subcontractors when appropriate.

SEC. 1503. AUTHORIZATION OF APPROPRIATIONS.

(a) TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION.—Section 114 of title 49, United States Code, as amended by section 1302 of this Act, is further amended by adding at the end the following:

“(w) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for—

- “(1) railroad security—
 - “(A) \$488,000,000 for fiscal year 2008;
 - “(B) \$483,000,000 for fiscal year 2009;
 - “(C) \$508,000,000 for fiscal year 2010; and
 - “(D) \$508,000,000 for fiscal year 2011;
- “(2) over-the-road bus and trucking security—
 - “(A) \$14,000,000 for fiscal year 2008;
 - “(B) \$27,000,000 for fiscal year 2009;
 - “(C) \$27,000,000 for fiscal year 2010; and
 - “(D) \$27,000,000 for fiscal year 2011; and
- “(3) hazardous material and pipeline security—
 - “(A) \$12,000,000 for fiscal year 2008;
 - “(B) \$12,000,000 for fiscal year 2009; and
 - “(C) \$12,000,000 for fiscal year 2010.”.

(b) DEPARTMENT OF TRANSPORTATION.—There are authorized to be appropriated to the Secretary of Transportation to carry out section 1515— 6 USC 1153.

- (1) \$38,000,000 for fiscal year 2008;
- (2) \$40,000,000 for fiscal year 2009;
- (3) \$55,000,000 for fiscal year 2010; and
- (4) \$70,000,000 for fiscal year 2011.

SEC. 1504. PUBLIC AWARENESS.

Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a national plan for railroad and over-the-road bus security public outreach and awareness. Such a plan shall be designed to increase awareness of measures that the general public, passengers, and employees of railroad carriers and over-the-road bus operators can take to increase the security of the national railroad and over-the-road bus transportation systems. Such a plan shall also provide outreach to railroad carriers

Deadlines.
6 USC 1154.

and over-the-road bus operators and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve security. Not later than 9 months after the date of enactment of this Act, the Secretary shall implement the plan developed under this section.

Subtitle B—Railroad Security

6 USC 1161.

SEC. 1511. RAILROAD TRANSPORTATION SECURITY RISK ASSESSMENT AND NATIONAL STRATEGY.

Establishment.
Deadline.

(a) **RISK ASSESSMENT.**—The Secretary shall establish a Federal task force, including the Transportation Security Administration and other agencies within the Department, the Department of Transportation, and other appropriate Federal agencies, to complete, within 6 months of the date of enactment of this Act, a nationwide risk assessment of a terrorist attack on railroad carriers. The assessment shall include—

(1) a methodology for conducting the risk assessment, including timelines, that addresses how the Department will work with the entities described in subsection (c) and make use of existing Federal expertise within the Department, the Department of Transportation, and other appropriate agencies;

(2) identification and evaluation of critical assets and infrastructure, including tunnels used by railroad carriers in high-threat urban areas;

(3) identification of risks to those assets and infrastructure;

(4) identification of risks that are specific to the transportation of hazardous materials via railroad;

(5) identification of risks to passenger and cargo security, transportation infrastructure protection systems, operations, communications systems, and any other area identified by the assessment;

(6) an assessment of employee training and emergency response planning;

(7) an assessment of public and private operational recovery plans, taking into account the plans for the maritime sector required under section 70103 of title 46, United States Code, to expedite, to the maximum extent practicable, the return of an adversely affected railroad transportation system or facility to its normal performance level after a major terrorist attack or other security event on that system or facility; and

(8) an account of actions taken or planned by both public and private entities to address identified railroad security issues and an assessment of the effective integration of such actions.

(b) **NATIONAL STRATEGY.**—

Deadline.

(1) **REQUIREMENT.**—Not later than 9 months after the date of enactment of this Act and based upon the assessment conducted under subsection (a), the Secretary, consistent with and as required by section 114(t) of title 49, United States Code, shall develop and implement the modal plan for railroad transportation, entitled the “National Strategy for Railroad Transportation Security”.

(2) CONTENTS.—The modal plan shall include prioritized goals, actions, objectives, policies, mechanisms, and schedules for, at a minimum—

(A) improving the security of railroad tunnels, railroad bridges, railroad switching and car storage areas, other railroad infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant railroad-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of railroad service or on operations served or otherwise affected by railroad service;

(B) deploying equipment and personnel to detect security threats, including those posed by explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) consistent with section 1517, training railroad employees in terrorism prevention, preparedness, passenger evacuation, and response activities;

(D) conducting public outreach campaigns for railroads regarding security, including educational initiatives designed to inform the public on how to prevent, prepare for, respond to, and recover from a terrorist attack on railroad transportation;

(E) providing additional railroad security support for railroads at high or severe threat levels of alert;

(F) ensuring, in coordination with freight and intercity and commuter passenger railroads, the continued movement of freight and passengers in the event of an attack affecting the railroad system, including the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station;

(G) coordinating existing and planned railroad security initiatives undertaken by the public and private sectors;

(H) assessing—

(i) the usefulness of covert testing of railroad security systems;

(ii) the ability to integrate security into infrastructure design; and

(iii) the implementation of random searches of passengers and baggage; and

(I) identifying the immediate and long-term costs of measures that may be required to address those risks and public and private sector sources to fund such measures.

(3) RESPONSIBILITIES.—The Secretary shall include in the modal plan a description of the roles, responsibilities, and authorities of Federal, State, and local agencies, government-sponsored entities, tribal governments, and appropriate stakeholders described in subsection (c). The plan shall also include—

(A) the identification of, and a plan to address, gaps and unnecessary overlaps in the roles, responsibilities, and authorities described in this paragraph;

(B) a methodology for how the Department will work with the entities described in subsection (c), and make use of existing Federal expertise within the Department,

the Department of Transportation, and other appropriate agencies;

(C) a process for facilitating security clearances for the purpose of intelligence and information sharing with the entities described in subsection (c), as appropriate;

(D) a strategy and timeline, coordinated with the research and development program established under section 1518, for the Department, the Department of Transportation, other appropriate Federal agencies and private entities to research and develop new technologies for securing railroad systems; and

(E) a process for coordinating existing or future security strategies and plans for railroad transportation, including the National Infrastructure Protection Plan required by Homeland Security Presidential Directive–7; Executive Order No. 13416: “Strengthening Surface Transportation Security” dated December 5, 2006; the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities dated September 28, 2004, and any and all subsequent annexes to this Memorandum of Understanding, and any other relevant agreements between the two Departments.

(c) CONSULTATION WITH STAKEHOLDERS.—In developing the National Strategy required under this section, the Secretary shall consult with railroad management, nonprofit employee organizations representing railroad employees, owners or lessors of railroad cars used to transport hazardous materials, emergency responders, offerors of security-sensitive materials, public safety officials, and other relevant parties.

(d) ADEQUACY OF EXISTING PLANS AND STRATEGIES.—In developing the risk assessment and National Strategy required under this section, the Secretary shall utilize relevant existing plans, strategies, and risk assessments developed by the Department or other Federal agencies, including those developed or implemented pursuant to section 114(t) of title 49, United States Code, or Homeland Security Presidential Directive–7, and, as appropriate, assessments developed by other public and private stakeholders.

(e) REPORT.—

(1) CONTENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the appropriate congressional committees a report containing—

(A) the assessment and the National Strategy required by this section; and

(B) an estimate of the cost to implement the National Strategy.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(f) ANNUAL UPDATES.—Consistent with the requirements of section 114(t) of title 49, United States Code, the Secretary shall update the assessment and National Strategy each year and transmit a report, which may be submitted in both classified and redacted formats, to the appropriate congressional committees containing the updated assessment and recommendations.

(g) FUNDING.—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section

Reports.

1503 of this title, there shall be made available to the Secretary to carry out this section \$5,000,000 for fiscal year 2008.

SEC. 1512. RAILROAD CARRIER ASSESSMENTS AND PLANS.

6 USC 1162.

(a) **IN GENERAL.**—Not later than 12 months after the date of enactment of this Act, the Secretary shall issue regulations that—

Deadline.
Regulations.

(1) require each railroad carrier assigned to a high-risk tier under this section to—

(A) conduct a vulnerability assessment in accordance with subsections (c) and (d); and

(B) to prepare, submit to the Secretary for approval, and implement a security plan in accordance with this section that addresses security performance requirements; and

(2) establish standards and guidelines, based on and consistent with the risk assessment and National Strategy for Railroad Transportation Security developed under section 1511, for developing and implementing the vulnerability assessments and security plans for railroad carriers assigned to high-risk tiers.

(b) **NON HIGH-RISK PROGRAMS.**—The Secretary may establish a security program for railroad carriers not assigned to a high-risk tier, including—

(1) guidance for such carriers in conducting vulnerability assessments and preparing and implementing security plans, as determined appropriate by the Secretary; and

(2) a process to review and approve such assessments and plans, as appropriate.

(c) **DEADLINE FOR SUBMISSION.**—Not later than 9 months after the date of issuance of the regulations under subsection (a), the vulnerability assessments and security plans required by such regulations for railroad carriers assigned to a high-risk tier shall be completed and submitted to the Secretary for review and approval.

(d) **VULNERABILITY ASSESSMENTS.**—

(1) **REQUIREMENTS.**—The Secretary shall provide technical assistance and guidance to railroad carriers in conducting vulnerability assessments under this section and shall require that each vulnerability assessment of a railroad carrier assigned to a high-risk tier under this section, include, as applicable—

(A) identification and evaluation of critical railroad carrier assets and infrastructure, including platforms, stations, intermodal terminals, tunnels, bridges, switching and storage areas, and information systems as appropriate;

(B) identification of the vulnerabilities to those assets and infrastructure;

(C) identification of strengths and weaknesses in—

(i) physical security;

(ii) passenger and cargo security, including the security of security-sensitive materials being transported by railroad or stored on railroad property;

(iii) programmable electronic devices, computers, or other automated systems which are used in providing the transportation;

(iv) alarms, cameras, and other protection systems;

(v) communications systems and utilities needed for railroad security purposes, including dispatching and notification systems;

(vi) emergency response planning;

(vii) employee training; and

(viii) such other matters as the Secretary determines appropriate; and

(D) identification of redundant and backup systems required to ensure the continued operation of critical elements of a railroad carrier's system in the event of an attack or other incident, including disruption of commercial electric power or communications network.

(2) THREAT INFORMATION.—The Secretary shall provide in a timely manner to the appropriate employees of a railroad carrier, as designated by the railroad carrier, threat information that is relevant to the carrier when preparing and submitting a vulnerability assessment and security plan, including an assessment of the most likely methods that could be used by terrorists to exploit weaknesses in railroad security.

(e) SECURITY PLANS.—

(1) REQUIREMENTS.—The Secretary shall provide technical assistance and guidance to railroad carriers in preparing and implementing security plans under this section, and shall require that each security plan of a railroad carrier assigned to a high-risk tier under this section include, as applicable—

(A) identification of a security coordinator having authority—

(i) to implement security actions under the plan;

(ii) to coordinate security improvements; and

(iii) to receive immediate communications from appropriate Federal officials regarding railroad security;

(B) a list of needed capital and operational improvements;

(C) procedures to be implemented or used by the railroad carrier in response to a terrorist attack, including evacuation and passenger communication plans that include individuals with disabilities as appropriate;

(D) identification of steps taken with State and local law enforcement agencies, emergency responders, and Federal officials to coordinate security measures and plans for response to a terrorist attack;

(E) a strategy and timeline for conducting training under section 1517;

(F) enhanced security measures to be taken by the railroad carrier when the Secretary declares a period of heightened security risk;

(G) plans for providing redundant and backup systems required to ensure the continued operation of critical elements of the railroad carrier's system in the event of a terrorist attack or other incident;

(H) a strategy for implementing enhanced security for shipments of security-sensitive materials, including plans for quickly locating and securing such shipments in the event of a terrorist attack or security incident; and

(I) such other actions or procedures as the Secretary determines are appropriate to address the security of railroad carriers.

(2) SECURITY COORDINATOR REQUIREMENTS.—The Secretary shall require that the individual serving as the security coordinator identified in paragraph (1)(A) is a citizen of the United States. The Secretary may waive this requirement with respect to an individual if the Secretary determines that it is appropriate to do so based on a background check of the individual and a review of the consolidated terrorist watchlist.

(3) CONSISTENCY WITH OTHER PLANS.—The Secretary shall ensure that the security plans developed by railroad carriers under this section are consistent with the risk assessment and National Strategy for Railroad Transportation Security developed under section 1511.

(f) DEADLINE FOR REVIEW PROCESS.—Not later than 6 months after receiving the assessments and plans required under this section, the Secretary shall—

(1) review each vulnerability assessment and security plan submitted to the Secretary in accordance with subsection (c);

(2) require amendments to any security plan that does not meet the requirements of this section; and

(3) approve any vulnerability assessment or security plan that meets the requirements of this section.

(g) INTERIM SECURITY MEASURES.—The Secretary may require railroad carriers, during the period before the deadline established under subsection (c), to submit a security plan under subsection (e) to implement any necessary interim security measures essential to providing adequate security of the railroad carrier's system. An interim plan required under this subsection will be superseded by a plan required under subsection (e).

(h) TIER ASSIGNMENT.—Utilizing the risk assessment and National Strategy for Railroad Transportation Security required under section 1511, the Secretary shall assign each railroad carrier to a risk-based tier established by the Secretary:

(1) PROVISION OF INFORMATION.—The Secretary may request, and a railroad carrier shall provide, information necessary for the Secretary to assign a railroad carrier to the appropriate tier under this subsection.

(2) NOTIFICATION.—Not later than 60 days after the date a railroad carrier is assigned to a tier under this subsection, the Secretary shall notify the railroad carrier of the tier to which it is assigned and the reasons for such assignment.

Deadline.

(3) HIGH-RISK TIERS.—At least one of the tiers established by the Secretary under this subsection shall be designated a tier for high-risk railroad carriers.

(4) REASSIGNMENT.—The Secretary may reassign a railroad carrier to another tier, as appropriate, in response to changes in risk. The Secretary shall notify the railroad carrier not later than 60 days after such reassignment and provide the railroad carrier with the reasons for such reassignment.

Notification.
Deadline.

(i) NONDISCLOSURE OF INFORMATION.—

(1) SUBMISSION OF INFORMATION TO CONGRESS.—Nothing in this section shall be construed as authorizing the withholding of any information from Congress.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this section shall be construed as affecting

any authority or obligation of a Federal agency to disclose any record or information that the Federal agency obtains from a railroad carrier under any other Federal law.

(j) EXISTING PROCEDURES, PROTOCOLS AND STANDARDS.—

(1) DETERMINATION.—In response to a petition by a railroad carrier or at the discretion of the Secretary, the Secretary may determine that existing procedures, protocols, and standards meet all or part of the requirements of this section, including regulations issued under subsection (a), regarding vulnerability assessments and security plans.

(2) ELECTION.—Upon review and written determination by the Secretary that existing procedures, protocols, or standards of a railroad carrier satisfy the requirements of this section, the railroad carrier may elect to comply with those procedures, protocols, or standards instead of the requirements of this section.

(3) PARTIAL APPROVAL.—If the Secretary determines that the existing procedures, protocols, or standards of a railroad carrier satisfy only part of the requirements of this section, the Secretary may accept such submission, but shall require submission by the railroad carrier of any additional information relevant to the vulnerability assessment and security plan of the railroad carrier to ensure that the remaining requirements of this section are fulfilled.

(4) NOTIFICATION.—If the Secretary determines that particular existing procedures, protocols, or standards of a railroad carrier under this subsection do not satisfy the requirements of this section, the Secretary shall provide to the railroad carrier a written notification that includes an explanation of the determination.

(5) REVIEW.—Nothing in this subsection shall relieve the Secretary of the obligation—

(A) to review the vulnerability assessment and security plan submitted by a railroad carrier under this section; and

(B) to approve or disapprove each submission on an individual basis.

(k) PERIODIC EVALUATION BY RAILROAD CARRIERS REQUIRED.—

(1) SUBMISSION OF EVALUATION.—Not later than 3 years after the date on which a vulnerability assessment or security plan required to be submitted to the Secretary under subsection (c) is approved, and at least once every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), a railroad carrier who submitted a vulnerability assessment and security plan and who is still assigned to the high-risk tier must also submit to the Secretary an evaluation of the adequacy of the vulnerability assessment and security plan that includes a description of any material changes made to the vulnerability assessment or security plan.

(2) REVIEW OF EVALUATION.—Not later than 180 days after the date on which an evaluation is submitted, the Secretary shall review the evaluation and notify the railroad carrier submitting the evaluation of the Secretary's approval or disapproval of the evaluation.

(l) SHARED FACILITIES.—The Secretary may permit under this section the development and implementation of coordinated vulnerability assessments and security plans to the extent that a railroad

Deadlines.

carrier shares facilities with, or is colocated with, other transportation entities or providers that are required to develop vulnerability assessments and security plans under Federal law.

(m) CONSULTATION.—In carrying out this section, the Secretary shall consult with railroad carriers, nonprofit employee labor organizations representation railroad employees, and public safety and law enforcement officials.

SEC. 1513. RAILROAD SECURITY ASSISTANCE.

6 USC 1163.

(a) SECURITY IMPROVEMENT GRANTS.—(1) The Secretary, in consultation with the Administrator of the Transportation Security Administration and other appropriate agencies or officials, is authorized to make grants to railroad carriers, the Alaska Railroad, security-sensitive materials offerors who ship by railroad, owners of railroad cars used in the transportation of security-sensitive materials, State and local governments (for railroad passenger facilities and infrastructure not owned by Amtrak), and Amtrak for intercity passenger railroad and freight railroad security improvements described in subsection (b) as approved by the Secretary.

(2) A railroad carrier is eligible for a grant under this section if the carrier has completed a vulnerability assessment and developed a security plan that the Secretary has approved in accordance with section 1512.

(3) A recipient of a grant under this section may use grant funds only for permissible uses under subsection (b) to further a railroad security plan that meets the requirements of paragraph (2).

(4) Notwithstanding the requirement for eligibility and uses of funds in paragraphs (2) and (3), a railroad carrier is eligible for a grant under this section if the applicant uses the funds solely for the development of assessments or security plans under section 1512.

(5) Notwithstanding the requirements for eligibility and uses of funds in paragraphs (2) and (3), prior to the earlier of 1 year after the date of issuance of final regulations requiring vulnerability assessments and security plans under section 1512 or 3 years after the date of enactment of this Act, the Secretary may award grants under this section for rail security improvements listed under subsection (b) based upon railroad carrier vulnerability assessments and security plans that the Secretary determines are sufficient for the purposes of this section but have not been approved by the Secretary in accordance with section 1512.

(b) USES OF FUNDS.—A recipient of a grant under this section shall use the grant funds for one or more of the following:

(1) Security and redundancy for critical communications, computer, and train control systems essential for secure railroad operations.

(2) Accommodation of railroad cargo or passenger security inspection facilities, related infrastructure, and operations at or near United States international borders or other ports of entry.

(3) The security of security-sensitive materials transportation by railroad.

(4) Chemical, biological, radiological, or explosive detection, including canine patrols for such detection.

(5) The security of intercity passenger railroad stations, trains, and infrastructure, including security capital improvement projects that the Secretary determines enhance railroad station security.

(6) Technologies to reduce the vulnerabilities of railroad cars, including structural modification of railroad cars transporting security-sensitive materials to improve their resistance to acts of terrorism.

(7) The sharing of intelligence and information about security threats.

(8) To obtain train tracking and communications equipment, including equipment that is interoperable with Federal, State, and local agencies and tribal governments.

(9) To hire, train, and employ police and security officers, including canine units, assigned to full-time security or counterterrorism duties related to railroad transportation.

(10) Overtime reimbursement, including reimbursement of State, local, and tribal governments for costs, for enhanced security personnel assigned to duties related to railroad security during periods of high or severe threat levels and National Special Security Events or other periods of heightened security as determined by the Secretary.

(11) Perimeter protection systems, including access control, installation of improved lighting, fencing, and barricades at railroad facilities.

(12) Tunnel protection systems.

(13) Passenger evacuation and evacuation-related capital improvements.

(14) Railroad security inspection technologies, including verified visual inspection technologies using hand-held readers.

(15) Surveillance equipment.

(16) Cargo or passenger screening equipment.

(17) Emergency response equipment, including fire suppression and decontamination equipment, personal protective equipment, and defibrillators.

(18) Operating and capital costs associated with security awareness, preparedness, and response training, including training under section 1517, and training developed by universities, institutions of higher education, and nonprofit employee labor organizations, for railroad employees, including frontline employees.

(19) Live or simulated exercises, including exercises described in section 1516.

(20) Public awareness campaigns for enhanced railroad security.

(21) Development of assessments or security plans under section 1512.

(22) Other security improvements—

(A) identified, required, or recommended under sections 1511 and 1512, including infrastructure, facilities, and equipment upgrades; or

(B) that the Secretary considers appropriate.

(c) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants;

(2) establish priorities for uses of funds for grant recipients;

(3) award the funds authorized by this section based on risk, as identified by the plans required under sections 1511 and 1512, or assessment or plan described in subsection (a)(5);

(4) take into account whether stations or facilities are used by commuter railroad passengers as well as intercity railroad passengers in reviewing grant applications;

(5) encourage non-Federal financial participation in projects funded by grants; and

(6) not later than 5 business days after awarding a grant to Amtrak under this section, transfer grant funds to the Secretary of Transportation to be disbursed to Amtrak.

Deadline.

(d) **MULTIYEAR AWARDS.**—Grant funds awarded under this section may be awarded for projects that span multiple years.

(e) **LIMITATION ON USES OF FUNDS.**—A grant made under this section may not be used to make any State or local government cost-sharing contribution under any other Federal law.

(f) **ANNUAL REPORTS.**—Each recipient of a grant under this section shall report annually to the Secretary on the use of grant funds.

(g) **NON-FEDERAL MATCH STUDY.**—Not later than 240 days after the date of enactment of this Act, the Secretary shall provide a report to the appropriate congressional committees on the feasibility and appropriateness of requiring a non-Federal match for grants awarded to freight railroad carriers and other private entities under this section.

Deadline.
Reports.

(h) **SUBJECT TO CERTAIN STANDARDS.**—A recipient of a grant under this section and sections 1514 and 1515 shall be required to comply with the standards of section 24312 of title 49, United States Code, as in effect on January 1, 2007, with respect to the project in the same manner as Amtrak is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of that title.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this title, there shall be made available to the Secretary to carry out this section—

(A) \$300,000,000 for fiscal year 2008;

(B) \$300,000,000 for fiscal year 2009;

(C) \$300,000,000 for fiscal year 2010; and

(D) \$300,000,000 for fiscal year 2011.

(2) **PERIOD OF AVAILABILITY.**—Sums appropriated to carry out this section shall remain available until expended.

SEC. 1514. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

6 USC 1164.

(a) **IN GENERAL.**—

(1) **GRANTS.**—Subject to subsection (b), the Secretary, in consultation with the Administrator of the Transportation Security Administration, is authorized to make grants to Amtrak in accordance with the provisions of this section.

(2) **GENERAL PURPOSES.**—The Secretary may make such grants for the purposes of—

(A) protecting underwater and underground assets and systems;

(B) protecting high-risk and high-consequence assets identified through systemwide risk assessments;

(C) providing counterterrorism or security training;

(D) providing both visible and unpredictable deterrence; and

(E) conducting emergency preparedness drills and exercises.

(3) SPECIFIC PROJECTS.—The Secretary shall make such grants—

State listing.
District of
Columbia.

(A) to secure major tunnel access points and ensure tunnel integrity in New York, New Jersey, Maryland, and Washington, DC;

(B) to secure Amtrak trains;

(C) to secure Amtrak stations;

(D) to obtain a watchlist identification system approved by the Secretary;

(E) to obtain train tracking and interoperable communications systems that are coordinated with Federal, State, and local agencies and tribal governments to the maximum extent possible;

(F) to hire, train, and employ police and security officers, including canine units, assigned to full-time security or counterterrorism duties related to railroad transportation;

(G) for operating and capital costs associated with security awareness, preparedness, and response training, including training under section 1517, and training developed by universities, institutions of higher education, and nonprofit employee labor organizations, for railroad employees, including frontline employees; and

(H) for live or simulated exercises, including exercises described in section 1516.

Grants.

(b) CONDITIONS.—The Secretary shall award grants to Amtrak under this section for projects contained in a systemwide security plan approved by the Secretary developed pursuant to section 1512. Not later than 5 business days after awarding a grant to Amtrak under this section, the Secretary shall transfer the grant funds to the Secretary of Transportation to be disbursed to Amtrak.

Deadline.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system and consistent with the risk assessment required under section 1511 and Amtrak's vulnerability assessment and security plan developed under section 1512, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this title, there shall be made available to the Secretary and the Administrator of the Transportation Security Administration to carry out this section—

(A) \$150,000,000 for fiscal year 2008;

(B) \$150,000,000 for fiscal year 2009;

(C) \$175,000,000 for fiscal year 2010; and

(D) \$175,000,000 for fiscal year 2011.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 1515. FIRE AND LIFE SAFETY IMPROVEMENTS.

6 USC 1165.

(a) **LIFE-SAFETY NEEDS.**—There are authorized to be appropriated to the Secretary of Transportation for making grants to Amtrak for the purpose of carrying out projects to make fire and life safety improvements to Amtrak tunnels on the Northeast Corridor the following amounts:

Appropriation
authorization.
Grants.
State listing.
District of
Columbia.

(1) For the 6 New York and New Jersey tunnels to provide ventilation, electrical, and fire safety technology improvements, emergency communication and lighting systems, and emergency access and egress for passengers—

- (A) \$25,000,000 for fiscal year 2008;
- (B) \$30,000,000 for fiscal year 2009;
- (C) \$45,000,000 for fiscal year 2010; and
- (D) \$60,000,000 for fiscal year 2011.

(2) For the Baltimore Potomac Tunnel and the Union Tunnel, together, to provide adequate drainage and ventilation, communication, lighting, standpipe, and passenger egress improvements—

- (A) \$5,000,000 for fiscal year 2008;
- (B) \$5,000,000 for fiscal year 2009;
- (C) \$5,000,000 for fiscal year 2010; and
- (D) \$5,000,000 for fiscal year 2011.

(3) For the Union Station tunnels in the District of Columbia to improve ventilation, communication, lighting, and passenger egress improvements—

- (A) \$5,000,000 for fiscal year 2008;
- (B) \$5,000,000 for fiscal year 2009;
- (C) \$5,000,000 for fiscal year 2010; and
- (D) \$5,000,000 for fiscal year 2011.

(b) **INFRASTRUCTURE UPGRADES.**—Out of funds appropriated pursuant to section 1503(b), there shall be made available to the Secretary of Transportation for fiscal year 2008, \$3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(c) **AVAILABILITY OF AMOUNTS.**—Amounts appropriated pursuant to this section shall remain available until expended.

(d) **PLANS REQUIRED.**—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary of Transportation, and the Secretary of Transportation has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary of Transportation has approved a project management plan prepared by Amtrak.

(e) **REVIEW OF PLANS.**—

Deadlines.

(1) **IN GENERAL.**—The Secretary of Transportation shall complete the review of a plan required under subsection (d) and approve or disapprove the plan within 45 days after the date on which each such plan is submitted by Amtrak.

(2) **INCOMPLETE OR DEFICIENT PLAN.**—If the Secretary of Transportation determines that a plan is incomplete or deficient, the Secretary of Transportation shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary of Transportation's

Notification.

notification, submit a modified plan for the Secretary of Transportation's review.

(3) **APPROVAL OF PLAN.**—Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary of Transportation shall either approve the modified plan, or if the Secretary of Transportation finds the plan is still incomplete or deficient, the Secretary of Transportation shall—

(A) identify in writing to the appropriate congressional committees the portions of the plan the Secretary finds incomplete or deficient;

(B) approve all other portions of the plan;

(C) obligate the funds associated with those portions;

and

(D) execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(f) **FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.**—The Secretary of Transportation, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a), shall—

(1) consider the extent to which railroad carriers other than Amtrak use or plan to use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other railroad carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other railroad carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.

6 USC 1166.

SEC. 1516. RAILROAD CARRIER EXERCISES.

(a) **IN GENERAL.**—The Secretary shall establish a program for conducting security exercises for railroad carriers for the purpose of assessing and improving the capabilities of entities described in subsection (b) to prevent, prepare for, mitigate, respond to, and recover from acts of terrorism.

(b) **COVERED ENTITIES.**—Entities to be assessed under the program shall include—

(1) Federal, State, and local agencies and tribal governments;

(2) railroad carriers;

(3) governmental and nongovernmental emergency response providers, law enforcement agencies, and railroad and transit police, as appropriate; and

(4) any other organization or entity that the Secretary determines appropriate.

(c) **REQUIREMENTS.**—The Secretary shall ensure that the program—

(1) consolidates existing security exercises for railroad carriers administered by the Department and the Department of Transportation, as jointly determined by the Secretary and the Secretary of Transportation, unless the Secretary waives this consolidation requirement as appropriate;

(2) consists of exercises that are—

(A) scaled and tailored to the needs of the carrier, including addressing the needs of the elderly and individuals with disabilities;

(B) live, in the case of the most at-risk facilities to a terrorist attack;

(C) coordinated with appropriate officials;

(D) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

(E) inclusive, as appropriate, of railroad frontline employees; and

(F) consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, and other such national initiatives;

(3) provides that exercises described in paragraph (2) will be—

(A) evaluated by the Secretary against clear and consistent performance measures;

(B) assessed by the Secretary to identify best practices, which shall be shared, as appropriate, with railroad carriers, nonprofit employee organizations that represent railroad carrier employees, Federal, State, local, and tribal officials, governmental and nongovernmental emergency response providers, law enforcement personnel, including railroad carrier and transit police, and other stakeholders; and

(C) used to develop recommendations, as appropriate, from the Secretary to railroad carriers on remedial action to be taken in response to lessons learned;

(4) allows for proper advanced notification of communities and local governments in which exercises are held, as appropriate; and

(5) assists State, local, and tribal governments and railroad carriers in designing, implementing, and evaluating additional exercises that conform to the requirements of paragraph (1).

(d) NATIONAL EXERCISE PROGRAM.—The Secretary shall ensure that the exercise program developed under subsection (c) is a component of the National Exercise Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109–295; 6 U.S.C. 748).

SEC. 1517. RAILROAD SECURITY TRAINING PROGRAM.

6 USC 1167.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall develop and issue regulations for a training program to prepare railroad frontline employees for potential security threats and conditions. The regulations shall take into consideration any current security training requirements or best practices.

Deadline.
Regulations.

(b) CONSULTATION.—The Secretary shall develop the regulations under subsection (a) in consultation with—

(1) appropriate law enforcement, fire service, emergency response, security, and terrorism experts;

(2) railroad carriers;

(3) railroad shippers; and

(4) nonprofit employee labor organizations representing railroad employees or emergency response personnel.

(c) PROGRAM ELEMENTS.—The regulations developed under subsection (a) shall require security training programs described in subsection (a) to include, at a minimum, elements to address the following, as applicable:

(1) Determination of the seriousness of any occurrence or threat.

(2) Crew and passenger communication and coordination.

(3) Appropriate responses to defend or protect oneself.

(4) Use of personal and other protective equipment.

(5) Evacuation procedures for passengers and railroad employees, including individuals with disabilities and the elderly.

(6) Psychology, behavior, and methods of terrorists, including observation and analysis.

(7) Training related to psychological responses to terrorist incidents, including the ability to cope with hijacker behavior and passenger responses.

(8) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(9) Recognition and reporting of dangerous substances, suspicious packages, and situations.

(10) Understanding security incident procedures, including procedures for communicating with governmental and non-governmental emergency response providers and for on-scene interaction with such emergency response providers.

(11) Operation and maintenance of security equipment and systems.

(12) Other security training activities that the Secretary considers appropriate.

Deadlines.

(d) REQUIRED PROGRAMS.—

(1) DEVELOPMENT AND SUBMISSION TO SECRETARY.—Not later than 90 days after the Secretary issues regulations under subsection (a), each railroad carrier shall develop a security training program in accordance with this section and submit the program to the Secretary for approval.

(2) APPROVAL OR DISAPPROVAL.—Not later than 60 days after receiving a security training program proposal under this subsection, the Secretary shall approve the program or require the railroad carrier that developed the program to make any revisions to the program that the Secretary considers necessary for the program to meet the requirements of this section. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them.

(3) TRAINING.—Not later than 1 year after the Secretary approves a security training program in accordance with this subsection, the railroad carrier that developed the program shall complete the training of all railroad frontline employees who were hired by a carrier more than 30 days preceding such date. For such employees employed less than 30 days by a carrier preceding such date, training shall be completed within the first 60 days of employment.

(4) UPDATES OF REGULATIONS AND PROGRAM REVISIONS.—The Secretary shall periodically review and update as appropriate the training regulations issued under subsection (a) to reflect new or changing security threats. Each railroad carrier

shall revise its training program accordingly and provide additional training as necessary to its frontline employees within a reasonable time after the regulations are updated.

(e) NATIONAL TRAINING PROGRAM.—The Secretary shall ensure that the training program developed under subsection (a) is a component of the National Training Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109-295; 6 U.S.C. 748).

(f) REPORTING REQUIREMENTS.—Not later than 2 years after the date of regulation issuance, the Secretary shall review implementation of the training program of a representative sample of railroad carriers and railroad frontline employees, and report to the appropriate congressional committees on the number of reviews conducted and the results of such reviews. The Secretary may submit the report in both classified and redacted formats as necessary.

(g) OTHER EMPLOYEES.—The Secretary shall issue guidance and best practices for a railroad shipper employee security program containing the elements listed under subsection (c).

Guidance.

SEC. 1518. RAILROAD SECURITY RESEARCH AND DEVELOPMENT.

6 USC 1168.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary, acting through the Under Secretary for Science and Technology and the Administrator of the Transportation Security Administration, shall carry out a research and development program for the purpose of improving the security of railroad transportation systems.

(b) ELIGIBLE PROJECTS.—The research and development program may include projects—

(1) to reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances, including the development of technology to screen passengers in large numbers at peak commuting times with minimal interference and disruption;

(2) to test new emergency response and recovery techniques and technologies, including those used at international borders;

(3) to develop improved railroad security technologies, including—

(A) technologies for sealing or modifying railroad tank cars;

(B) automatic inspection of railroad cars;

(C) communication-based train control systems;

(D) emergency response training, including training in a tunnel environment;

(E) security and redundancy for critical communications, electrical power, computer, and train control systems; and

(F) technologies for securing bridges and tunnels;

(4) to test wayside detectors that can detect tampering;

(5) to support enhanced security for the transportation of security-sensitive materials by railroad;

(6) to mitigate damages in the event of a cyber attack; and

(7) to address other vulnerabilities and risks identified by the Secretary.

(c) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary—

(1) shall ensure that the research and development program is consistent with the National Strategy for Railroad Transportation Security developed under section 1511 and any other transportation security research and development programs required by this Act;

(2) shall, to the extent practicable, coordinate the research and development activities of the Department with other ongoing research and development security-related initiatives, including research being conducted by—

(A) the Department of Transportation, including University Transportation Centers and other institutes, centers, and simulators funded by the Department of Transportation;

(B) the National Academy of Sciences;

(C) the Technical Support Working Group;

(D) other Federal departments and agencies; and

(E) other Federal and private research laboratories, research entities, and universities and institutions of higher education, including Historically Black Colleges and Universities, Hispanic Serving Institutions, or Indian Tribally Controlled Colleges and Universities;

(3) shall carry out any research and development project authorized by this section through a reimbursable agreement with an appropriate Federal agency, if the agency—

(A) is currently sponsoring a research and development project in a similar area; or

(B) has a unique facility or capability that would be useful in carrying out the project;

(4) may award grants, or enter into cooperative agreements, contracts, other transactions, or reimbursable agreements to the entities described in paragraph (2) and the eligible grant recipients under section 1513; and

(5) shall make reasonable efforts to enter into memoranda of understanding, contracts, grants, cooperative agreements, or other transactions with railroad carriers willing to contribute both physical space and other resources.

(d) **PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES.—**

(1) **CONSULTATION.**—In carrying out research and development projects under this section, the Secretary shall consult with the Chief Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department as appropriate and in accordance with section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142).

(2) **PRIVACY IMPACT ASSESSMENTS.**—In accordance with sections 222 and 705 of the Homeland Security Act of 2002 (6 U.S.C. 142; 345), the Chief Privacy Officer shall conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section that the Secretary determines could have an impact on privacy, civil rights, or civil liberties.

(e) **AUTHORIZATION OF APPROPRIATIONS.—**

(1) **IN GENERAL.**—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503, there shall be made available to the Secretary to carry out this section—

(A) \$33,000,000 for fiscal year 2008;

- (B) \$33,000,000 for fiscal year 2009;
- (C) \$33,000,000 for fiscal year 2010; and
- (D) \$33,000,000 for fiscal year 2011.

(2) PERIOD OF AVAILABILITY.—Such sums shall remain available until expended.

SEC. 1519. RAILROAD TANK CAR SECURITY TESTING.

6 USC 1169.

(a) RAILROAD TANK CAR VULNERABILITY ASSESSMENT.—

(1) ASSESSMENT.—The Secretary shall assess the likely methods of a deliberate terrorist attack against a railroad tank car used to transport toxic-inhalation-hazard materials, and for each method assessed, the degree to which it may be successful in causing death, injury, or serious adverse effects to human health, the environment, critical infrastructure, national security, the national economy, or public welfare.

(2) THREATS.—In carrying out paragraph (1), the Secretary shall consider the most current threat information as to likely methods of a successful terrorist attack on a railroad tank car transporting toxic-inhalation-hazard materials, and may consider the following:

(A) Explosive devices placed along the tracks or attached to a railroad tank car.

(B) The use of missiles, grenades, rockets, mortars, or other high-caliber weapons against a railroad tank car.

(3) PHYSICAL TESTING.—In developing the assessment required under paragraph (1), the Secretary shall conduct physical testing of the vulnerability of railroad tank cars used to transport toxic-inhalation-hazard materials to different methods of a deliberate attack, using technical information and criteria to evaluate the structural integrity of railroad tank cars.

(4) REPORT.—Not later than 30 days after the completion of the assessment under paragraph (1), the Secretary shall provide to the appropriate congressional committees a report, in the appropriate format, on such assessment.

(b) RAILROAD TANK CAR DISPERSION MODELING.—

(1) IN GENERAL.—The Secretary, acting through the National Infrastructure Simulation and Analysis Center, shall conduct an air dispersion modeling analysis of release scenarios of toxic-inhalation-hazard materials resulting from a terrorist attack on a loaded railroad tank car carrying such materials in urban and rural environments.

(2) CONSIDERATIONS.—The analysis under this subsection shall take into account the following considerations:

(A) The most likely means of attack and the resulting dispersal rate.

(B) Different times of day, to account for differences in cloud coverage and other atmospheric conditions in the environment being modeled.

(C) Differences in population size and density.

(D) Historically accurate wind speeds, temperatures, and wind directions.

(E) Differences in dispersal rates or other relevant factors related to whether a railroad tank car is in motion or stationary.

(F) Emergency response procedures by local officials.

(G) Any other considerations the Secretary believes would develop an accurate, plausible dispersion model for toxic-inhalation-hazard materials released from a railroad tank car as a result of a terrorist act.

(3) CONSULTATION.—In conducting the dispersion modeling under paragraph (1), the Secretary shall consult with the Secretary of Transportation, hazardous materials experts, railroad carriers, nonprofit employee labor organizations representing railroad employees, appropriate State, local, and tribal officials, and other Federal agencies, as appropriate.

(4) INFORMATION SHARING.—Upon completion of the analysis required under paragraph (1), the Secretary shall share the information developed with the appropriate stakeholders, given appropriate information protection provisions as may be required by the Secretary.

(5) REPORT.—Not later than 30 days after completion of all dispersion analyses under paragraph (1), the Secretary shall submit to the appropriate congressional committees a report detailing the Secretary’s conclusions and findings in an appropriate format.

Deadline.

SEC. 1520. RAILROAD THREAT ASSESSMENTS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a name-based security background check against the consolidated terrorist watchlist and an immigration status check for all railroad frontline employees, similar to the threat assessment screening program required for facility employees and longshoremen by the Commandant of the Coast Guard under Coast Guard Notice USCG–2006–24189 (71 Fed. Reg. 25066 (April 8, 2006)).

SEC. 1521. RAILROAD EMPLOYEE PROTECTIONS.

Section 20109 of title 49, United States Code, is amended to read:

“SEC. 20109. EMPLOYEE PROTECTIONS.

“(a) IN GENERAL.—A railroad carrier engaged in interstate or foreign commerce, a contractor or a subcontractor of such a railroad carrier, or an officer or employee of such a railroad carrier, may not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee if such discrimination is due, in whole or in part, to the employee’s lawful, good faith act done, or perceived by the employer to have been done or about to be done—

“(1) to provide information, directly cause information to be provided, or otherwise directly assist in any investigation regarding any conduct which the employee reasonably believes constitutes a violation of any Federal law, rule, or regulation relating to railroad safety or security, or gross fraud, waste, or abuse of Federal grants or other public funds intended to be used for railroad safety or security, if the information or assistance is provided to or an investigation stemming from the provided information is conducted by—

“(A) a Federal, State, or local regulatory or law enforcement agency (including an office of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95–452);

“(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

“(C) a person with supervisory authority over the employee or such other person who has the authority to investigate, discover, or terminate the misconduct;

“(2) to refuse to violate or assist in the violation of any Federal law, rule, or regulation relating to railroad safety or security;

“(3) to file a complaint, or directly cause to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety or security, chapter 51 or 57 of this title, or to testify in that proceeding;

“(4) to notify, or attempt to notify, the railroad carrier or the Secretary of Transportation of a work-related personal injury or work-related illness of an employee;

“(5) to cooperate with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board;

“(6) to furnish information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with railroad transportation; or

“(7) to accurately report hours on duty pursuant to chapter 211.

“(b) HAZARDOUS SAFETY OR SECURITY CONDITIONS.—(1) A railroad carrier engaged in interstate or foreign commerce, or an officer or employee of such a railroad carrier, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee for—

“(A) reporting, in good faith, a hazardous safety or security condition;

“(B) refusing to work when confronted by a hazardous safety or security condition related to the performance of the employee’s duties, if the conditions described in paragraph (2) exist; or

“(C) refusing to authorize the use of any safety-related equipment, track, or structures, if the employee is responsible for the inspection or repair of the equipment, track, or structures, when the employee believes that the equipment, track, or structures are in a hazardous safety or security condition, if the conditions described in paragraph (2) exist.

“(2) A refusal is protected under paragraph (1)(B) and (C) if—

“(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

“(B) a reasonable individual in the circumstances then confronting the employee would conclude that—

“(i) the hazardous condition presents an imminent danger of death or serious injury; and

“(ii) the urgency of the situation does not allow sufficient time to eliminate the danger without such refusal; and

“(C) the employee, where possible, has notified the railroad carrier of the existence of the hazardous condition and the

intention not to perform further work, or not to authorize the use of the hazardous equipment, track, or structures, unless the condition is corrected immediately or the equipment, track, or structures are repaired properly or replaced.

Applicability. “(3) In this subsection, only paragraph (1)(A) shall apply to security personnel employed by a railroad carrier to protect individuals and property transported by railroad.

“(c) ENFORCEMENT ACTION.—

“(1) IN GENERAL.—An employee who alleges discharge, discipline, or other discrimination in violation of subsection (a) or (b) of this section, may seek relief in accordance with the provisions of this section, with any petition or other request for relief under this section to be initiated by filing a complaint with the Secretary of Labor.

“(2) PROCEDURE.—

“(A) IN GENERAL.—Any action under paragraph (1) shall be governed under the rules and procedures set forth in section 42121(b), including:

“(i) BURDENS OF PROOF.—Any action brought under (c)(1) shall be governed by the legal burdens of proof set forth in section 42121(b).

“(ii) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the alleged violation of subsection (a) or (b) of this section occurs.

“(iii) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued by the Secretary of Labor pursuant to the procedures in section 42121(b), the Secretary of Labor may bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred, as set forth in 42121.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) shall be made to the person named in the complaint and the person’s employer.

“(3) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

“(4) APPEALS.—Any person adversely affected or aggrieved by an order issued pursuant to the procedures in section 42121(b), may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. The review shall conform to chapter 7 of title 5. The commencement of proceedings under this paragraph shall not, unless ordered by the court, operate as a stay of the order.

Deadline.

“(d) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (c) shall be entitled to all relief necessary to make the employee whole.

“(2) DAMAGES.—Relief in an action under subsection (c) (including an action described in subsection (c)(3)) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) any backpay, with interest; and

“(C) compensatory damages, including compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(3) POSSIBLE RELIEF.—Relief in any action under subsection (c) may include punitive damages in an amount not to exceed \$250,000.

“(e) ELECTION OF REMEDIES.—An employee may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the railroad carrier.

“(f) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

“(g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

“(h) DISCLOSURE OF IDENTITY.—

“(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or the Secretary of Homeland Security may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part or, as applicable to railroad safety or security, chapter 51 or 57 of this title, or a regulation prescribed or order issued under any of those provisions.

“(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of an employee described in paragraph (1) if the matter is referred to the Attorney General for enforcement. The Secretary making such disclosures shall provide reasonable advance notice to the affected employee if disclosure of that person’s identity or identifying information is to occur.

Notification.

“(i) PROCESS FOR REPORTING SECURITY PROBLEMS TO THE DEPARTMENT OF HOMELAND SECURITY.—

“(1) ESTABLISHMENT OF PROCESS.—The Secretary of Homeland Security shall establish through regulations, after an opportunity for notice and comment, a process by which any person may report to the Secretary of Homeland Security regarding railroad security problems, deficiencies, or vulnerabilities.

Regulations.
Notice.

“(2) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report,

the Secretary of Homeland Security shall respond promptly to such person and acknowledge receipt of the report.

“(3) STEPS TO ADDRESS PROBLEM.—The Secretary of Homeland Security shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified.”.

6 USC 1170.

SEC. 1522. SECURITY BACKGROUND CHECKS OF COVERED INDIVIDUALS.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) SECURITY BACKGROUND CHECK.—The term “security background check” means reviewing, for the purpose of identifying individuals who may pose a threat to transportation security or national security, or of terrorism—

(A) relevant criminal history databases;

(B) in the case of an alien (as defined in the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)), the relevant databases to determine the status of the alien under the immigration laws of the United States; and

(C) other relevant information or databases, as determined by the Secretary.

(2) COVERED INDIVIDUAL.—The term “covered individual” means an employee of a railroad carrier or a contractor or subcontractor of a railroad carrier.

(b) GUIDANCE.—

(1) Any guidance, recommendations, suggested action items, or any other widely disseminated voluntary action items issued by the Secretary to a railroad carrier or a contractor or subcontractor of a railroad carrier relating to performing a security background check of a covered individual shall contain recommendations on the appropriate scope and application of such a security background check, including the time period covered, the types of disqualifying offenses, and a redress process for adversely impacted covered individuals consistent with subsections (c) and (d) of this section.

(2) Within 60 days after the date of enactment of this Act, any guidance, recommendations, suggested action items, or any other widely disseminated voluntary action item issued by the Secretary prior to the date of enactment of this Act to a railroad carrier or a contractor or subcontractor of a railroad carrier relating to performing a security background check of a covered individual shall be updated in compliance with paragraph (1).

(3) If a railroad carrier or a contractor or subcontractor of a railroad carrier performs a security background check on a covered individual to fulfill guidance issued by the Secretary under paragraph (1) or (2), the Secretary shall not consider such guidance fulfilled unless an adequate redress process as described in subsection (d) is provided to covered individuals.

(c) REQUIREMENTS.—If the Secretary issues a rule, regulation, or directive requiring a railroad carrier or contractor or subcontractor of a railroad carrier to perform a security background check of a covered individual, then the Secretary shall prohibit the railroad carrier or contractor or subcontractor of a railroad carrier from making an adverse employment decision, including removal

or suspension of the covered individual, due to such rule, regulation, or directive with respect to a covered individual unless the railroad carrier or contractor or subcontractor of a railroad carrier determines that the covered individual—

(1) has been convicted of, has been found not guilty by reason of insanity, or is under want, warrant, or indictment for a permanent disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations;

(2) was convicted of or found not guilty by reason of insanity of an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, within 7 years of the date that the railroad carrier or contractor or subcontractor of a railroad carrier performs the security background check; or

(3) was incarcerated for an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, and released from incarceration within 5 years of the date that the railroad carrier or contractor or subcontractor of a railroad carrier performs the security background check.

(d) REDRESS PROCESS.—If the Secretary issues a rule, regulation, or directive requiring a railroad carrier or contractor or subcontractor of a railroad carrier to perform a security background check of a covered individual, the Secretary shall—

(1) provide an adequate redress process for a covered individual subjected to an adverse employment decision, including removal or suspension of the employee, due to such rule, regulation, or directive that is consistent with the appeals and waiver process established for applicants for commercial motor vehicle hazardous materials endorsements and transportation employees at ports, as required by section 70105(c) of title 46, United States Code; and

(2) have the authority to order an appropriate remedy, including reinstatement of the covered individual, should the Secretary determine that a railroad carrier or contractor or subcontractor of a railroad carrier wrongfully made an adverse employment decision regarding a covered individual pursuant to such rule, regulation, or directive.

(e) FALSE STATEMENTS.—A railroad carrier or a contractor or subcontractor of a railroad carrier may not knowingly misrepresent to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check. Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a regulation that prohibits a railroad carrier or a contractor or subcontractor of a railroad carrier from knowingly misrepresenting to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check.

(f) RIGHTS AND RESPONSIBILITIES.—Nothing in this section shall be construed to abridge a railroad carrier's or a contractor or subcontractor of a railroad carrier's rights or responsibilities to make adverse employment decisions permitted by other Federal,

Deadline.
Regulations.

State, or local laws. Nothing in the section shall be construed to abridge rights and responsibilities of covered individuals, a railroad carrier, or a contractor or subcontractor of a railroad carrier, under any other Federal, State, or local laws or under any collective bargaining agreement.

(g) **NO PREEMPTION OF FEDERAL OR STATE LAW.**—Nothing in this section shall be construed to preempt a Federal, State, or local law that requires criminal history background checks, immigration status checks, or other background checks, of covered individuals.

(h) **STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to affect the process for review established under section 70105(c) of title 46, United States Code, including regulations issued pursuant to such section.

SEC. 1523. NORTHERN BORDER RAILROAD PASSENGER REPORT.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Transportation Security Administration, the Secretary of Transportation, heads of other appropriate Federal departments and agencies and Amtrak shall transmit a report to the appropriate congressional committees that contains—

(1) a description of the current system for screening passengers and baggage on passenger railroad service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in “The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America”, dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the “Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States”, dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for railroad passengers traveling between the United States and Canada to the Department;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers;

(7) a draft of any changes in existing Federal law necessary to provide for prescreening of such passengers and providing prescreened passenger lists to the Department; and

(8) an analysis of the feasibility of reinstating in-transit inspections onboard international Amtrak trains.

(b) **PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES.**—

(1) **CONSULTATION.**—In preparing the report under this section, the Secretary shall consult with the Chief Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department as appropriate and in accordance with section 222 of the Homeland Security Act of 2002.

(2) **PRIVACY IMPACT ASSESSMENTS.**—In accordance with sections 222 and 705 of the Homeland Security Act of 2002, the report must contain a privacy impact assessment conducted by the Chief Privacy Officer and a review conducted by the Officer for Civil Rights and Civil Liberties.

SEC. 1524. INTERNATIONAL RAILROAD SECURITY PROGRAM.

6 USC 1171.

(a) **IN GENERAL.**—

(1) The Secretary shall develop a system to detect both undeclared passengers and contraband, with a primary focus on the detection of nuclear and radiological materials entering the United States by railroad.

(2) **SYSTEM REQUIREMENTS.**—In developing the system under paragraph (1), the Secretary may, in consultation with the Domestic Nuclear Detection Office, Customs and Border Protection, and the Transportation Security Administration—

(A) deploy radiation detection equipment and nonintrusive imaging equipment at locations where railroad shipments cross an international border to enter the United States;

(B) consider the integration of radiation detection technologies with other nonintrusive inspection technologies where feasible;

(C) ensure appropriate training, operations, and response protocols are established for Federal, State, and local personnel;

(D) implement alternative procedures to check railroad shipments at locations where the deployment of nonintrusive inspection imaging equipment is determined to not be practicable;

(E) ensure, to the extent practicable, that such technologies deployed can detect terrorists or weapons, including weapons of mass destruction; and

(F) take other actions, as appropriate, to develop the system.

(b) **ADDITIONAL INFORMATION.**—The Secretary shall—

(1) identify and seek the submission of additional data elements for improved high-risk targeting related to the movement of cargo through the international supply chain utilizing a railroad prior to importation into the United States;

(2) utilize data collected and maintained by the Secretary of Transportation in the targeting of high-risk cargo identified under paragraph (1); and

(3) analyze the data provided in this subsection to identify high-risk cargo for inspection.

(c) **REPORT TO CONGRESS.**—Not later than September 30, 2008, the Secretary shall transmit to the appropriate congressional committees a report that describes the progress of the system being developed under subsection (a).

(d) **DEFINITIONS.**—In this section:

(1) **INTERNATIONAL SUPPLY CHAIN.**—The term “international supply chain” means the end-to-end process for shipping goods to or from the United States, beginning at the point of origin (including manufacturer, supplier, or vendor) through a point of distribution to the destination.

(2) **RADIATION DETECTION EQUIPMENT.**—The term “radiation detection equipment” means any technology that is capable of detecting or identifying nuclear and radiological material or nuclear and radiological explosive devices.

(3) **INSPECTION.**—The term “inspection” means the comprehensive process used by Customs and Border Protection to assess goods entering the United States to appraise them for duty purposes, to detect the presence of restricted or prohibited items, and to ensure compliance with all applicable laws.

SEC. 1525. TRANSMISSION LINE REPORT.

(a) **STUDY.**—The Comptroller General shall undertake an assessment of the placement of high-voltage, direct-current, electric transmission lines along active railroad and other transportation rights-of-way. In conducting the assessment, the Comptroller General shall evaluate any economic, safety, and security risks and benefits to inhabitants living adjacent to such rights-of-way and to consumers of electric power transmitted by such transmission lines.

(b) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall transmit the results of the assessment in subsection (a) to the appropriate congressional committees.

SEC. 1526. RAILROAD SECURITY ENHANCEMENTS.

(a) **RAILROAD POLICE OFFICERS.**—Section 28101 of title 49, United States Code, is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “Under”; and

(2) by adding at the end the following:

“(b) **ASSIGNMENT.**—A railroad police officer employed by a railroad carrier and certified or commissioned as a police officer under the laws of a State may be temporarily assigned to assist a second railroad carrier in carrying out law enforcement duties upon the request of the second railroad carrier, at which time the police officer shall be considered to be an employee of the second railroad carrier and shall have authority to enforce the laws of any jurisdiction in which the second railroad carrier owns property to the same extent as provided in subsection (a).”.

(b) **MODEL STATE LEGISLATION.**—Not later than November 2, 2007, the Secretary of Transportation shall develop and make available to States model legislation to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation. In developing the model State legislation the Secretary shall solicit the input of the States, railroad carriers, and railroad carrier employees. The Secretary shall review and, if necessary, revise such model State legislation periodically.

SEC. 1527. APPLICABILITY OF DISTRICT OF COLUMBIA LAW TO CERTAIN AMTRAK CONTRACTS.

Section 24301 of title 49, United States Code, is amended by adding at the end the following:

Deadline.
6 USC 1172.

“(o) APPLICABILITY OF DISTRICT OF COLUMBIA LAW.—Any lease or contract entered into between Amtrak and the State of Maryland, or any department or agency of the State of Maryland, after the date of the enactment of this subsection shall be governed by the laws of the District of Columbia.”.

SEC. 1528. RAILROAD PREEMPTION CLARIFICATION.

Section 20106 of title 49, United States Code, is amended to read as follows:

“§ 20106. Preemption

“(a) NATIONAL UNIFORMITY OF REGULATION.—(1) Laws, regulations, and orders related to railroad safety and laws, regulations, and orders related to railroad security shall be nationally uniform to the extent practicable.

“(2) A State may adopt or continue in force a law, regulation, or order related to railroad safety or security until the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters), prescribes a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety or security when the law, regulation, or order—

“(A) is necessary to eliminate or reduce an essentially local safety or security hazard;

“(B) is not incompatible with a law, regulation, or order of the United States Government; and

“(C) does not unreasonably burden interstate commerce.

“(b) CLARIFICATION REGARDING STATE LAW CAUSES OF ACTION.—(1) Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party—

“(A) has failed to comply with the Federal standard of care established by a regulation or order issued by the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters), covering the subject matter as provided in subsection (a) of this section;

“(B) has failed to comply with its own plan, rule, or standard that it created pursuant to a regulation or order issued by either of the Secretaries; or

“(C) has failed to comply with a State law, regulation, or order that is not incompatible with subsection (a)(2).

“(2) This subsection shall apply to all pending State law causes of action arising from events or activities occurring on or after January 18, 2002. Applicability.

“(c) JURISDICTION.—Nothing in this section creates a Federal cause of action on behalf of an injured party or confers Federal question jurisdiction for such State law causes of action.”.

Subtitle C—Over-the-Road Bus and Trucking Security

6 USC 1181.

Deadline.
Regulations.**SEC. 1531. OVER-THE-ROAD BUS SECURITY ASSESSMENTS AND PLANS.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue regulations that—

(1) require each over-the-road bus operator assigned to a high-risk tier under this section—

(A) to conduct a vulnerability assessment in accordance with subsections (c) and (d); and

(B) to prepare, submit to the Secretary for approval, and implement a security plan in accordance with subsection (e); and

(2) establish standards and guidelines for developing and implementing the vulnerability assessments and security plans for carriers assigned to high-risk tiers consistent with this section.

(b) NON HIGH-RISK PROGRAMS.—The Secretary may establish a security program for over-the-road bus operators not assigned to a high-risk tier, including—

(1) guidance for such operators in conducting vulnerability assessments and preparing and implementing security plans, as determined appropriate by the Secretary; and

(2) a process to review and approve such assessments and plans, as appropriate.

(c) DEADLINE FOR SUBMISSION.—Not later than 9 months after the date of issuance of the regulations under subsection (a), the vulnerability assessments and security plans required by such regulations for over-the-road bus operators assigned to a high-risk tier shall be completed and submitted to the Secretary for review and approval.

(d) VULNERABILITY ASSESSMENTS.—

(1) REQUIREMENTS.—The Secretary shall provide technical assistance and guidance to over-the-road bus operators in conducting vulnerability assessments under this section and shall require that each vulnerability assessment of an operator assigned to a high-risk tier under this section includes, as appropriate—

(A) identification and evaluation of critical assets and infrastructure, including platforms, stations, terminals, and information systems;

(B) identification of the vulnerabilities to those assets and infrastructure; and

(C) identification of weaknesses in—

(i) physical security;

(ii) passenger and cargo security;

(iii) the security of programmable electronic devices, computers, or other automated systems which are used in providing over-the-road bus transportation;

(iv) alarms, cameras, and other protection systems;

(v) communications systems and utilities needed for over-the-road bus security purposes, including dispatching systems;

(vi) emergency response planning;

(vii) employee training; and

(viii) such other matters as the Secretary determines appropriate.

(2) THREAT INFORMATION.—The Secretary shall provide in a timely manner to the appropriate employees of an over-the-road bus operator, as designated by the over-the-road bus operator, threat information that is relevant to the operator when preparing and submitting a vulnerability assessment and security plan, including an assessment of the most likely methods that could be used by terrorists to exploit weaknesses in over-the-road bus security.

(e) SECURITY PLANS.—

(1) REQUIREMENTS.—The Secretary shall provide technical assistance and guidance to over-the-road bus operators in preparing and implementing security plans under this section and shall require that each security plan of an over-the-road bus operator assigned to a high-risk tier under this section includes, as appropriate—

(A) the identification of a security coordinator having authority—

(i) to implement security actions under the plan;

(ii) to coordinate security improvements; and

(iii) to receive communications from appropriate Federal officials regarding over-the-road bus security;

(B) a list of needed capital and operational improvements;

(C) procedures to be implemented or used by the over-the-road bus operator in response to a terrorist attack, including evacuation and passenger communication plans that include individuals with disabilities, as appropriate;

(D) the identification of steps taken with State and local law enforcement agencies, emergency responders, and Federal officials to coordinate security measures and plans for response to a terrorist attack;

(E) a strategy and timeline for conducting training under section 1534;

(F) enhanced security measures to be taken by the over-the-road bus operator when the Secretary declares a period of heightened security risk;

(G) plans for providing redundant and backup systems required to ensure the continued operation of critical elements of the over-the-road bus operator's system in the event of a terrorist attack or other incident; and

(H) such other actions or procedures as the Secretary determines are appropriate to address the security of over-the-road bus operators.

(2) SECURITY COORDINATOR REQUIREMENTS.—The Secretary shall require that the individual serving as the security coordinator identified in paragraph (1)(A) is a citizen of the United States. The Secretary may waive this requirement with respect to an individual if the Secretary determines that it is appropriate to do so based on a background check of the individual and a review of the consolidated terrorist watchlist.

(f) DEADLINE FOR REVIEW PROCESS.—Not later than 6 months after receiving the assessments and plans required under this section, the Secretary shall—

(1) review each vulnerability assessment and security plan submitted to the Secretary in accordance with subsection (c);

(2) require amendments to any security plan that does not meet the requirements of this section; and

(3) approve any vulnerability assessment or security plan that meets the requirements of this section.

(g) INTERIM SECURITY MEASURES.—The Secretary may require over-the-road bus operators, during the period before the deadline established under subsection (c), to submit a security plan to implement any necessary interim security measures essential to providing adequate security of the over-the-road bus operator's system. An interim plan required under this subsection shall be superseded by a plan required under subsection (c).

(h) TIER ASSIGNMENT.—The Secretary shall assign each over-the-road bus operator to a risk-based tier established by the Secretary:

(1) PROVISION OF INFORMATION.—The Secretary may request, and an over-the-road bus operator shall provide, information necessary for the Secretary to assign an over-the-road bus operator to the appropriate tier under this subsection.

(2) NOTIFICATION.—Not later than 60 days after the date an over-the-road bus operator is assigned to a tier under this section, the Secretary shall notify the operator of the tier to which it is assigned and the reasons for such assignment.

(3) HIGH-RISK TIERS.—At least one of the tiers established by the Secretary under this section shall be a tier designated for high-risk over-the-road bus operators.

(4) REASSIGNMENT.—The Secretary may reassign an over-the-road bus operator to another tier, as appropriate, in response to changes in risk and the Secretary shall notify the over-the-road bus operator within 60 days after such reassignment and provide the operator with the reasons for such reassignment.

(i) EXISTING PROCEDURES, PROTOCOLS, AND STANDARDS.—

(1) DETERMINATION.—In response to a petition by an over-the-road bus operator or at the discretion of the Secretary, the Secretary may determine that existing procedures, protocols, and standards meet all or part of the requirements of this section regarding vulnerability assessments and security plans.

(2) ELECTION.—Upon review and written determination by the Secretary that existing procedures, protocols, or standards of an over-the-road bus operator satisfy the requirements of this section, the over-the-road bus operator may elect to comply with those procedures, protocols, or standards instead of the requirements of this section.

(3) PARTIAL APPROVAL.—If the Secretary determines that the existing procedures, protocols, or standards of an over-the-road bus operator satisfy only part of the requirements of this section, the Secretary may accept such submission, but shall require submission by the operator of any additional information relevant to the vulnerability assessment and security plan of the operator to ensure that the remaining requirements of this section are fulfilled.

(4) NOTIFICATION.—If the Secretary determines that particular existing procedures, protocols, or standards of an over-the-road bus operator under this subsection do not satisfy the requirements of this section, the Secretary shall provide to

the operator a written notification that includes an explanation of the reasons for nonacceptance.

(5) REVIEW.—Nothing in this subsection shall relieve the Secretary of the obligation—

(A) to review the vulnerability assessment and security plan submitted by an over-the-road bus operator under this section; and

(B) to approve or disapprove each submission on an individual basis.

(j) PERIODIC EVALUATION BY OVER-THE-ROAD BUS PROVIDER Deadlines.
REQUIRED.—

(1) SUBMISSION OF EVALUATION.—Not later than 3 years after the date on which a vulnerability assessment or security plan required to be submitted to the Secretary under subsection (c) is approved, and at least once every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), an over-the-road bus operator who submitted a vulnerability assessment and security plan and who is still assigned to the high-risk tier shall also submit to the Secretary an evaluation of the adequacy of the vulnerability assessment and security plan that includes a description of any material changes made to the vulnerability assessment or security plan.

(2) REVIEW OF EVALUATION.—Not later than 180 days after the date on which an evaluation is submitted, the Secretary shall review the evaluation and notify the over-the-road bus operator submitting the evaluation of the Secretary's approval or disapproval of the evaluation.

(k) SHARED FACILITIES.—The Secretary may permit under this section the development and implementation of coordinated vulnerability assessments and security plans to the extent that an over-the-road bus operator shares facilities with, or is colocated with, other transportation entities or providers that are required to develop vulnerability assessments and security plans under Federal law.

(l) NONDISCLOSURE OF INFORMATION.—

(1) SUBMISSION OF INFORMATION TO CONGRESS.—Nothing in this section shall be construed as authorizing the withholding of any information from Congress.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this section shall be construed as affecting any authority or obligation of a Federal agency to disclose any record or information that the Federal agency obtains from an over-the-road bus operator under any other Federal law.

SEC. 1532. OVER-THE-ROAD BUS SECURITY ASSISTANCE.

6 USC 1182.

(a) IN GENERAL.—The Secretary shall establish a program for making grants to eligible private operators providing transportation by an over-the-road bus for security improvements described in subsection (b).

(b) USES OF FUNDS.—A recipient of a grant received under subsection (a) shall use the grant funds for one or more of the following:

(1) Constructing and modifying terminals, garages, and facilities, including terminals and other over-the-road bus facilities owned by State or local governments, to increase their security.

(2) Modifying over-the-road buses to increase their security.

(3) Protecting or isolating the driver of an over-the-road bus.

(4) Acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or other means and for information links with government agencies, for security purposes.

(5) Installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities.

(6) Establishing and improving an emergency communications system linking drivers and over-the-road buses to the recipient's operations center or linking the operations center to law enforcement and emergency personnel.

(7) Implementing and operating passenger screening programs for weapons and explosives.

(8) Public awareness campaigns for enhanced over-the-road bus security.

(9) Operating and capital costs associated with over-the-road bus security awareness, preparedness, and response training, including training under section 1534 and training developed by institutions of higher education and by nonprofit employee labor organizations, for over-the-road bus employees, including frontline employees.

(10) Chemical, biological, radiological, or explosive detection, including canine patrols for such detection.

(11) Overtime reimbursement, including reimbursement of State, local, and tribal governments for costs, for enhanced security personnel assigned to duties related to over-the-road bus security during periods of high or severe threat levels, National Special Security Events, or other periods of heightened security as determined by the Secretary.

(12) Live or simulated exercises, including those described in section 1533.

(13) Operational costs to hire, train, and employ police and security officers, including canine units, assigned to full-time security or counterterrorism duties related to over-the-road bus transportation, including reimbursement of State, local, and tribal government costs for such personnel.

(14) Development of assessments or security plans under section 1531.

(15) Such other improvements as the Secretary considers appropriate.

Grants.

(c) DUE CONSIDERATION.—In making grants under this section, the Secretary shall prioritize grant funding based on security risks to bus passengers and the ability of a project to reduce, or enhance response to, that risk, and shall not penalize private operators of over-the-road buses that have taken measures to enhance over-the-road bus transportation security prior to September 11, 2001.

(d) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants under this section, including application requirements;

(2) select grant recipients;

(3) award the funds authorized by this section based on risk, as identified by the plans required under section 1531 or assessment or plan described in subsection (f)(2); and

(4) pursuant to subsection (c), establish priorities for the use of funds for grant recipients.

(e) DISTRIBUTION OF GRANTS.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall determine the most effective and efficient way to distribute grant funds to the recipients of grants determined by the Secretary under subsection (a). Subject to the determination made by the Secretaries, the Secretary may transfer funds to the Secretary of Transportation for the purposes of disbursing funds to the grant recipient. Deadline.

(f) ELIGIBILITY.—

(1) A private operator providing transportation by an over-the-road bus is eligible for a grant under this section if the operator has completed a vulnerability assessment and developed a security plan that the Secretary has approved under section 1531. Grant funds may only be used for permissible uses under subsection (b) to further an over-the-road bus security plan.

(2) Notwithstanding the requirements for eligibility and uses in paragraph (1), prior to the earlier of 1 year after the date of issuance of final regulations requiring vulnerability assessments and security plans under section 1531 or 3 years after the date of enactment of this Act, the Secretary may award grants under this section for over-the-road bus security improvements listed under subsection (b) based upon over-the-road bus vulnerability assessments and security plans that the Secretary deems are sufficient for the purposes of this section but have not been approved by the Secretary in accordance with section 1531.

(g) SUBJECT TO CERTAIN TERMS AND CONDITIONS.—Except as otherwise specifically provided in this section, a grant made under this section shall be subject to the terms and conditions applicable to subrecipients who provide over-the-road bus transportation under section 5311(f) of title 49, United States Code, and such other terms and conditions as are determined necessary by the Secretary.

(h) LIMITATION ON USES OF FUNDS.—A grant made under this section may not be used to make any State or local government cost-sharing contribution under any other Federal law.

(i) ANNUAL REPORTS.—Each recipient of a grant under this section shall report annually to the Secretary and on the use of such grant funds.

(j) CONSULTATION.—In carrying out this section, the Secretary shall consult with over-the-road bus operators and nonprofit employee labor organizations representing over-the-road bus employees, public safety and law enforcement officials.

(k) AUTHORIZATION.—

(1) IN GENERAL.—From the amounts appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this Act, there shall be made available to the Secretary to make grants under this section—

- (A) \$12,000,000 for fiscal year 2008;
- (B) \$25,000,000 for fiscal year 2009;
- (C) \$25,000,000 for fiscal year 2010; and
- (D) \$25,000,000 for fiscal year 2011.

(2) PERIOD OF AVAILABILITY.—Sums appropriated to carry out this section shall remain available until expended.

6 USC 1183.

SEC. 1533. OVER-THE-ROAD BUS EXERCISES.

(a) IN GENERAL.—The Secretary shall establish a program for conducting security exercises for over-the-road bus transportation for the purpose of assessing and improving the capabilities of entities described in subsection (b) to prevent, prepare for, mitigate, respond to, and recover from acts of terrorism.

(b) COVERED ENTITIES.—Entities to be assessed under the program shall include—

(1) Federal, State, and local agencies and tribal governments;

(2) over-the-road bus operators and over-the-road bus terminal owners and operators;

(3) governmental and nongovernmental emergency response providers and law enforcement agencies; and

(4) any other organization or entity that the Secretary determines appropriate.

(c) REQUIREMENTS.—The Secretary shall ensure that the program—

(1) consolidates existing security exercises for over-the-road bus operators and terminals administered by the Department and the Department of Transportation, as jointly determined by the Secretary and the Secretary of Transportation, unless the Secretary waives this consolidation requirement, as appropriate;

(2) consists of exercises that are—

(A) scaled and tailored to the needs of the over-the-road bus operators and terminals, including addressing the needs of the elderly and individuals with disabilities;

(B) live, in the case of the most at-risk facilities to a terrorist attack;

(C) coordinated with appropriate officials;

(D) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

(E) inclusive, as appropriate, of over-the-road bus front-line employees; and

(F) consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, and other such national initiatives;

(3) provides that exercises described in paragraph (2) will be—

(A) evaluated by the Secretary against clear and consistent performance measures;

(B) assessed by the Secretary to identify best practices, which shall be shared, as appropriate, with operators providing over-the-road bus transportation, nonprofit employee organizations that represent over-the-road bus employees, Federal, State, local, and tribal officials, governmental and nongovernmental emergency response providers, and law enforcement personnel; and

(C) used to develop recommendations, as appropriate, provided to over-the-road bus operators and terminal

owners and operators on remedial action to be taken in response to lessons learned;

(4) allows for proper advanced notification of communities and local governments in which exercises are held, as appropriate; and

(5) assists State, local, and tribal governments and over-the-road bus operators and terminal owners and operators in designing, implementing, and evaluating additional exercises that conform to the requirements of paragraph (2).

(d) NATIONAL EXERCISE PROGRAM.—The Secretary shall ensure that the exercise program developed under subsection (c) is consistent with the National Exercise Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109–295; 6 U.S.C. 748).

SEC. 1534. OVER-THE-ROAD BUS SECURITY TRAINING PROGRAM.

6 USC 1184.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall develop and issue regulations for an over-the-road bus training program to prepare over-the-road bus frontline employees for potential security threats and conditions. The regulations shall take into consideration any current security training requirements or best practices.

Deadline.
Regulations.

(b) CONSULTATION.—The Secretary shall develop regulations under subsection (a) in consultation with—

(1) appropriate law enforcement, fire service, emergency response, security, and terrorism experts;

(2) operators providing over-the-road bus transportation; and

(3) nonprofit employee labor organizations representing over-the-road bus employees and emergency response personnel.

(c) PROGRAM ELEMENTS.—The regulations developed under subsection (a) shall require security training programs, to include, at a minimum, elements to address the following, as applicable:

(1) Determination of the seriousness of any occurrence or threat.

(2) Driver and passenger communication and coordination.

(3) Appropriate responses to defend or protect oneself.

(4) Use of personal and other protective equipment.

(5) Evacuation procedures for passengers and over-the-road bus employees, including individuals with disabilities and the elderly.

(6) Psychology, behavior, and methods of terrorists, including observation and analysis.

(7) Training related to psychological responses to terrorist incidents, including the ability to cope with hijacker behavior and passenger responses.

(8) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(9) Recognition and reporting of dangerous substances, suspicious packages, and situations.

(10) Understanding security incident procedures, including procedures for communicating with emergency response providers and for on-scene interaction with such emergency response providers.

(11) Operation and maintenance of security equipment and systems.

Deadlines.

(12) Other security training activities that the Secretary considers appropriate.

(d) REQUIRED PROGRAMS.—

(1) DEVELOPMENT AND SUBMISSION TO SECRETARY.—Not later than 90 days after the Secretary issues the regulations under subsection (a), each over-the-road bus operator shall develop a security training program in accordance with such regulations and submit the program to the Secretary for approval.

(2) APPROVAL.—Not later than 60 days after receiving a security training program under this subsection, the Secretary shall approve the program or require the over-the-road bus operator that developed the program to make any revisions to the program that the Secretary considers necessary for the program to meet the requirements of the regulations. An over-the-road bus operator shall respond to the Secretary's comments not later than 30 days after receiving them.

(3) TRAINING.—Not later than 1 year after the Secretary approves a security training program in accordance with this subsection, the over-the-road bus operator that developed the program shall complete the training of all over-the-road bus frontline employees who were hired by the operator more than 30 days preceding such date. For such employees employed less than 30 days by an operator preceding such date, training shall be completed within the first 60 days of employment.

(4) UPDATES OF REGULATIONS AND PROGRAM REVISIONS.—The Secretary shall periodically review and update, as appropriate, the training regulations issued under subsection (a) to reflect new or changing security threats. Each over-the-road bus operator shall revise its training program accordingly and provide additional training as necessary to its employees within a reasonable time after the regulations are updated.

(e) NATIONAL TRAINING PROGRAM.—The Secretary shall ensure that the training program developed under subsection (a) is a component of the National Training Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109-295; 6 U.S.C. 748).

(f) REPORTING REQUIREMENTS.—Not later than 2 years after the date of regulation issuance, the Secretary shall review implementation of the training program of a representative sample of over-the-road bus operators and over-the-road bus frontline employees, and report to the appropriate congressional committees of such reviews. The Secretary may submit the report in both classified and redacted formats as necessary.

6 USC 1185.

SEC. 1535. OVER-THE-ROAD BUS SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary, acting through the Under Secretary for Science and Technology and the Administrator of the Transportation Security Administration, shall carry out a research and development program for the purpose of improving the security of over-the-road buses.

(b) ELIGIBLE PROJECTS.—The research and development program may include projects—

(1) to reduce the vulnerability of over-the-road buses, stations, terminals, and equipment to explosives and hazardous

chemical, biological, and radioactive substances, including the development of technology to screen passengers in large numbers with minimal interference and disruption;

(2) to test new emergency response and recovery techniques and technologies, including those used at international borders;

(3) to develop improved technologies, including those for—

(A) emergency response training, including training in a tunnel environment, if appropriate; and

(B) security and redundancy for critical communications, electrical power, computer, and over-the-road bus control systems; and

(4) to address other vulnerabilities and risks identified by the Secretary.

(c) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary—

(1) shall ensure that the research and development program is consistent with the other transportation security research and development programs required by this Act;

(2) shall, to the extent practicable, coordinate the research and development activities of the Department with other ongoing research and development security-related initiatives, including research being conducted by—

(A) the Department of Transportation, including University Transportation Centers and other institutes, centers, and simulators funded by the Department of Transportation;

(B) the National Academy of Sciences;

(C) the Technical Support Working Group;

(D) other Federal departments and agencies; and

(E) other Federal and private research laboratories, research entities, and institutions of higher education, including Historically Black Colleges and Universities, Hispanic Serving Institutions, and Indian Tribally Controlled Colleges and Universities;

(3) shall carry out any research and development project authorized by this section through a reimbursable agreement with an appropriate Federal agency, if the agency—

(A) is currently sponsoring a research and development project in a similar area; or

(B) has a unique facility or capability that would be useful in carrying out the project;

(4) may award grants and enter into cooperative agreements, contracts, other transactions, or reimbursable agreements to the entities described in paragraph (2) and eligible recipients under section 1532; and

(5) shall make reasonable efforts to enter into memoranda of understanding, contracts, grants, cooperative agreements, or other transactions with private operators providing over-the-road bus transportation willing to contribute assets, physical space, and other resources.

(d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES.—

(1) CONSULTATION.—In carrying out research and development projects under this section, the Secretary shall consult with the Chief Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department as appropriate and in accordance with section 222 of the Homeland Security Act of 2002.

(2) **PRIVACY IMPACT ASSESSMENTS.**—In accordance with sections 222 and 705 of the Homeland Security Act of 2002, the Chief Privacy Officer shall conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section that the Secretary determines could have an impact on privacy, civil rights, or civil liberties.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—From the amounts appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this Act, there shall be made available to the Secretary to carry out this section—

- (A) \$2,000,000 for fiscal year 2008;
- (B) \$2,000,000 for fiscal year 2009;
- (C) \$2,000,000 for fiscal year 2010; and
- (D) \$2,000,000 for fiscal year 2011.

(2) **PERIOD OF AVAILABILITY.**—Such sums shall remain available until expended.

SEC. 1536. MOTOR CARRIER EMPLOYEE PROTECTIONS.

Section 31105 of title 49, United States Code, is amended to read:

“(a) **PROHIBITIONS.**—(1) A person may not discharge an employee, or discipline or discriminate against an employee regarding pay, terms, or privileges of employment, because—

“(A)(i) the employee, or another person at the employee’s request, has filed a complaint or begun a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order, or has testified or will testify in such a proceeding; or

“(ii) the person perceives that the employee has filed or is about to file a complaint or has begun or is about to begin a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order;

“(B) the employee refuses to operate a vehicle because—

“(i) the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety, health, or security; or

“(ii) the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle’s hazardous safety or security condition;

“(C) the employee accurately reports hours on duty pursuant to chapter 315;

“(D) the employee cooperates, or the person perceives that the employee is about to cooperate, with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

“(E) the employee furnishes, or the person perceives that the employee is or is about to furnish, information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with commercial motor vehicle transportation.

“(2) Under paragraph (1)(B)(ii) of this subsection, an employee’s apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the hazardous safety or security condition establishes a real danger of accident, injury, or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the hazardous safety or security condition.

“(b) FILING COMPLAINTS AND PROCEDURES.—(1) An employee alleging discharge, discipline, or discrimination in violation of subsection (a) of this section, or another person at the employee’s request, may file a complaint with the Secretary of Labor not later than 180 days after the alleged violation occurred. All complaints initiated under this section shall be governed by the legal burdens of proof set forth in section 42121(b). On receiving the complaint, the Secretary of Labor shall notify, in writing, the person alleged to have committed the violation of the filing of the complaint.

Deadlines.

Notification.

“(2)(A) Not later than 60 days after receiving a complaint, the Secretary of Labor shall conduct an investigation, decide whether it is reasonable to believe the complaint has merit, and notify, in writing, the complainant and the person alleged to have committed the violation of the findings. If the Secretary of Labor decides it is reasonable to believe a violation occurred, the Secretary of Labor shall include with the decision findings and a preliminary order for the relief provided under paragraph (3) of this subsection.

Investigation.
Notification.

“(B) Not later than 30 days after the notice under subparagraph (A) of this paragraph, the complainant and the person alleged to have committed the violation may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of objections does not stay a reinstatement ordered in the preliminary order. If a hearing is not requested within the 30 days, the preliminary order is final and not subject to judicial review.

“(C) A hearing shall be conducted expeditiously. Not later than 120 days after the end of the hearing, the Secretary of Labor shall issue a final order. Before the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

“(3)(A) If the Secretary of Labor decides, on the basis of a complaint, a person violated subsection (a) of this section, the Secretary of Labor shall order the person to—

“(i) take affirmative action to abate the violation;

“(ii) reinstate the complainant to the former position with the same pay and terms and privileges of employment; and

“(iii) pay compensatory damages, including backpay with interest and compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(B) If the Secretary of Labor issues an order under subparagraph (A) of this paragraph and the complainant requests, the Secretary of Labor may assess against the person against whom the order is issued the costs (including attorney fees) reasonably

incurred by the complainant in bringing the complaint. The Secretary of Labor shall determine the costs that reasonably were incurred.

“(C) Relief in any action under subsection (b) may include punitive damages in an amount not to exceed \$250,000.

Deadline.

“(c) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

Deadline.

“(d) JUDICIAL REVIEW AND VENUE.—A person adversely affected by an order issued after a hearing under subsection (b) of this section may file a petition for review, not later than 60 days after the order is issued, in the court of appeals of the United States for the circuit in which the violation occurred or the person resided on the date of the violation. Review shall conform to chapter 7 of title 5. The review shall be heard and decided expeditiously. An order of the Secretary of Labor subject to review under this subsection is not subject to judicial review in a criminal or other civil proceeding.

“(e) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued under subsection (b) of this section, the Secretary of Labor shall bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred.

“(f) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

“(g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

“(h) DISCLOSURE OF IDENTITY.—

“(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or the Secretary of Homeland Security may not disclose the name of an employee who has provided information about an alleged violation of this part, or a regulation prescribed or order issued under any of those provisions.

“(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement. The Secretary making such disclosure shall provide reasonable advance notice to the affected employee if disclosure of that person’s identity or identifying information is to occur.

“(i) PROCESS FOR REPORTING SECURITY PROBLEMS TO THE DEPARTMENT OF HOMELAND SECURITY.—

“(1) ESTABLISHMENT OF PROCESS.—The Secretary of Homeland Security shall establish through regulations, after an opportunity for notice and comment, a process by which any person may report to the Secretary of Homeland Security regarding motor carrier vehicle security problems, deficiencies, or vulnerabilities.

Regulations.
Notice.

“(2) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary of Homeland Security shall respond promptly to such person and acknowledge receipt of the report.

“(3) STEPS TO ADDRESS PROBLEM.—The Secretary of Homeland Security shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified.

“(j) DEFINITION.—In this section, ‘employee’ means a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

“(1) directly affects commercial motor vehicle safety or security in the course of employment by a commercial motor carrier; and

“(2) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of employment.”.

SEC. 1537. UNIFIED CARRIER REGISTRATION SYSTEM AGREEMENT.

(a) REENACTMENT OF SSRS.—Section 14504 of title 49, United States Code, as that section was in effect on December 31, 2006, shall be in effect as a law of the United States for the period beginning on January 1, 2007, ending on the earlier of January 1, 2008, or the effective date of the final regulations issued pursuant to subsection (b).

Effective date.
Termination
date.
49 USC 14504
note.

(b) DEADLINE FOR FINAL REGULATIONS.—Not later than October 1, 2007, the Federal Motor Carrier Safety Administration shall issue final regulations to establish the Unified Carrier Registration System, as required by section 13908 of title 49, United States Code, and set fees for the unified carrier registration agreement for calendar year 2007 or subsequent calendar years to be charged to motor carriers, motor private carriers, and freight forwarders under such agreement, as required by 14504a of title 49, United States Code.

49 USC 13908
note.

(c) REPEAL OF SSRS.—Section 4305(a) of the Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1764) is amended by striking “the first January” and all that follows through “this Act” and inserting “January 1, 2008”.

49 USC 14504
note.

SEC. 1538. SCHOOL BUS TRANSPORTATION SECURITY.

(a) SCHOOL BUS SECURITY RISK ASSESSMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the appropriate congressional committees a report, including a classified report, as appropriate, containing a comprehensive assessment of the risk of a terrorist attack on the Nation’s school bus transportation system in accordance with the requirements of this section.

Reports.
Deadline.
Classified
information.

(b) CONTENTS OF RISK ASSESSMENT.—The assessment shall include—

(1) an assessment of security risks to the Nation's school bus transportation system, including publicly and privately operated systems;

(2) an assessment of actions already taken by operators or others to address identified security risks; and

(3) an assessment of whether additional actions and investments are necessary to improve the security of passengers traveling on school buses and a list of such actions or investments, if appropriate.

(c) CONSULTATION.—In conducting the risk assessment, the Secretary shall consult with administrators and officials of school systems, representatives of the school bus industry, including both publicly and privately operated systems, public safety and law enforcement officials, and nonprofit employee labor organizations representing school bus drivers.

SEC. 1539. TECHNICAL AMENDMENT.

Section 1992(d)(7) of title 18, United States Code, is amended by inserting “intercity bus transportation” after “includes”.

SEC. 1540. TRUCK SECURITY ASSESSMENT.

(a) DEFINITION.—For the purposes of this section, the term “truck” means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport property when the vehicle—

(1) has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or

(2) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of title 49, United States Code, and transported in a quantity requiring placarding under regulations prescribed by the Secretary under subtitle B, chapter I, subchapter C of title 49, Code of Federal Regulations.

(b) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in coordination with the Secretary of Transportation, shall transmit a report to the appropriate congressional committees on truck security issues that includes—

(1) a security risk assessment of the trucking industry;

(2) an assessment of actions already taken by both public and private entities to address identified security risks;

(3) an assessment of the economic impact that security upgrades of trucks, truck equipment, or truck facilities may have on the trucking industry and its employees, including independent owner-operators;

(4) an assessment of ongoing research by public and private entities and the need for additional research on truck security;

(5) an assessment of industry best practices to enhance security; and

(6) an assessment of the current status of secure truck parking.

(c) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

Deadline.
Reports.

SEC. 1541. MEMORANDUM OF UNDERSTANDING ANNEX.Deadline.
6 USC 1186.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary shall execute and develop an annex to the Memorandum of Understanding between the two departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources, and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing motor carrier transportation security matters, including over-the-road bus security matters, and shall cover the processes the Departments will follow to promote communications, efficiency, and nonduplication of effort.

SEC. 1542. DHS INSPECTOR GENERAL REPORT ON TRUCKING SECURITY GRANT PROGRAM.

(a) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall submit a report to the appropriate congressional committees on the Federal trucking industry security grant program, for fiscal years 2004 and 2005 that—

(1) addresses the grant announcement, application, receipt, review, award, monitoring, and closeout processes; and

(2) states the amount obligated or expended under the program for fiscal years 2004 and 2005 for—

(A) infrastructure protection;

(B) training;

(C) equipment;

(D) educational materials;

(E) program administration;

(F) marketing; and

(G) other functions.

(b) SUBSEQUENT REPORT.—Not later than 1 year after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall submit a report to the appropriate congressional committees that—

(1) analyzes the performance, efficiency, and effectiveness of the Federal trucking industry security grant program, and the need for the program using all years of available data; and

(2) makes recommendations regarding the future of the program, including options to improve the effectiveness and utility of the program and motor carrier security.

Subtitle D—Hazardous Material and Pipeline Security

SEC. 1551. RAILROAD ROUTING OF SECURITY-SENSITIVE MATERIALS.

6 USC 1201.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary, shall publish a final rule based on the Pipeline and Hazardous Materials Safety Administration's Notice of Proposed Rulemaking published on December 21, 2006, entitled "Hazardous Materials: Enhancing Railroad Transportation Safety and Security for Hazardous Materials Shipments". The final rule

Deadline.
Regulations.

shall incorporate the requirements of this section and, as appropriate, public comments received during the comment period of the rulemaking.

Deadline.

(b) **SECURITY-SENSITIVE MATERIALS COMMODITY DATA.**—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to, no later than 90 days after the end of each calendar year, compile security-sensitive materials commodity data. Such data must be collected by route, line segment, or series of line segments, as aggregated by the railroad carrier. Within the railroad carrier selected route, the commodity data must identify the geographic location of the route and the total number of shipments by the United Nations identification number for the security-sensitive materials.

(c) **RAILROAD TRANSPORTATION ROUTE ANALYSIS FOR SECURITY-SENSITIVE MATERIALS.**—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to, for each calendar year, provide a written analysis of the safety and security risks for the transportation routes identified in the security-sensitive materials commodity data collected as required by subsection (b). The safety and security risks present shall be analyzed for the route, railroad facilities, railroad storage facilities, and high-consequence targets along or in proximity to the route.

(d) **ALTERNATIVE ROUTE ANALYSIS FOR SECURITY-SENSITIVE MATERIALS.**—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to—

(1) for each calendar year—

(A) identify practicable alternative routes over which the railroad carrier has authority to operate as compared to the current route for such a shipment analyzed under subsection (c); and

(B) perform a safety and security risk assessment of the alternative route for comparison to the route analysis specified in subsection (c);

(2) ensure that the analysis under paragraph (1) includes—

(A) identification of safety and security risks for an alternative route;

(B) comparison of those risks identified under subparagraph (A) to the primary railroad transportation route, including the risk of a catastrophic release from a shipment traveling along the alternate route compared to the primary route;

(C) any remediation or mitigation measures implemented on the primary or alternative route; and

(D) potential economic effects of using an alternative route; and

(3) consider when determining the practicable alternative routes under paragraph (1)(A) the use of interchange agreements with other railroad carriers.

(e) **ALTERNATIVE ROUTE SELECTION FOR SECURITY-SENSITIVE MATERIALS.**—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to use the analysis required by subsections (c) and (d) to select the safest and most secure route to be used in transporting security-sensitive materials.

(f) **REVIEW.**—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to annually review and select the practicable route posing the least overall safety and security risk in accordance with this section. The railroad carrier must retain in writing all route review and selection decision documentation and restrict the distribution, disclosure, and availability of information contained in the route analysis to appropriate persons. This documentation should include, but is not limited to, comparative analyses, charts, graphics, or railroad system maps.

(g) **RETROSPECTIVE ANALYSIS.**—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to, not less than once every 3 years, analyze the route selection determinations required under this section. Such an analysis shall include a comprehensive, systemwide review of all operational changes, infrastructure modifications, traffic adjustments, changes in the nature of high-consequence targets located along or in proximity to the route, or other changes affecting the safety and security of the movements of security-sensitive materials that were implemented since the previous analysis was completed.

(h) **CONSULTATION.**—In carrying out subsection (c), railroad carriers transporting security-sensitive materials in commerce shall seek relevant information from State, local, and tribal officials, as appropriate, regarding security risks to high-consequence targets along or in proximity to a route used by a railroad carrier to transport security-sensitive materials.

(i) **DEFINITIONS.**—In this section:

(1) The term “route” includes storage facilities and trackage used by railroad cars in transportation in commerce.

(2) The term “high-consequence target” means a property, natural resource, location, area, or other target designated by the Secretary that is a viable terrorist target of national significance, which may include a facility or specific critical infrastructure, the attack of which by railroad could result in—

(A) catastrophic loss of life;

(B) significant damage to national security or defense capabilities; or

(C) national economic harm.

SEC. 1552. RAILROAD SECURITY-SENSITIVE MATERIAL TRACKING.

6 USC 1202.

(a) **COMMUNICATIONS.**—

(1) **IN GENERAL.**—In conjunction with the research and development program established under section 1518 and consistent with the results of research relating to wireless and other tracking technologies, the Secretary, in consultation with the Administrator of the Transportation Security Administration, shall develop a program that will encourage the equipping of railroad cars transporting security-sensitive materials, as defined in section 1501, with technology that provides—

(A) car position location and tracking capabilities; and

(B) notification of railroad car depressurization, breach, unsafe temperature, or release of hazardous materials, as appropriate.

(2) **COORDINATION.**—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for railroad car tracking at the Department of Transportation; and

(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security’s hazardous material railroad tank car tracking pilot programs.

(b) FUNDING.—From the amounts appropriated pursuant to 114(w) of title 49, United States Code, as amended by section 1503 of this title, there shall be made available to the Secretary to carry out this section—

- (1) \$3,000,000 for fiscal year 2008;
- (2) \$3,000,000 for fiscal year 2009; and
- (3) \$3,000,000 for fiscal year 2010.

Deadlines.
6 USC 1203.

SEC. 1553. HAZARDOUS MATERIALS HIGHWAY ROUTING.

(a) ROUTE PLAN GUIDANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary, shall—

(1) document existing and proposed routes for the transportation of radioactive and nonradioactive hazardous materials by motor carrier, and develop a framework for using a geographic information system-based approach to characterize routes in the national hazardous materials route registry;

(2) assess and characterize existing and proposed routes for the transportation of radioactive and nonradioactive hazardous materials by motor carrier for the purpose of identifying measurable criteria for selecting routes based on safety and security concerns;

(3) analyze current route-related hazardous materials regulations in the United States, Canada, and Mexico to identify cross-border differences and conflicting regulations;

(4) document the safety and security concerns of the public, motor carriers, and State, local, territorial, and tribal governments about the highway routing of hazardous materials;

(5) prepare guidance materials for State officials to assist them in identifying and reducing both safety concerns and security risks when designating highway routes for hazardous materials consistent with the 13 safety-based nonradioactive materials routing criteria and radioactive materials routing criteria in subpart C part 397 of title 49, Code of Federal Regulations;

(6) develop a tool that will enable State officials to examine potential routes for the highway transportation of hazardous materials, assess specific security risks associated with each route, and explore alternative mitigation measures; and

Reports.

(7) transmit to the appropriate congressional committees a report on the actions taken to fulfill paragraphs (1) through (6) and any recommended changes to the routing requirements for the highway transportation of hazardous materials in part 397 of title 49, Code of Federal Regulations.

(b) ROUTE PLANS.—

Deadline.

(1) ASSESSMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the safety and national security benefits achieved under existing requirements for route plans,

in written or electronic format, for explosives and radioactive materials. The assessment shall, at a minimum—

(A) compare the percentage of Department of Transportation recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials for which such route plans are required with the percentage of recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials not subject to such route plans; and

(B) quantify the security and safety benefits, feasibility, and costs of requiring each motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry such a route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403, taking into account the various segments of the motor carrier industry, including tank truck, truckload and less than truckload carriers.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the appropriate congressional committees containing the findings and conclusions of the assessment.

(c) REQUIREMENT.—The Secretary shall require motor carriers that have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry a route plan, in written or electronic format, that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 if the Secretary determines, under the assessment required in subsection (b), that such a requirement would enhance security and safety without imposing unreasonable costs or burdens upon motor carriers.

SEC. 1554. MOTOR CARRIER SECURITY-SENSITIVE MATERIAL TRACKING. 6 USC 1204.

(a) COMMUNICATIONS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, consistent with the findings of the Transportation Security Administration's hazardous materials truck security pilot program, the Secretary, through the Administrator of the Transportation Security Administration and in consultation with the Secretary of Transportation, shall develop a program to facilitate the tracking of motor carrier shipments of security-sensitive materials and to equip vehicles used in such shipments with technology that provides—

(A) frequent or continuous communications;

(B) vehicle position location and tracking capabilities; and

(C) a feature that allows a driver of such vehicles to broadcast an emergency distress signal.

(2) CONSIDERATIONS.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for motor carrier or security-sensitive materials tracking at the Department of Transportation;

(B) take into consideration the recommendations and findings of the report on the hazardous material safety and security operational field test released by the Federal Motor Carrier Safety Administration on November 11, 2004; and

(C) evaluate—

(i) any new information related to the costs and benefits of deploying, equipping, and utilizing tracking technology, including portable tracking technology, for motor carriers transporting security-sensitive materials not included in the hazardous material safety and security operational field test report released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(ii) the ability of tracking technology to resist tampering and disabling;

(iii) the capability of tracking technology to collect, display, and store information regarding the movement of shipments of security-sensitive materials by commercial motor vehicles;

(iv) the appropriate range of contact intervals between the tracking technology and a commercial motor vehicle transporting security-sensitive materials;

(v) technology that allows the installation by a motor carrier of concealed electronic devices on commercial motor vehicles that can be activated by law enforcement authorities to disable the vehicle or alert emergency response resources to locate and recover security-sensitive materials in the event of loss or theft of such materials;

(vi) whether installation of the technology described in clause (v) should be incorporated into the program under paragraph (1);

(vii) the costs, benefits, and practicality of such technology described in clause (v) in the context of the overall benefit to national security, including commerce in transportation; and

(viii) other systems and information the Secretary determines appropriate.

(b) FUNDING.—From the amounts appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this Act, there shall be made available to the Secretary to carry out this section—

(1) \$7,000,000 for fiscal year 2008 of which \$3,000,000 may be used for equipment;

(2) \$7,000,000 for fiscal year 2009 of which \$3,000,000 may be used for equipment; and

(3) \$7,000,000 for fiscal year 2010 of which \$3,000,000 may be used for equipment.

(c) REPORT.—Not later than 1 year after the issuance of regulations under subsection (a), the Secretary shall issue a report to the appropriate congressional committees on the program developed and evaluation carried out under this section.

(d) LIMITATION.—The Secretary may not mandate the installation or utilization of a technology described under this section without additional congressional authority provided after the date of enactment of this Act.

SEC. 1555. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND STUDY. 6 USC 1205.

(a) **IN GENERAL.**—The Secretary of Transportation shall consult with the Secretary to limit, to the extent practicable, duplicative reviews of the hazardous materials security plans required under part 172, title 49, Code of Federal Regulations.

(b) **TRANSPORTATION COSTS STUDY.**—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary, shall study to what extent the insurance, security, and safety costs borne by railroad carriers, motor carriers, pipeline carriers, air carriers, and maritime carriers associated with the transportation of hazardous materials are reflected in the rates paid by offerors of such commodities as compared to the costs and rates, respectively, for the transportation of nonhazardous materials. Deadline.

SEC. 1556. TECHNICAL CORRECTIONS.

(a) **CORRECTION.**—Section 5103a of title 49, United States Code, is amended—

(1) in subsection (a)(1) by striking “Secretary” and inserting “Secretary of Homeland Security”;

(2) in subsection (b) by striking “Secretary” each place it appears and inserting “Secretary of Transportation”;

(3) in subsection (d)(1)(B) by striking “Secretary” and inserting “Secretary of Homeland Security”; and

(4) in subsection (e) by striking “Secretary” and inserting “Secretary of Homeland Security” each place it appears.

(b) **RELATIONSHIP TO TRANSPORTATION SECURITY CARDS.**—

6 USC 1206.

(1) **BACKGROUND CHECK.**—An individual who has a valid transportation employee identification card issued by the Secretary under section 70105 of title 46, United States Code, shall be deemed to have met the background records check required under section 5103a of title 49, United States Code.

(2) **STATE REVIEW.**—Nothing in this subsection prevents or preempts a State from conducting a criminal records check of an individual that has applied for a license to operate a motor vehicle transporting in commerce a hazardous material.

SEC. 1557. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT.

Deadlines.
6 USC 1207.

(a) **IN GENERAL.**—Not later than 9 months after the date of enactment of this Act, consistent with the Annex to the Memorandum of Understanding executed on August 9, 2006, between the Department of Transportation and the Department, the Secretary, in consultation with the Secretary of Transportation, shall establish a program for reviewing pipeline operator adoption of recommendations of the September 5, 2002, Department of Transportation Research and Special Programs Administration’s Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections.

(b) **REVIEW AND INSPECTION.**—Not later than 12 months after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall develop and implement a plan for reviewing the pipeline security plans and an inspection of the critical facilities of the 100 most critical pipeline operators covered by the September 5, 2002, circular, where such facilities have not been inspected for security purposes since September 5, 2002, by either the Department or the Department of Transportation.

(c) COMPLIANCE REVIEW METHODOLOGY.—In reviewing pipeline operator compliance under subsections (a) and (b), risk assessment methodologies shall be used to prioritize risks and to target inspection and enforcement actions to the highest risk pipeline assets.

(d) REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall develop and transmit to pipeline operators security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities. If the Secretary determines that regulations are appropriate, the Secretary shall consult with the Secretary of Transportation on the extent of risk and appropriate mitigation measures, and the Secretary or the Secretary of Transportation, consistent with the Annex to the Memorandum of Understanding executed on August 9, 2006, shall promulgate such regulations and carry out necessary inspection and enforcement actions. Any regulations shall incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular and contain additional requirements as necessary based upon the results of the inspections performed under subsection (b). The regulations shall include the imposition of civil penalties for noncompliance.

(e) FUNDING.—From the amounts appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this Act, there shall be made available to the Secretary to carry out this section—

- (1) \$2,000,000 for fiscal year 2008;
- (2) \$2,000,000 for fiscal year 2009; and
- (3) \$2,000,000 for fiscal year 2010.

6 USC 1208.

SEC. 1558. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation and the Administrator of the Pipeline and Hazardous Materials Safety Administration, and in accordance with the Annex to the Memorandum of Understanding executed on August 9, 2006, the National Strategy for Transportation Security, and Homeland Security Presidential Directive–7, shall develop a pipeline security and incident recovery protocols plan. The plan shall include—

(1) for the Government to provide increased security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section 1557 when—

(A) under severe security threat levels of alert; or

(B) under specific security threat information relating to such pipeline infrastructure or operations exists; and

(2) an incident recovery protocol plan, developed in conjunction with interstate and intrastate transmission and distribution pipeline operators and terminals and facilities operators connected to pipelines, to develop protocols to ensure the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline system, which shall include protocols for restoring essential services supporting pipelines and

granting access to pipeline operators for pipeline infrastructure repair, replacement, or bypass following an incident.

(b) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The plan shall take into account actions taken or planned by both private and public entities to address identified pipeline security issues and assess the effective integration of such actions.

(c) CONSULTATION.—In developing the plan under subsection (a), the Secretary shall consult with the Secretary of Transportation, interstate and intrastate transmission and distribution pipeline operators, nonprofit employee organizations representing pipeline employees, emergency responders, offerors, State pipeline safety agencies, public safety officials, and other relevant parties.

(d) REPORT.—

(1) CONTENTS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the appropriate congressional committees a report containing the plan required by subsection (a), including an estimate of the private and public sector costs to implement any recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

TITLE XVI—AVIATION

SEC. 1601. AIRPORT CHECKPOINT SCREENING FUND.

Section 44940 of title 49, United States Code, is amended—

(1) in subsection (d)(4) by inserting “, other than subsection (i),” before “except to”; and

(2) by adding at the end the following:

“(i) CHECKPOINT SCREENING SECURITY FUND.—

“(1) ESTABLISHMENT.—There is established in the Department of Homeland Security a fund to be known as the ‘Checkpoint Screening Security Fund’.

“(2) DEPOSITS.—In fiscal year 2008, after amounts are made available under section 44923(h), the next \$250,000,000 derived from fees received under subsection (a)(1) shall be available to be deposited in the Fund.

“(3) FEES.—The Secretary of Homeland Security shall impose the fee authorized by subsection (a)(1) so as to collect at least \$250,000,000 in fiscal year 2008 for deposit into the Fund.

“(4) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available until expended by the Administrator of the Transportation Security Administration for the purchase, deployment, installation, research, and development of equipment to improve the ability of security screening personnel at screening checkpoints to detect explosives.”.

SEC. 1602. SCREENING OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) IN GENERAL.—Section 44901 of title 49, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following:

Deadline.	<p>“(g) AIR CARGO ON PASSENGER AIRCRAFT.—</p> <p>“(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security shall establish a system to screen 100 percent of cargo transported on passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation to ensure the security of all such passenger aircraft carrying cargo.</p> <p>“(2) MINIMUM STANDARDS.—The system referred to in paragraph (1) shall require, at a minimum, that equipment, technology, procedures, personnel, or other methods approved by the Administrator of the Transportation Security Administration, are used to screen cargo carried on passenger aircraft described in paragraph (1) to provide a level of security commensurate with the level of security for the screening of passenger checked baggage as follows:</p> <p>“(A) 50 percent of such cargo is so screened not later than 18 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.</p> <p>“(B) 100 percent of such cargo is so screened not later than 3 years after such date of enactment.</p> <p>“(3) REGULATIONS.—</p> <p>“(A) INTERIM FINAL RULE.—The Secretary of Homeland Security may issue an interim final rule as a temporary regulation to implement this subsection without regard to the provisions of chapter 5 of title 5.</p> <p>“(B) FINAL RULE.—</p> <p>“(i) IN GENERAL.—If the Secretary issues an interim final rule under subparagraph (A), the Secretary shall issue, not later than one year after the effective date of the interim final rule, a final rule as a permanent regulation to implement this subsection in accordance with the provisions of chapter 5 of title 5.</p>
Reports.	<p>“(ii) FAILURE TO ACT.—If the Secretary does not issue a final rule in accordance with clause (i) on or before the last day of the one-year period referred to in clause (i), the Secretary shall submit to the Committee on Homeland Security of the House of Representatives, Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a report explaining why the final rule was not timely issued and providing an estimate of the earliest date on which the final rule will be issued.</p>
Deadline.	<p>The Secretary shall submit the first such report within 10 days after such last day and submit a report to the Committees containing updated information every 30 days thereafter until the final rule is issued.</p> <p>“(iii) SUPERCEDING OF INTERIM FINAL RULE.—The final rule issued in accordance with this subparagraph shall supersede the interim final rule issued under subparagraph (A).</p> <p>“(4) REPORT.—Not later than 1 year after the date of establishment of the system under paragraph (1), the Secretary</p>

shall submit to the Committees referred to in paragraph (3)(B)(ii) a report that describes the system.

“(5) SCREENING DEFINED.—In this subsection the term ‘screening’ means a physical examination or non-intrusive methods of assessing whether cargo poses a threat to transportation security. Methods of screening include x-ray systems, explosives detection systems, explosives trace detection, explosives detection canine teams certified by the Transportation Security Administration, or a physical search together with manifest verification. The Administrator may approve additional methods to ensure that the cargo does not pose a threat to transportation security and to assist in meeting the requirements of this subsection. Such additional cargo screening methods shall not include solely performing a review of information about the contents of cargo or verifying the identity of a shipper of the cargo that is not performed in conjunction with other security methods authorized under this subsection, including whether a known shipper is registered in the known shipper database. Such additional cargo screening methods may include a program to certify the security methods used by shippers pursuant to paragraphs (1) and (2) and alternative screening methods pursuant to exemptions referred to in subsection (b) of section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007.”.

(b) ASSESSMENT OF EXEMPTIONS.—

(1) TSA ASSESSMENT.—

(A) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate committees of Congress and to the Comptroller General a report containing an assessment of each exemption granted under section 44901(i)(1) of title 49, United States Code, for the screening required by such section for cargo transported on passenger aircraft and an analysis to assess the risk of maintaining such exemption.

Deadline.
Reports.

(B) CONTENTS.—The report under subparagraph (A) shall include—

- (i) the rationale for each exemption;
- (ii) what percentage of cargo is not screened in accordance with section 44901(g) of title 49, United States Code;
- (iii) the impact of each exemption on aviation security;
- (iv) the projected impact on the flow of commerce of eliminating each exemption, respectively, should the Secretary choose to take such action; and
- (v) plans and rationale for maintaining, changing, or eliminating each exemption.

(C) FORMAT.—The Secretary may submit the report under subparagraph (A) in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(2) GAO ASSESSMENT.—Not later than 120 days after the date on which the report under paragraph (1) is submitted, the Comptroller General shall review the report and submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and

Deadline.

Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate an assessment of the methodology of determinations made by the Secretary for maintaining, changing, or eliminating an exemption under section 44901(i)(1) of title 49, United States Code.

SEC. 1603. IN-LINE BAGGAGE SCREENING.

(a) EXTENSION OF AUTHORIZATION.—Section 44923(i)(1) of title 49, United States Code, is amended by striking “2007.” and inserting “2007, and \$450,000,000 for each of fiscal years 2008 through 2011”.

Deadline.

(b) SUBMISSION OF COST-SHARING STUDY AND PLAN.—Not later than 60 days after the date of enactment of this Act, the Secretary for Homeland Security shall submit to the appropriate congressional committees the cost sharing study described in section 4019(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3722), together with the Secretary’s analysis of the study, a list of provisions of the study the Secretary intends to implement, and a plan and schedule for implementation of such listed provisions.

SEC. 1604. IN-LINE BAGGAGE SYSTEM DEPLOYMENT.

(a) IN GENERAL.—Section 44923 of title 49, United States Code, is amended—

(1) in subsection (a) by striking “may make” and inserting “shall make”;

(2) in subsection (d)(1) by striking “may” and inserting “shall”;

(3) in subsection (h)(1) by striking “2007” and inserting “2028”;

(4) in subsection (h) by striking paragraphs (2) and (3) and inserting the following:

“(2) ALLOCATION.—Of the amount made available under paragraph (1) for a fiscal year, not less than \$200,000,000 shall be allocated to fulfill letters of intent issued under subsection (d).

“(3) DISCRETIONARY GRANTS.—Of the amount made available under paragraph (1) for a fiscal year, up to \$50,000,000 shall be used to make discretionary grants, including other transaction agreements for airport security improvement projects, with priority given to small hub airports and nonhub airports.”;

(5) by redesignating subsection (i) as subsection (j); and

(6) by inserting after subsection (h) the following:

“(i) LEVERAGED FUNDING.—For purposes of this section, a grant under subsection (a) to an airport sponsor to service an obligation issued by or on behalf of that sponsor to fund a project described in subsection (a) shall be considered to be a grant for that project.”.

49 USC 44923.

Airport security.

(b) PRIORITIZATION OF PROJECTS.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration shall establish a prioritization schedule for airport security improvement projects described in section 44923 of title 49, United States Code, based on risk and other relevant factors, to be funded under that section. The schedule shall include both hub airports referred to in paragraphs (29), (31), and (42) of section 40102 of such title and nonhub airports (as defined in section 47102(13) of such title).

(2) AIRPORTS THAT HAVE INCURRED ELIGIBLE COSTS.—The schedule shall include airports that have incurred eligible costs associated with development of partial or completed in-line baggage systems before the date of enactment of this Act in reasonable anticipation of receiving a grant under section 44923 of title 49, United States Code, in reimbursement of those costs but that have not received such a grant.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall provide a copy of the prioritization schedule, a corresponding timeline, and a description of the funding allocation under section 44923 of title 49, United States Code, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives.

SEC. 1605. STRATEGIC PLAN TO TEST AND IMPLEMENT ADVANCED PASSENGER PRESCREENING SYSTEM.

Deadlines.
49 USC 44903
note.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a plan that—

(1) describes the system to be utilized by the Department of Homeland Security to assume the performance of comparing passenger information, as defined by the Administrator, to the automatic selectee and no-fly lists, utilizing appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government;

(2) provides a projected timeline for each phase of testing and implementation of the system;

(3) explains how the system will be integrated with the prescreening system for passengers on international flights; and

(4) describes how the system complies with section 552a of title 5, United States Code.

(b) GAO ASSESSMENT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives that—

Reports.

(1) describes the progress made by the Transportation Security Administration in implementing the secure flight passenger pre-screening program;

(2) describes the effectiveness of the current appeals process for passengers wrongly assigned to the no-fly and terrorist watch lists;

(3) describes the Transportation Security Administration's plan to protect private passenger information and progress made in integrating the system with the pre-screening program for international flights operated by United States Customs and Border Protection;

(4) provides a realistic determination of when the system will be completed; and

(5) includes any other relevant observations or recommendations the Comptroller General deems appropriate.

SEC. 1606. APPEAL AND REDRESS PROCESS FOR PASSENGERS WRONGLY DELAYED OR PROHIBITED FROM BOARDING A FLIGHT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code is amended by adding at the end the following:

“§ 44926. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight

“(a) IN GENERAL.—The Secretary of Homeland Security shall establish a timely and fair process for individuals who believe they have been delayed or prohibited from boarding a commercial aircraft because they were wrongly identified as a threat under the regimes utilized by the Transportation Security Administration, United States Customs and Border Protection, or any other office or component of the Department of Homeland Security.

“(b) OFFICE OF APPEALS AND REDRESS.—

“(1) ESTABLISHMENT.—The Secretary shall establish in the Department an Office of Appeals and Redress to implement, coordinate, and execute the process established by the Secretary pursuant to subsection (a). The Office shall include representatives from the Transportation Security Administration, United States Customs and Border Protection, and such other offices and components of the Department as the Secretary determines appropriate.

“(2) RECORDS.—The process established by the Secretary pursuant to subsection (a) shall include the establishment of a method by which the Office, under the direction of the Secretary, will be able to maintain a record of air carrier passengers and other individuals who have been misidentified and have corrected erroneous information.

“(3) INFORMATION.—To prevent repeated delays of an misidentified passenger or other individual, the Office shall—

“(A) ensure that the records maintained under this subsection contain information determined by the Secretary to authenticate the identity of such a passenger or individual;

“(B) furnish to the Transportation Security Administration, United States Customs and Border Protection, or any other appropriate office or component of the Department, upon request, such information as may be necessary to allow such office or component to assist air carriers in improving their administration of the advanced passenger prescreening system and reduce the number of false positives; and

“(C) require air carriers and foreign air carriers take action to identify passengers determined, under the process established under subsection (a), to have been wrongly identified.

“(4) HANDLING OF PERSONALLY IDENTIFIABLE INFORMATION.—The Secretary, in conjunction with the Chief Privacy Officer of the Department shall—

“(A) require that Federal employees of the Department handling personally identifiable information of passengers (in this paragraph referred to as ‘PII’) complete mandatory

privacy and security training prior to being authorized to handle PII;

“(B) ensure that the records maintained under this subsection are secured by encryption, one-way hashing, other data anonymization techniques, or such other equivalent security technical protections as the Secretary determines necessary;

“(C) limit the information collected from misidentified passengers or other individuals to the minimum amount necessary to resolve a redress request;

“(D) require that the data generated under this subsection shall be shared or transferred via a secure data network, that has been audited to ensure that the anti-hacking and other security related software functions properly and is updated as necessary;

“(E) ensure that any employee of the Department receiving the data contained within the records handles the information in accordance with the section 552a of title 5, United States Code, and the Federal Information Security Management Act of 2002 (Public Law 107–296);

“(F) only retain the data for as long as needed to assist the individual traveler in the redress process; and

“(G) conduct and publish a privacy impact assessment of the process described within this subsection and transmit the assessment to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and Committee on Homeland Security and Governmental Affairs of the Senate.

“(5) INITIATION OF REDRESS PROCESS AT AIRPORTS.—The Office shall establish at each airport at which the Department has a significant presence a process to provide information to air carrier passengers to begin the redress process established pursuant to subsection (a).”.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 44925 the following:

“44926. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight.”.

SEC. 1607. STRENGTHENING EXPLOSIVES DETECTION AT PASSENGER SCREENING CHECKPOINTS.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall issue the strategic plan the Secretary was required by section 44925(b) of title 49, United States Code, to have issued within 90 days after the date of enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458).

(b) DEPLOYMENT.—Section 44925(b) of title 49, United States Code, is amended by adding at the end the following:

“(3) IMPLEMENTATION.—The Secretary shall begin implementation of the strategic plan within one year after the date of enactment of this paragraph.”.

Deadline.
Strategic plan.
49 USC 44925
note.

SEC. 1608. RESEARCH AND DEVELOPMENT OF AVIATION TRANSPORTATION SECURITY TECHNOLOGY.

Section 137(a) of the Aviation and Transportation Security Act (49 U.S.C. 44912 note; 115 Stat. 637) is amended—

- (1) by striking “2002 through 2006” and inserting “2006 through 2011”;
- (2) by striking “aviation” and inserting “transportation”;
- and
- (3) by striking “2002 and 2003” and inserting “2006 through 2011”.

SEC. 1609. BLAST-RESISTANT CARGO CONTAINERS.

Section 44901 of title 49, United States Code, as amended by section 1602, is further amended by adding at the end the following:

Deadlines.

“(j) BLAST-RESISTANT CARGO CONTAINERS.—

“(1) IN GENERAL.—Before January 1, 2008, the Administrator of the Transportation Security Administration shall—

“(A) evaluate the results of the blast-resistant cargo container pilot program that was initiated before the date of enactment of this subsection; and

Reports.

“(B) prepare and distribute through the Aviation Security Advisory Committee to the appropriate Committees of Congress and air carriers a report on that evaluation which may contain nonclassified and classified sections.

“(2) ACQUISITION, MAINTENANCE, AND REPLACEMENT.—Upon completion and consistent with the results of the evaluation that paragraph (1)(A) requires, the Administrator shall—

“(A) develop and implement a program, as the Administrator determines appropriate, to acquire, maintain, and replace blast-resistant cargo containers;

“(B) pay for the program; and

“(C) make available blast-resistant cargo containers to air carriers pursuant to paragraph (3).

“(3) DISTRIBUTION TO AIR CARRIERS.—The Administrator shall make available, beginning not later than July 1, 2008, blast-resistant cargo containers to air carriers for use on a risk managed basis as determined by the Administrator.”.

49 USC 44901
note.

SEC. 1610. PROTECTION OF PASSENGER PLANES FROM EXPLOSIVES.

(a) TECHNOLOGY RESEARCH AND PILOT PROJECTS.—

(1) RESEARCH AND DEVELOPMENT.—The Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall expedite research and development programs for technologies that can disrupt or prevent an explosive device from being introduced onto a passenger plane or from damaging a passenger plane while in flight or on the ground. The research shall be used in support of implementation of section 44901 of title 49, United States Code.

Grants.

(2) PILOT PROJECTS.—The Secretary, in conjunction with the Secretary of Transportation, shall establish a grant program to fund pilot projects—

(A) to deploy technologies described in paragraph (1); and

(B) to test technologies to expedite the recovery, development, and analysis of information from aircraft

accidents to determine the cause of the accident, including deployable flight deck and voice recorders and remote location recording devices.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2008 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

SEC. 1611. SPECIALIZED TRAINING.

49 USC 114 note.

The Administrator of the Transportation Security Administration shall provide advanced training to transportation security officers for the development of specialized security skills, including behavior observation and analysis, explosives detection, and document examination, in order to enhance the effectiveness of layered transportation security measures.

SEC. 1612. CERTAIN TSA PERSONNEL LIMITATIONS NOT TO APPLY.

49 USC 114 note.

(a) **IN GENERAL.**—Notwithstanding any provision of law, any statutory limitation on the number of employees in the Transportation Security Administration, before or after its transfer to the Department of Homeland Security from the Department of Transportation, does not apply after fiscal year 2007.

(b) **AVIATION SECURITY.**—Notwithstanding any provision of law imposing a limitation on the recruiting or hiring of personnel into the Transportation Security Administration to a maximum number of permanent positions, the Secretary of Homeland Security shall recruit and hire such personnel into the Administration as may be necessary—

- (1) to provide appropriate levels of aviation security; and
- (2) to accomplish that goal in such a manner that the average aviation security-related delay experienced by airline passengers is reduced to a level of less than 10 minutes.

SEC. 1613. PILOT PROJECT TO TEST DIFFERENT TECHNOLOGIES AT AIRPORT EXIT LANES.

49 USC 44903 note.

(a) **IN GENERAL.**—The Administrator of the Transportation Security Administration shall conduct a pilot program at not more than 2 airports to identify technologies to improve security at airport exit lanes.

(b) **PROGRAM COMPONENTS.**—In conducting the pilot program under this section, the Administrator shall—

- (1) utilize different technologies that protect the integrity of the airport exit lanes from unauthorized entry;
- (2) work with airport officials to deploy such technologies in multiple configurations at a selected airport or airports at which some of the exits are not colocated with a screening checkpoint; and
- (3) ensure the level of security is at or above the level of existing security at the airport or airports where the pilot program is conducted.

(c) **REPORTS.**—

(1) **INITIAL BRIEFING.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall conduct a briefing to the congressional committees set forth in paragraph (3) that describes—

- (A) the airport or airports selected to participate in the pilot program;
- (B) the technologies to be tested;

(C) the potential savings from implementing the technologies at selected airport exits;

(D) the types of configurations expected to be deployed at such airports; and

(E) the expected financial contribution from each airport.

(2) FINAL REPORT.—Not later than 18 months after the technologies are deployed at the airports participating in the pilot program, the Administrator shall submit a final report to the congressional committees set forth in paragraph (3) that describes—

(A) the changes in security procedures and technologies deployed;

(B) the estimated cost savings at the airport or airports that participated in the pilot program; and

(C) the efficacy and staffing benefits of the pilot program and its applicability to other airports in the United States.

(3) CONGRESSIONAL COMMITTEES.—The reports required under this subsection shall be submitted to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

(D) the Committee on Homeland Security of the House of Representatives; and

(E) the Committee on Appropriations of the House of Representatives.

(d) USE OF EXISTING FUNDS.—This section shall be executed using existing funds.

49 USC 44903
note.

SEC. 1614. SECURITY CREDENTIALS FOR AIRLINE CREWS.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration, after consultation with airline, airport, and flight crew representatives, shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the Administration's efforts to institute a sterile area access system or method that will enhance security by properly identifying authorized airline flight deck and cabin crew members at screening checkpoints and granting them expedited access through screening checkpoints. The Administrator shall include in the report recommendations on the feasibility of implementing the system for the domestic aviation industry beginning 1 year after the date on which the report is submitted.

(b) BEGINNING IMPLEMENTATION.—The Administrator shall begin implementation of the system or method referred to in subsection (a) not later than 1 year after the date on which the Administrator submits the report under subsection (a).

SEC. 1615. LAW ENFORCEMENT OFFICER BIOMETRIC CREDENTIAL.

(a) IN GENERAL.—Section 44903(h)(6) of title 49, United States Code, is amended to read as follows:

“(6) USE OF BIOMETRIC TECHNOLOGY FOR ARMED LAW ENFORCEMENT TRAVEL.—

“(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security, in consultation with the Attorney General, shall—

Deadline.

“(i) implement this section by publication in the Federal Register; and

Federal Register, publication.

“(ii) establish a national registered armed law enforcement program, that shall be federally managed, for law enforcement officers needing to be armed when traveling by commercial aircraft.

“(B) PROGRAM REQUIREMENTS.—The program shall—

“(i) establish a credential or a system that incorporates biometric technology and other applicable technologies;

“(ii) establish a system for law enforcement officers who need to be armed when traveling by commercial aircraft on a regular basis and for those who need to be armed during temporary travel assignments;

“(iii) comply with other uniform credentialing initiatives, including the Homeland Security Presidential Directive 12;

“(iv) apply to all Federal, State, local, tribal, and territorial government law enforcement agencies; and

“(v) establish a process by which the travel credential or system may be used to verify the identity, using biometric technology, of a Federal, State, local, tribal, or territorial law enforcement officer seeking to carry a weapon on board a commercial aircraft, without unnecessarily disclosing to the public that the individual is a law enforcement officer.

“(C) PROCEDURES.—In establishing the program, the Secretary shall develop procedures—

“(i) to ensure that a law enforcement officer of a Federal, State, local, tribal, or territorial government flying armed has a specific reason for flying armed and the reason is within the scope of the duties of such officer;

“(ii) to preserve the anonymity of the armed law enforcement officer;

“(iii) to resolve failures to enroll, false matches, and false nonmatches relating to the use of the law enforcement travel credential or system;

“(iv) to determine the method of issuance of the biometric credential to law enforcement officers needing to be armed when traveling by commercial aircraft;

“(v) to invalidate any law enforcement travel credential or system that is lost, stolen, or no longer authorized for use;

“(vi) to coordinate the program with the Federal Air Marshal Service, including the force multiplier program of the Service; and

“(vii) to implement a phased approach to launching the program, addressing the immediate needs of the

relevant Federal agent population before expanding to other law enforcement populations.”.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after implementing the national registered armed law enforcement program required by section 44903(h)(6) of title 49, United States Code, the Secretary of Homeland Security shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives a report. If the Secretary has not implemented the program within 180 days after the date of enactment of this Act, the Secretary shall submit a report to the Committees within 180 days explaining the reasons for the failure to implement the program within the time required by that section and a further report within each successive 90-day period until the program is implemented explaining the reasons for such further delays in implementation until the program is functioning.

(2) CLASSIFIED FORMAT.—The Secretary may submit each report required by this subsection in classified format.

49 USC 44924
note.
Deadline.

SEC. 1616. REPAIR STATION SECURITY.

(a) CERTIFICATION OF FOREIGN REPAIR STATIONS SUSPENSION.—If the regulations required by section 44924(f) of title 49, United States Code, are not issued within 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration may not certify any foreign repair station under part 145 of title 14, Code of Federal Regulations, after such date unless the station was previously certified, or is in the process of certification by the Administration under that part.

(b) 6-MONTH DEADLINE FOR SECURITY REVIEW AND AUDIT.—Subsections (a) and (d) of section 44924 of title 49, United States Code, is amended—

(1) in each of subsections (a) and (b) by striking “18 months” and inserting “6 months”; and

(2) in subsection (d) by inserting “(other than a station that was previously certified, or is in the process of certification, by the Administration under this part)” before “until”.

Deadlines.

SEC. 1617. GENERAL AVIATION SECURITY.

Section 44901 of title 49, United States Code, as amended by sections 1602 and 1609, is further amended by adding at the end the following:

“(k) GENERAL AVIATION AIRPORT SECURITY PROGRAM.—

“(1) IN GENERAL.—Not later than one year after the date of enactment of this subsection, the Administrator of the Transportation Security Administration shall—

“(A) develop a standardized threat and vulnerability assessment program for general aviation airports (as defined in section 47134(m)); and

“(B) implement a program to perform such assessments on a risk-managed basis at general aviation airports.

“(2) GRANT PROGRAM.—Not later than 6 months after the date of enactment of this subsection, the Administrator shall initiate and complete a study of the feasibility of a program, based on a risk-managed approach, to provide grants to operators of general aviation airports (as defined in section 47134(m))

for projects to upgrade security at such airports. If the Administrator determines that such a program is feasible, the Administrator shall establish such a program.

“(3) APPLICATION TO GENERAL AVIATION AIRCRAFT.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall develop a risk-based system under which—

“(A) general aviation aircraft, as identified by the Administrator, in coordination with the Administrator of the Federal Aviation Administration, are required to submit passenger information and advance notification requirements for United States Customs and Border Protection before entering United States airspace; and

“(B) such information is checked against appropriate databases.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Transportation Security Administration such sums as may be necessary to carry out paragraphs (2) and (3).”.

SEC. 1618. EXTENSION OF AUTHORIZATION OF AVIATION SECURITY FUNDING.

Section 48301(a) of title 49, United States Code, is amended by striking “and 2006” and inserting “2007, 2008, 2009, 2010, and 2011”.

TITLE XVII—MARITIME CARGO

SEC. 1701. CONTAINER SCANNING AND SEALS.

(a) CONTAINER SCANNING.—Section 232(b) of the SAFE Ports Act (6 U.S.C. 982(b)) is amended to read as follows:

“(b) FULL-SCALE IMPLEMENTATION.—

“(1) IN GENERAL.—A container that was loaded on a vessel in a foreign port shall not enter the United States (either directly or via a foreign port) unless the container was scanned by nonintrusive imaging equipment and radiation detection equipment at a foreign port before it was loaded on a vessel.

“(2) APPLICATION.—Paragraph (1) shall apply with respect to containers loaded on a vessel in a foreign country on or after the earlier of—

“(A) July 1, 2012; or

“(B) such other date as may be established by the Secretary under paragraph (3).

“(3) ESTABLISHMENT OF EARLIER DEADLINE.—The Secretary shall establish a date under (2)(B) pursuant to the lessons learned through the pilot integrated scanning systems established under section 231.

“(4) EXTENSIONS.—The Secretary may extend the date specified in paragraph (2)(A) or (2)(B) for 2 years, and may renew the extension in additional 2-year increments, for containers loaded in a port or ports, if the Secretary certifies to Congress that at least two of the following conditions exist:

“(A) Systems to scan containers in accordance with paragraph (1) are not available for purchase and installation.

Effective dates.

“(B) Systems to scan containers in accordance with paragraph (1) do not have a sufficiently low false alarm rate for use in the supply chain.

“(C) Systems to scan containers in accordance with paragraph (1) cannot be purchased, deployed, or operated at ports overseas, including, if applicable, because a port does not have the physical characteristics to install such a system.

“(D) Systems to scan containers in accordance with paragraph (1) cannot be integrated, as necessary, with existing systems.

“(E) Use of systems that are available to scan containers in accordance with paragraph (1) will significantly impact trade capacity and the flow of cargo.

“(F) Systems to scan containers in accordance with paragraph (1) do not adequately provide an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

“(5) EXEMPTION FOR MILITARY CARGO.—Notwithstanding any other provision in the section, supplies bought by the Secretary of Defense and transported in compliance section 2631 of title 10, United States Code, and military cargo of foreign countries are exempt from the requirements of this section.

Effective date.

“(6) REPORT ON EXTENSIONS.—An extension under paragraph (4) for a port or ports shall take effect upon the expiration of the 60-day period beginning on the date the Secretary provides a report to Congress that—

“(A) states what container traffic will be affected by the extension;

“(B) provides supporting evidence to support the Secretary’s certification of the basis for the extension; and

“(C) explains what measures the Secretary is taking to ensure that scanning can be implemented as early as possible at the port or ports that are the subject of the report.

“(7) REPORT ON RENEWAL OF EXTENSION.—If an extension under paragraph (4) takes effect, the Secretary shall, after one year, submit a report to Congress on whether the Secretary expects to seek to renew the extension.

“(8) SCANNING TECHNOLOGY STANDARDS.—In implementing paragraph (1), the Secretary shall—

“(A) establish technological and operational standards for systems to scan containers;

“(B) ensure that the standards are consistent with the global nuclear detection architecture developed under the Homeland Security Act of 2002; and

“(C) coordinate with other Federal agencies that administer scanning or detection programs at foreign ports.

“(9) INTERNATIONAL TRADE AND OTHER OBLIGATIONS.—In carrying out this subsection, the Secretary shall consult with appropriate Federal departments and agencies and private sector stakeholders, and ensure that actions under this section do not violate international trade obligations, and are consistent with the World Customs Organization framework, or other international obligations of the United States.”.

(b) DEADLINE FOR CONTAINER SECURITY STANDARDS AND PROCEDURES.—Section 204(a)(4) of the SAFE Port Act (6 U.S.C. 944(a)(4)) is amended by—

(1) striking “(1) DEADLINE FOR ENFORCEMENT.—” and inserting the following:

“(1) DEADLINE FOR ENFORCEMENT.—

“(A) ENFORCEMENT OF RULE.—”; and

(2) adding at the end the following:

“(B) INTERIM REQUIREMENT.—If the interim final rule described in paragraph (2) is not issued by April 1, 2008, then—

“(i) effective not later than October 15, 2008, all containers in transit to the United States shall be required to meet the requirements of International Organization for Standardization Publicly Available Specification 17712 standard for sealing containers; and

“(ii) the requirements of this subparagraph shall cease to be effective upon the effective date of the interim final rule issued pursuant to this subsection.”.

TITLE XVIII—PREVENTING WEAPONS OF MASS DESTRUCTION PROLIFERA- TION AND TERRORISM

SEC. 1801. FINDINGS.

50 USC 2901.

The 9/11 Commission has made the following recommendations:

(1) STRENGTHEN “COUNTER-PROLIFERATION” EFFORTS.—The United States should work with the international community to develop laws and an international legal regime with universal jurisdiction to enable any state in the world to capture, interdict, and prosecute smugglers of nuclear material.

(2) EXPAND THE PROLIFERATION SECURITY INITIATIVE.—In carrying out the Proliferation Security Initiative, the United States should—

(A) use intelligence and planning resources of the North Atlantic Treaty Organization (NATO) alliance;

(B) make participation open to non-NATO countries; and

(C) encourage Russia and the People’s Republic of China to participate.

(3) SUPPORT THE COOPERATIVE THREAT REDUCTION PROGRAM.—The United States should expand, improve, increase resources for, and otherwise fully support the Cooperative Threat Reduction program.

SEC. 1802. DEFINITIONS.

50 USC 2902.

In this title:

(1) The terms “prevention of weapons of mass destruction proliferation and terrorism” and “prevention of WMD proliferation and terrorism” include activities under—

(A) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note);

(B) the programs for which appropriations are authorized by section 3101(a)(2) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2729);

(C) programs authorized by section 504 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (the FREEDOM Support Act) (22 U.S.C. 5854) and programs authorized by section 1412 of the Former Soviet Union Demilitarization Act of 1992 (22 U.S.C. 5902); and

(D) a program of any agency of the Federal Government having a purpose similar to that of any of the programs identified in subparagraphs (A) through (C), as designated by the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism and the head of the agency.

(2) The terms “weapons of mass destruction” and “WMD” mean chemical, biological, and nuclear weapons, and chemical, biological, and nuclear materials used in the manufacture of such weapons.

(3) The term “items of proliferation concern” means—

(A) equipment, materials, or technology listed in—

(i) the Trigger List of the Guidelines for Nuclear Transfers of the Nuclear Suppliers Group;

(ii) the Annex of the Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology of the Nuclear Suppliers Group; or

(iii) any of the Common Control Lists of the Australia Group; and

(B) any other sensitive items.

Subtitle A—Repeal and Modification of Limitations on Assistance for Prevention of WMD Proliferation and Terrorism

SEC. 1811. REPEAL AND MODIFICATION OF LIMITATIONS ON ASSISTANCE FOR PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.

Consistent with the recommendations of the 9/11 Commission, Congress repeals or modifies the limitations on assistance for prevention of weapons of mass destruction proliferation and terrorism as follows:

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—Subsections (b) and (c) of section 211 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) are repealed.

(2) COOPERATIVE THREAT REDUCTION ACT OF 1993.—Section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(d)) is repealed.

(3) RUSSIAN CHEMICAL WEAPONS DESTRUCTION FACILITIES.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) is repealed.

(4) AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION—MODIFICATION OF CERTIFICATION REQUIREMENT; CONGRESSIONAL NOTICE REQUIREMENT.—Section 1308 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 22 U.S.C. 5963) is amended—

(A) in subsection (a)—

(i) by striking “the President may” and inserting “the Secretary of Defense may”; and

(ii) by striking “if the President” and inserting “if the Secretary of Defense, with the concurrence of the Secretary of State,”;

(B) in subsection (d)(1)—

(i) by striking “The President may not” and inserting “The Secretary of Defense may not”; and

(ii) by striking “until the President” and inserting “until the Secretary of Defense, with the concurrence of the Secretary of State,”;

(C) in subsection (d)(2)—

(i) by striking “Not later than 10 days after” and inserting “Not later than 15 days prior to”;

(ii) by striking “the President shall” and inserting “the Secretary of Defense shall”; and

(iii) by striking “Congress” and inserting “the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate”; and

(D) in subsection (d) by adding at the end the following:

“(3) In the case of a situation that threatens human life or safety or where a delay would severely undermine the national security of the United States, notification under paragraph (2) shall be made not later than 10 days after obligating funds under the authority in subsection (a) for a project or activity.”.

Public safety.
Defense and
national security.
Deadline.

Subtitle B—Proliferation Security Initiative

SEC. 1821. PROLIFERATION SECURITY INITIATIVE IMPROVEMENTS AND AUTHORITIES. 50 USC 2911.

(a) SENSE OF CONGRESS.—It is the sense of Congress, consistent with the 9/11 Commission’s recommendations, that the President should strive to expand and strengthen the Proliferation Security Initiative (in this subtitle referred to as “PSI”) announced by the President on May 31, 2003, with a particular emphasis on the following:

(1) Issuing a presidential directive to the relevant United States Government agencies and departments that directs such agencies and departments to—

(A) establish clear PSI authorities, responsibilities, and structures;

(B) include in the budget request for each such agency or department for each fiscal year, a request for funds necessary for United States PSI-related activities; and

(C) provide other necessary resources to achieve more efficient and effective performance of United States PSI-related activities.

(2) Increasing PSI cooperation with all countries.

(3) Implementing the recommendations of the Government Accountability Office (GAO) in the September 2006 report titled “Better Controls Needed to Plan and Manage Proliferation Security Initiative Activities” (GAO-06-937C) regarding the following:

(A) The Department of Defense and the Department of State should establish clear PSI roles and responsibilities, policies and procedures, interagency communication mechanisms, documentation requirements, and indicators to measure program results.

(B) The Department of Defense and the Department of State should develop a strategy to work with PSI-participating countries to resolve issues that are impediments to conducting successful PSI interdictions.

(4) Establishing a multilateral mechanism to increase coordination, cooperation, and compliance among PSI-participating countries.

(b) BUDGET SUBMISSION.—

(1) IN GENERAL.—Each fiscal year in which activities are planned to be carried out under the PSI, the President shall include in the budget request for each participating United States Government agency or department for that fiscal year, a description of the funding and the activities for which the funding is requested for each such agency or department.

(2) REPORT.—Not later than the first Monday in February of each year in which the President submits a budget request described in paragraph (1), the Secretary of Defense and the Secretary of State shall submit to Congress a comprehensive joint report setting forth the following:

(A) A 3-year plan, beginning with the fiscal year for the budget request, that specifies the amount of funding and other resources to be provided by the United States for PSI-related activities over the term of the plan, including the purposes for which such funding and resources will be used.

(B) For the report submitted in 2008, a description of the PSI-related activities carried out during the 3 fiscal years preceding the year of the report, and for the report submitted in 2009 and each year thereafter, a description of the PSI-related activities carried out during the fiscal year preceding the year of the report. The description shall include, for each fiscal year covered by the report—

(i) the amounts obligated and expended for such activities and the purposes for which such amounts were obligated and expended;

(ii) a description of the participation of each department or agency of the United States Government in such activities;

(iii) a description of the participation of each foreign country or entity in such activities;

(iv) a description of any assistance provided to a foreign country or entity participating in such activities in order to secure such participation, in response

to such participation, or in order to improve the quality of such participation; and

(v) such other information as the Secretary of Defense and the Secretary of State determine should be included to keep Congress fully informed of the operation and activities of the PSI.

(3) CLASSIFICATION.—The report required by paragraph (2) shall be in an unclassified form but may include a classified annex as necessary.

(c) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate a report on the implementation of this section. The report shall include—

(1) the steps taken to implement the recommendations described in paragraph (3) of subsection (a); and

(2) the progress made toward implementing the matters described in paragraphs (1), (2), and (4) of subsection (a).

(d) GAO REPORTS.—The Government Accountability Office shall submit to Congress, for each of fiscal years 2007, 2009, and 2011, a report with its assessment of the progress and effectiveness of the PSI, which shall include an assessment of the measures referred to in subsection (a).

SEC. 1822. AUTHORITY TO PROVIDE ASSISTANCE TO COOPERATIVE COUNTRIES. 50 USC 2912.

(a) IN GENERAL.—The President is authorized to provide assistance under subsection (b) to any country that cooperates with the United States and with other countries allied with the United States to prevent the transport and transshipment of items of proliferation concern in its national territory or airspace or in vessels under its control or registry.

(b) TYPES OF ASSISTANCE.—The assistance authorized under subsection (a) consists of the following:

(1) Assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(2) Assistance under chapters 4 (22 U.S.C. 2346 et seq.) and 5 (22 U.S.C. 2347 et seq.) of part II of the Foreign Assistance Act of 1961.

(3) Drawdown of defense excess defense articles and services under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(c) CONGRESSIONAL NOTIFICATION.—Assistance authorized under this section may not be provided until at least 30 days after the date on which the President has provided notice thereof to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate, in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1(a)), and has certified to such committees that such assistance will be used in accordance with the requirement of subsection (e) of this section.

(d) LIMITATION.—Assistance may be provided to a country under subsection (a) in no more than 3 fiscal years.

(e) USE OF ASSISTANCE.—Assistance provided under this section shall be used to enhance the capability of the recipient country to prevent the transport and transshipment of items of proliferation concern in its national territory or airspace, or in vessels under its control or registry, including through the development of a legal framework in that country to enhance such capability by criminalizing proliferation, enacting strict export controls, and securing sensitive materials within its borders, and to enhance the ability of the recipient country to cooperate in PSI operations.

(f) LIMITATION ON SHIP OR AIRCRAFT TRANSFERS.—

(1) LIMITATION.—Except as provided in paragraph (2), the President may not transfer any excess defense article that is a vessel or an aircraft to a country that has not agreed, in connection with such transfer, that it will support and assist efforts by the United States, consistent with international law, to interdict items of proliferation concern until 30 days after the date on which the President has provided notice of the proposed transfer to the committees described in subsection (c) in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1(a)), in addition to any other requirement of law.

(2) EXCEPTION.—The limitation in paragraph (1) shall not apply to any transfer, not involving significant military equipment, in which the primary use of the aircraft or vessel will be for counternarcotics, counterterrorism, or counterproliferation purposes.

Subtitle C—Assistance to Accelerate Programs to Prevent Weapons of Mass Destruction Proliferation and Terrorism

50 USC 2921.

SEC. 1831. STATEMENT OF POLICY.

It shall be the policy of the United States, consistent with the 9/11 Commission's recommendations, to eliminate any obstacles to timely obligating and executing the full amount of any appropriated funds for threat reduction and nonproliferation programs in order to accelerate and strengthen progress on preventing weapons of mass destruction (WMD) proliferation and terrorism. Such policy shall be implemented with concrete measures, such as those described in this title, including the removal and modification of statutory limits to executing funds, the expansion and strengthening of the Proliferation Security Initiative, the establishment of the Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism under subtitle D, and the establishment of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism under subtitle E. As a result, Congress intends that any funds authorized to be appropriated to programs for preventing WMD proliferation and terrorism under this subtitle will be executed in a timely manner.

SEC. 1832. AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE COOPERATIVE THREAT REDUCTION PROGRAM. 50 USC 2922.

(a) FISCAL YEAR 2008.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to the Department of Defense Cooperative Threat Reduction Program such sums as may be necessary for fiscal year 2008 for the following purposes:

(A) Chemical weapons destruction at Shchuch'ye, Russia.

(B) Biological weapons proliferation prevention.

(C) Acceleration, expansion, and strengthening of Cooperative Threat Reduction Program activities.

(2) LIMITATION.—The sums appropriated pursuant to paragraph (1) may not exceed the amounts authorized to be appropriated by any national defense authorization Act for fiscal year 2008 (whether enacted before or after the date of the enactment of this Act) to the Department of Defense Cooperative Threat Reduction Program for such purposes.

(b) FUTURE YEARS.—It is the sense of Congress that in fiscal year 2008 and future fiscal years, the President should accelerate and expand funding for Cooperative Threat Reduction programs administered by the Department of Defense and such efforts should include, beginning upon enactment of this Act, encouraging additional commitments by the Russian Federation and other partner nations, as recommended by the 9/11 Commission.

SEC. 1833. AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF ENERGY PROGRAMS TO PREVENT WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM. 50 USC 2923.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to Department of Energy National Nuclear Security Administration Defense Nuclear Nonproliferation such sums as may be necessary for fiscal year 2008 to accelerate, expand, and strengthen the following programs to prevent weapons of mass destruction (WMD) proliferation and terrorism:

(1) The Global Threat Reduction Initiative.

(2) The Nonproliferation and International Security program.

(3) The International Materials Protection, Control and Accounting program.

(4) The Nonproliferation and Verification Research and Development program.

(b) LIMITATION.—The sums appropriated pursuant to subsection (a) may not exceed the amounts authorized to be appropriated by any national defense authorization Act for fiscal year 2008 (whether enacted before or after the date of the enactment of this Act) to Department of Energy National Nuclear Security Administration Defense Nuclear Nonproliferation for such purposes.

Subtitle D—Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism

50 USC 2931.

SEC. 1841. OFFICE OF THE UNITED STATES COORDINATOR FOR THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.

(a) **ESTABLISHMENT.**—There is established within the Executive Office of the President an office to be known as the “Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism” (in this section referred to as the “Office”).

(b) **OFFICERS.**—

(1) **UNITED STATES COORDINATOR.**—The head of the Office shall be the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the “Coordinator”).

(2) **DEPUTY UNITED STATES COORDINATOR.**—There shall be a Deputy United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the “Deputy Coordinator”), who shall—

(A) assist the Coordinator in carrying out the responsibilities of the Coordinator under this subtitle; and

(B) serve as Acting Coordinator in the absence of the Coordinator and during any vacancy in the office of Coordinator.

(3) **APPOINTMENT.**—The Coordinator and Deputy Coordinator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be responsible on a full-time basis for the duties and responsibilities described in this section.

(4) **LIMITATION.**—No person shall serve as Coordinator or Deputy Coordinator while serving in any other position in the Federal Government.

(5) **ACCESS BY CONGRESS.**—The establishment of the Office of the Coordinator within the Executive Office of the President shall not be construed as affecting access by the Congress or committees of either House to—

(A) information, documents, and studies in the possession of, or conducted by or at the direction of, the Coordinator; or

(B) personnel of the Office of the Coordinator.

(c) **DUTIES.**—The responsibilities of the Coordinator shall include the following:

(1) Serving as the principal advisor to the President on all matters relating to the prevention of weapons of mass destruction (WMD) proliferation and terrorism.

(2) Formulating a comprehensive and well-coordinated United States strategy and policies for preventing WMD proliferation and terrorism, including—

(A) measurable milestones and targets to which departments and agencies can be held accountable;

(B) identification of gaps, duplication, and other inefficiencies in existing activities, initiatives, and programs and the steps necessary to overcome these obstacles;

(C) plans for preserving the nuclear security investment the United States has made in Russia, the former Soviet Union, and other countries;

(D) prioritized plans to accelerate, strengthen, and expand the scope of existing initiatives and programs, which include identification of vulnerable sites and material and the corresponding actions necessary to eliminate such vulnerabilities;

(E) new and innovative initiatives and programs to address emerging challenges and strengthen United States capabilities, including programs to attract and retain top scientists and engineers and strengthen the capabilities of United States national laboratories;

(F) plans to coordinate United States activities, initiatives, and programs relating to the prevention of WMD proliferation and terrorism, including those of the Department of Energy, the Department of Defense, the Department of State, and the Department of Homeland Security, and including the Proliferation Security Initiative, the G-8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, United Nations Security Council Resolution 1540, and the Global Initiative to Combat Nuclear Terrorism;

(G) plans to strengthen United States commitments to international regimes and significantly improve cooperation with other countries relating to the prevention of WMD proliferation and terrorism, with particular emphasis on work with the international community to develop laws and an international legal regime with universal jurisdiction to enable any state in the world to interdict and prosecute smugglers of WMD material, as recommended by the 9/11 Commission; and

(H) identification of actions necessary to implement the recommendations of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism established under subtitle E of this title.

(3) Leading inter-agency coordination of United States efforts to implement the strategy and policies described in this section.

(4) Conducting oversight and evaluation of accelerated and strengthened implementation of initiatives and programs to prevent WMD proliferation and terrorism by relevant government departments and agencies.

(5) Overseeing the development of a comprehensive and coordinated budget for programs and initiatives to prevent WMD proliferation and terrorism, ensuring that such budget adequately reflects the priority of the challenges and is effectively executed, and carrying out other appropriate budgetary authorities.

(d) STAFF.—The Coordinator may—

(1) appoint, employ, fix compensation, and terminate such personnel as may be necessary to enable the Coordinator to perform his or her duties under this title;

(2) direct, with the concurrence of the Secretary of a department or head of an agency, the temporary reassignment within the Federal Government of personnel employed by such department or agency, in order to implement United States policy with regard to the prevention of WMD proliferation and terrorism;

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code; and

(5) use the mails in the same manner as any other department or agency of the executive branch.

(e) **CONSULTATION WITH COMMISSION.**—The Office and the Coordinator shall regularly consult with and strive to implement the recommendations of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, established under subtitle E of this title.

(f) **ANNUAL REPORT ON STRATEGIC PLAN.**—For fiscal year 2009 and each fiscal year thereafter, the Coordinator shall submit to Congress, at the same time as the submission of the budget for that fiscal year under title 31, United States Code, a report on the strategy and policies developed pursuant to subsection (c)(2), together with any recommendations of the Coordinator for legislative changes that the Coordinator considers appropriate with respect to such strategy and policies and their implementation or the Office of the Coordinator.

(g) **PARTICIPATION IN NATIONAL SECURITY COUNCIL AND HOMELAND SECURITY COUNCIL.**—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended—

(1) by redesignating the last subsection (added as “(i)” by section 301 of Public Law 105-292) as subsection (k); and

(2) by adding at the end the following:

“(l) **PARTICIPATION OF COORDINATOR FOR THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.**—The United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (or, in the Coordinator’s absence, the Deputy United States Coordinator) may, in the performance of the Coordinator’s duty as principal advisor to the President on all matters relating to the prevention of weapons of mass destruction proliferation and terrorism, and, subject to the direction of the President, attend and participate in meetings of the National Security Council and the Homeland Security Council.”.

50 USC 2932.

SEC. 1842. SENSE OF CONGRESS ON UNITED STATES-RUSSIA COOPERATION AND COORDINATION ON THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.

It is the sense of the Congress that, as soon as practical, the President should engage the President of the Russian Federation in a discussion of the purposes and goals for the establishment

of the Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the “Office”), the authorities and responsibilities of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the “United States Coordinator”), and the importance of strong cooperation between the United States Coordinator and a senior official of the Russian Federation having authorities and responsibilities for preventing weapons of mass destruction proliferation and terrorism commensurate with those of the United States Coordinator, and with whom the United States Coordinator should coordinate planning and implementation of activities within and outside of the Russian Federation having the purpose of preventing weapons of mass destruction proliferation and terrorism.

Subtitle E—Commission on the Prevention of Weapons of Mass Destruction Pro- liferation and Terrorism

SEC. 1851. ESTABLISHMENT OF COMMISSION ON THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.

There is established the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this subtitle referred to as the “Commission”).

SEC. 1852. PURPOSES OF COMMISSION.

- (a) IN GENERAL.—The purposes of the Commission are to—
- (1) assess current activities, initiatives, and programs to prevent weapons of mass destruction proliferation and terrorism; and
 - (2) provide a clear and comprehensive strategy and concrete recommendations for such activities, initiatives, and programs.
- (b) IN PARTICULAR.—The Commission shall give particular attention to activities, initiatives, and programs to secure all nuclear weapons-usable material around the world and to significantly accelerate, expand, and strengthen, on an urgent basis, United States and international efforts to prevent, stop, and counter the spread of nuclear weapons capabilities and related equipment, material, and technology to terrorists and states of concern.

SEC. 1853. COMPOSITION OF COMMISSION.

- (a) MEMBERS.—The Commission shall be composed of 9 members, of whom—
- (1) 1 member shall be appointed by the leader of the Senate of the Democratic Party (majority or minority leader, as the case may be), with the concurrence of the leader of the House of Representatives of the Democratic party (majority or minority leader as the case may be), who shall serve as chairman of the Commission;
 - (2) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic party;
 - (3) 2 members shall be appointed by the senior member of the Senate leadership of the Republican party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic party; and

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican party.

(b) QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with significant depth of experience in the non-proliferation or arms control fields.

(c) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed within 90 days of the date of the enactment of this Act.

(d) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(e) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 1854. RESPONSIBILITIES OF COMMISSION.

(a) IN GENERAL.—The Commission shall address—

(1) the roles, missions, and structure of all relevant government departments, agencies, and other actors, including the Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism established under subtitle D of this title;

(2) inter-agency coordination;

(3) United States commitments to international regimes and cooperation with other countries; and

(4) the threat of weapons of mass destruction proliferation and terrorism to the United States and its interests and allies, including the threat posed by black-market networks, and the effectiveness of the responses by the United States and the international community to such threats.

(b) FOLLOW-ON BAKER-CUTLER REPORT.—The Commission shall also reassess, and where necessary update and expand on, the conclusions and recommendations of the report titled “A Report Card on the Department of Energy’s Nonproliferation Programs with Russia” of January 2001 (also known as the “Baker-Cutler Report”) and implementation of such recommendations.

SEC. 1855. POWERS OF COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this subtitle, hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such designated subcommittee or designated member may determine advisable.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts to enable the Commission to discharge its duties under this subtitle.

(c) STAFF OF COMMISSION.—

(1) APPOINTMENT AND COMPENSATION.—The chairman of the Commission, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any employees of the Commission shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(3) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(4) CONSULTANT SERVICES.—The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) EMPHASIS ON SECURITY CLEARANCES.—Emphasis shall be made to hire employees and retain contractors and detailees with active security clearances.

(d) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this subtitle. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission

on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 1856. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the report required under section 1857.

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 1857. REPORT.

Not later than 180 days after the appointment of the Commission, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

SEC. 1858. TERMINATION.

(a) IN GENERAL.—The Commission, and all the authorities of this subtitle, shall terminate 60 days after the date on which the final report is submitted under section 1857.

(b) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in subsection (a) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its report and disseminating the final report.

SEC. 1859. FUNDING.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for the purposes of the activities of the Commission under this title.

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

TITLE XIX—INTERNATIONAL COOPERATION ON ANTITERRORISM TECHNOLOGIES

SEC. 1901. PROMOTING ANTITERRORISM CAPABILITIES THROUGH INTERNATIONAL COOPERATION. 6 USC 195c note.

(a) FINDINGS.—Congress finds the following:

(1) The development and implementation of technology is critical to combating terrorism and other high consequence events and implementing a comprehensive homeland security strategy.

(2) The United States and its allies in the global war on terrorism share a common interest in facilitating research, development, testing, and evaluation of equipment, capabilities, technologies, and services that will aid in detecting, preventing, responding to, recovering from, and mitigating against acts of terrorism.

(3) Certain United States allies in the global war on terrorism, including Israel, the United Kingdom, Canada, Australia, and Singapore have extensive experience with, and technological expertise in, homeland security.

(4) The United States and certain of its allies in the global war on terrorism have a history of successful collaboration in developing mutually beneficial equipment, capabilities, technologies, and services in the areas of defense, agriculture, and telecommunications.

(5) The United States and its allies in the global war on terrorism will mutually benefit from the sharing of technological expertise to combat domestic and international terrorism.

(6) The establishment of an office to facilitate and support cooperative endeavors between and among government agencies, for-profit business entities, academic institutions, and non-profit entities of the United States and its allies will safeguard lives and property worldwide against acts of terrorism and other high consequence events.

(b) PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION ACT.—

(1) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding after section 316, as added by section 1101 of this Act, the following:

“SEC. 317. PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION PROGRAM. 6 USC 195c.

“(a) DEFINITIONS.—In this section:

“(1) DIRECTOR.—The term ‘Director’ means the Director selected under subsection (b)(2).

“(2) INTERNATIONAL COOPERATIVE ACTIVITY.—The term ‘international cooperative activity’ includes—

“(A) coordinated research projects, joint research projects, or joint ventures;

“(B) joint studies or technical demonstrations;

“(C) coordinated field exercises, scientific seminars, conferences, symposia, and workshops;

“(D) training of scientists and engineers;

“(E) visits and exchanges of scientists, engineers, or other appropriate personnel;

“(F) exchanges or sharing of scientific and technological information; and

“(G) joint use of laboratory facilities and equipment.

“(b) SCIENCE AND TECHNOLOGY HOMELAND SECURITY INTERNATIONAL COOPERATIVE PROGRAMS OFFICE.—

“(1) ESTABLISHMENT.—The Under Secretary shall establish the Science and Technology Homeland Security International Cooperative Programs Office.

“(2) DIRECTOR.—The Office shall be headed by a Director, who—

“(A) shall be selected, in consultation with the Assistant Secretary for International Affairs, by and shall report to the Under Secretary; and

“(B) may be an officer of the Department serving in another position.

“(3) RESPONSIBILITIES.—

“(A) DEVELOPMENT OF MECHANISMS.—The Director shall be responsible for developing, in coordination with the Department of State and, as appropriate, the Department of Defense, the Department of Energy, and other Federal agencies, understandings and agreements to allow and to support international cooperative activity in support of homeland security.

“(B) PRIORITIES.—The Director shall be responsible for developing, in coordination with the Office of International Affairs and other Federal agencies, strategic priorities for international cooperative activity for the Department in support of homeland security.

“(C) ACTIVITIES.—The Director shall facilitate the planning, development, and implementation of international cooperative activity to address the strategic priorities developed under subparagraph (B) through mechanisms the Under Secretary considers appropriate, including grants, cooperative agreements, or contracts to or with foreign public or private entities, governmental organizations, businesses (including small businesses and socially and economically disadvantaged small businesses (as those terms are defined in sections 3 and 8 of the Small Business Act (15 U.S.C. 632 and 637), respectively)), federally funded research and development centers, and universities.

“(D) IDENTIFICATION OF PARTNERS.—The Director shall facilitate the matching of United States entities engaged in homeland security research with non-United States entities engaged in homeland security research so that they may partner in homeland security research activities.

“(4) COORDINATION.—The Director shall ensure that the activities under this subsection are coordinated with the Office of International Affairs and the Department of State and, as appropriate, the Department of Defense, the Department of Energy, and other relevant Federal agencies or interagency bodies. The Director may enter into joint activities with other Federal agencies.

“(c) MATCHING FUNDING.—

“(1) IN GENERAL.—

“(A) **EQUITABILITY.**—The Director shall ensure that funding and resources expended in international cooperative activity will be equitably matched by the foreign partner government or other entity through direct funding, funding of complementary activities, or the provision of staff, facilities, material, or equipment.

“(B) **GRANT MATCHING AND REPAYMENT.**—

“(i) **IN GENERAL.**—The Secretary may require a recipient of a grant under this section—

“(I) to make a matching contribution of not more than 50 percent of the total cost of the proposed project for which the grant is awarded; and

“(II) to repay to the Secretary the amount of the grant (or a portion thereof), interest on such amount at an appropriate rate, and such charges for administration of the grant as the Secretary determines appropriate.

“(ii) **MAXIMUM AMOUNT.**—The Secretary may not require that repayment under clause (i)(II) be more than 150 percent of the amount of the grant, adjusted for inflation on the basis of the Consumer Price Index.

“(2) **FOREIGN PARTNERS.**—Partners may include Israel, the United Kingdom, Canada, Australia, Singapore, and other allies in the global war on terrorism as determined to be appropriate by the Secretary of Homeland Security and the Secretary of State.

“(3) **LOANS OF EQUIPMENT.**—The Director may make or accept loans of equipment for research and development and comparative testing purposes.

“(d) **FOREIGN REIMBURSEMENTS.**—If the Science and Technology Homeland Security International Cooperative Programs Office participates in an international cooperative activity with a foreign partner on a cost-sharing basis, any reimbursements or contributions received from that foreign partner to meet its share of the project may be credited to appropriate current appropriations accounts of the Directorate of Science and Technology.

“(e) **REPORT TO CONGRESS ON INTERNATIONAL COOPERATIVE ACTIVITIES.**—Not later than one year after the date of enactment of this section, and every 5 years thereafter, the Under Secretary, acting through the Director, shall submit to Congress a report containing—

“(1) a brief description of each grant, cooperative agreement, or contract made or entered into under subsection (b)(3)(C), including the participants, goals, and amount and sources of funding; and

“(2) a list of international cooperative activities underway, including the participants, goals, expected duration, and amount and sources of funding, including resources provided to support the activities in lieu of direct funding.

“(f) **ANIMAL AND ZOOLOGICAL DISEASES.**—As part of the international cooperative activities authorized in this section, the Under Secretary, in coordination with the Chief Medical Officer, the Department of State, and appropriate officials of the Department of Agriculture, the Department of Defense, and the Department of Health and Human Services, may enter into cooperative activities with foreign countries, including African nations, to strengthen

American preparedness against foreign animal and zoonotic diseases overseas that could harm the Nation’s agricultural and public health sectors if they were to reach the United States.

“(g) CONSTRUCTION; AUTHORITIES OF THE SECRETARY OF STATE.—Nothing in this section shall be construed to alter or affect the following provisions of law:

“(1) Title V of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656a et seq.).

“(2) Section 112b(c) of title 1, United States Code.

“(3) Section 1(e)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)(2)).

“(4) Sections 2 and 27 of the Arms Export Control Act (22 U.S.C. 2752 and 22 U.S.C. 2767).

“(5) Section 622(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2382(c)).

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 316, as added by section 1101 of this Act, the following:

“Sec. 317. Promoting antiterrorism through international cooperation program.”.

6 USC 195c note. **SEC. 1902. TRANSPARENCY OF FUNDS.**

For each Federal award (as that term is defined in section 2 of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note)) under this title or an amendment made by this title, the Director of the Office of Management and Budget shall ensure full and timely compliance with the requirements of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note).

TITLE XX—9/11 COMMISSION INTERNATIONAL IMPLEMENTATION

22 USC 2151
note. **SEC. 2001. SHORT TITLE.**

This title may be cited as the “9/11 Commission International Implementation Act of 2007”.

22 USC 2151
note. **SEC. 2002. DEFINITION.**

In this title, except as otherwise provided, the term “appropriate congressional committees”—

(1) means—

(A) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

(2) includes, for purposes of subtitle D, the Committees on Armed Services of the House of Representatives and of the Senate.

Subtitle A—Quality Educational Opportunities in Predominantly Muslim Countries.

SEC. 2011. FINDINGS; POLICY.

22 USC 2228
note.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The report of the National Commission on Terrorist Attacks Upon the United States stated that “[e]ducation that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism”.

(2) The report of the National Commission on Terrorist Attacks Upon the United States concluded that ensuring educational opportunity is essential to the efforts of the United States to defeat global terrorism and recommended that the United States Government “should offer to join with other nations in generously supporting [spending funds] . . . directly for building and operating primary and secondary schools in those Muslim states that commit to sensibly investing their own money in public education”.

(3) While Congress endorsed such a program in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), such a program has not been established.

(b) **POLICY.**—It is the policy of the United States—

(1) to work toward the goal of dramatically increasing the availability of modern basic education through public schools in predominantly Muslim countries, which will reduce the influence of radical madrassas and other institutions that promote religious extremism;

(2) to join with other countries in generously supporting the International Muslim Youth Opportunity Fund authorized under section 7114 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by section 2012 of this Act, with the goal of building and supporting public primary and secondary schools in predominantly Muslim countries that commit to sensibly investing the resources of such countries in modern public education;

(3) to offer additional incentives to increase the availability of modern basic education in predominantly Muslim countries; and

(4) to work to prevent financing of educational institutions that support radical Islamic fundamentalism.

SEC. 2012. INTERNATIONAL MUSLIM YOUTH OPPORTUNITY FUND.

Section 7114 of the Intelligence Reform and Terrorism Prevention Act of 2004 (22 U.S.C. 2228) is amended to read as follows:

“SEC. 7114. INTERNATIONAL MUSLIM YOUTH OPPORTUNITY FUND.

“(a) **PURPOSE.**—The purpose of this section is to strengthen the public educational systems in predominantly Muslim countries by—

“(1) authorizing the establishment of an International Muslim Youth Educational Fund through which the United States dedicates resources, either through a separate fund or

through an international organization, to assist those countries that commit to education reform; and

“(2) providing resources for the Fund and to the President to help strengthen the public educational systems in those countries.

“(b) ESTABLISHMENT OF FUND.—

“(1) AUTHORITY.—The President is authorized to establish an International Muslim Youth Opportunity Fund and to carry out programs consistent with paragraph (4) under existing authorities, including the Mutual Educational and Cultural Exchange Act of 1961 (commonly referred to as the ‘Fulbright-Hays Act’).

“(2) LOCATION.—The Fund may be established—

“(A) as a separate fund in the Treasury; or

“(B) through an international organization or international financial institution, such as the United Nations Educational, Science and Cultural Organization, the United Nations Development Program, or the International Bank for Reconstruction and Development.

“(3) TRANSFERS AND RECEIPTS.—The head of any department, agency, or instrumentality of the United States Government may transfer any amount to the Fund, and the Fund may receive funds from private enterprises, foreign countries, or other entities.

“(4) ACTIVITIES OF THE FUND.—The Fund shall support programs described in this paragraph to improve the education environment in predominantly Muslim countries.

“(A) ASSISTANCE TO ENHANCE MODERN EDUCATIONAL PROGRAMS.—

“(i) The establishment in predominantly Muslim countries of a program of reform to create a modern education curriculum in the public educational systems in such countries.

“(ii) The establishment or modernization of educational materials to advance a modern educational curriculum in such systems.

“(iii) Teaching English to adults and children.

“(iv) The enhancement in predominantly Muslim countries of community, family, and student participation in the formulation and implementation of education strategies and programs in such countries.

“(B) ASSISTANCE FOR TRAINING AND EXCHANGE PROGRAMS FOR TEACHERS, ADMINISTRATORS, AND STUDENTS.—

“(i) The establishment of training programs for teachers and educational administrators to enhance skills, including the establishment of regional centers to train individuals who can transfer such skills upon return to their countries.

“(ii) The establishment of exchange programs for teachers and administrators in predominantly Muslim countries and with other countries to stimulate additional ideas and reform throughout the world, including teacher training exchange programs focused on primary school teachers in such countries.

“(iii) The establishment of exchange programs for primary and secondary students in predominantly Muslim countries and with other countries to foster

understanding and tolerance and to stimulate long-standing relationships.

“(C) ASSISTANCE TARGETING PRIMARY AND SECONDARY STUDENTS.—

“(i) The establishment in predominantly Muslim countries of after-school programs, civic education programs, and education programs focusing on life skills, such as inter-personal skills and social relations and skills for healthy living, such as nutrition and physical fitness.

“(ii) The establishment in predominantly Muslim countries of programs to improve the proficiency of primary and secondary students in information technology skills.

“(D) ASSISTANCE FOR DEVELOPMENT OF YOUTH PROFESSIONALS.—

“(i) The establishment of programs in predominantly Muslim countries to improve vocational training in trades to help strengthen participation of Muslims and Arabs in the economic development of their countries.

“(ii) The establishment of programs in predominantly Muslim countries that target older Muslim youths not in school in such areas as entrepreneurial skills, accounting, micro-finance activities, work training, financial literacy, and information technology.

“(E) OTHER TYPES OF ASSISTANCE.—

“(i) The translation of foreign books, newspapers, reference guides, and other reading materials into local languages.

“(ii) The construction and equipping of modern community and university libraries.

“(5) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—There is authorized to be appropriated to the President to carry out this section such sums as may be necessary for fiscal years 2008, 2009, and 2010.

“(B) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

“(C) ADDITIONAL FUNDS.—Amounts authorized to be appropriated under subsection (a) shall be in addition to amounts otherwise available for such purposes.

“(6) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this section and annually thereafter until January 30, 2010, the President shall submit to the appropriate congressional committees a report on United States efforts to assist in the improvement of educational opportunities for predominantly Muslim children and youths, including the progress made toward establishing the International Muslim Youth Opportunity Fund.

“(7) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—

In this subsection, the term ‘appropriate congressional committees’ means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.”.

SEC. 2013. ANNUAL REPORT TO CONGRESS.

(a) **IN GENERAL.**—Not later than June 1 of each year until December 31, 2009, the Secretary of State shall submit to the appropriate congressional committees a report on the efforts of predominantly Muslim countries to increase the availability of modern basic education and to close educational institutions that promote religious extremism and terrorism.

(b) **CONTENTS.**—Each report shall include—

(1) a list of predominantly Muslim countries that are making serious and sustained efforts to improve the availability of modern basic education and to close educational institutions that promote religious extremism and terrorism;

(2) a list of such countries that are making efforts to improve the availability of modern basic education and to close educational institutions that promote religious extremism and terrorism, but such efforts are not serious and sustained;

(3) a list of such countries that are not making efforts to improve the availability of modern basic education and to close educational institutions that promote religious extremism and terrorism; and

(4) an assessment for each country specified in each of paragraphs (1), (2), and (3) of the role of United States assistance with respect to the efforts made or not made to improve the availability of modern basic education and close educational institutions that promote religious extremism and terrorism.

22 USC 2452c
note.

SEC. 2014. EXTENSION OF PROGRAM TO PROVIDE GRANTS TO AMERICAN-SPONSORED SCHOOLS IN PREDOMINANTLY MUSLIM COUNTRIES TO PROVIDE SCHOLARSHIPS.

(a) **FINDINGS.**—Congress finds the following:

(1) Section 7113 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 22 U.S.C. 2452 note) authorized the establishment of a pilot program to provide grants to American-sponsored schools in predominantly Muslim countries so that such schools could provide scholarships to young people from lower-income and middle-income families in such countries to attend such schools, where they could improve their English and be exposed to a modern education.

(2) Since the date of the enactment of that section, the Middle East Partnership Initiative has pursued implementation of that program.

(b) **EXTENSION OF PROGRAM.**—

(1) **IN GENERAL.**—Section 7113 of the Intelligence Reform and Terrorism Prevention Act of 2004 is amended—

(A) in the section heading by striking “**PILOT**”; and

(B) in subsection (c)—

(i) in the subsection heading, by striking “**PILOT**”; and

(ii) by striking “pilot”;

(C) in subsection (d), by striking “pilot” each place it appears;

(D) in subsection (f) by striking “pilot”;

(E) in subsection (g), in the first sentence—

(i) by inserting “and April 15, 2008,” after “April 15, 2006,”; and

(ii) by striking “pilot”; and

(F) in subsection (h)—

22 USC 2452
note.

(i) by striking “2005 and 2006” and inserting “2007 and 2008”; and

(ii) by striking “pilot”.

(2) CONFORMING AMENDMENT.—Section 1(b) of such Act is amended, in the table of contents, by striking the item relating to section 7113 and inserting after section 7112 the following new item:

“7113. Program to provide grants to American-sponsored schools in predominantly Muslim countries to provide scholarships.”.

Subtitle B—Democracy and Development in the Broader Middle East Region

SEC. 2021. MIDDLE EAST FOUNDATION.

22 USC 2151
note.

(a) PURPOSES.—The purposes of this section are to support, through the provision of grants, technical assistance, training, and other programs, in the countries of the broader Middle East region, the expansion of—

- (1) civil society;
- (2) opportunities for political participation for all citizens;
- (3) protections for internationally recognized human rights, including the rights of women;
- (4) educational system reforms;
- (5) independent media;
- (6) policies that promote economic opportunities for citizens;
- (7) the rule of law; and
- (8) democratic processes of government.

(b) MIDDLE EAST FOUNDATION.—

(1) DESIGNATION.—The Secretary of State is authorized to designate an appropriate private, nonprofit organization that is organized or incorporated under the laws of the United States or of a State as the Middle East Foundation (referred to in this section as the “Foundation”).

(2) FUNDING.—

(A) AUTHORITY.—The Secretary of State is authorized to provide funding to the Foundation through the Middle East Partnership Initiative of the Department of State. Notwithstanding any other provision of law, the Foundation shall use amounts provided under this paragraph to carry out the purposes specified in subsection (a), including through making grants, using such funds as an endowment, and providing other assistance to entities to carry out programs for such purposes.

(B) FUNDING FROM OTHER SOURCES.—In determining the amount of funding to provide to the Foundation, the Secretary of State shall take into consideration the amount of funds that the Foundation has received from sources other than the United States Government.

(3) NOTIFICATION TO CONGRESSIONAL COMMITTEES.—The Secretary of State shall notify the appropriate congressional committees of the designation of an appropriate organization as the Foundation.

(c) GRANTS FOR PROJECTS.—

(1) FOUNDATION TO MAKE GRANTS.—The Secretary of State shall enter into an agreement with the Foundation that requires

the Foundation to use the funds provided under subsection (b)(2) to make grants to persons or entities (other than governments or government entities) located in the broader Middle East region or working with local partners based in the broader Middle East region to carry out projects that support the purposes specified in subsection (a).

(2) CENTER FOR PUBLIC POLICY.—Under the agreement described in paragraph (1), the Foundation may make a grant to an institution of higher education located in the broader Middle East region to create a center for public policy for the purpose of permitting scholars and professionals from the countries of the broader Middle East region and from other countries, including the United States, to carry out research, training programs, and other activities to inform public policy-making in the broader Middle East region and to promote broad economic, social, and political reform for the people of the broader Middle East region.

(3) APPLICATIONS FOR GRANTS.—An entity seeking a grant from the Foundation under this section shall submit an application to the head of the Foundation at such time, in such manner, and containing such information as the head of the Foundation may reasonably require.

(d) PRIVATE CHARACTER OF THE FOUNDATION.—Nothing in this section shall be construed to—

(1) make the Foundation an agency or establishment of the United States Government, or to make the officers or employees of the Foundation officers or employees of the United States for purposes of title 5, United States Code; or

(2) impose any restriction on the Foundation's acceptance of funds from private and public sources in support of its activities consistent with the purposes specified in subsection (a).

(e) LIMITATION ON PAYMENTS TO FOUNDATION PERSONNEL.—No part of the funds provided to the Foundation under this section shall inure to the benefit of any officer or employee of the Foundation, except as salary or reasonable compensation for services.

(f) RETENTION OF INTEREST.—The Foundation may hold funds provided under this section in interest-bearing accounts prior to the disbursement of such funds to carry out the purposes specified in subsection (a), and may retain for such purposes any interest earned without returning such interest to the Treasury of the United States. The Foundation may retain and use such funds as an endowment to carry out the purposes specified in subsection (a).

(g) FINANCIAL ACCOUNTABILITY.—

(1) INDEPENDENT PRIVATE AUDITS OF THE FOUNDATION.—The accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of the independent audit shall be included in the annual report required by subsection (h).

(2) GAO AUDITS.—The financial transactions undertaken pursuant to this section by the Foundation may be audited by the Government Accountability Office in accordance with

such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States.

(3) AUDITS OF GRANT RECIPIENTS.—

(A) IN GENERAL.—A recipient of a grant from the Foundation shall agree to permit an audit of the books and records of such recipient related to the use of the grant funds.

(B) RECORDKEEPING.—Such recipient shall maintain appropriate books and records to facilitate an audit referred to in subparagraph (A), including—

- (i) separate accounts with respect to the grant funds;
- (ii) records that fully disclose the use of the grant funds;
- (iii) records describing the total cost of any project carried out using grant funds; and
- (iv) the amount and nature of any funds received from other sources that were combined with the grant funds to carry out a project.

(h) ANNUAL REPORTS.—Not later than January 31, 2008, and annually thereafter, the Foundation shall submit to the appropriate congressional committees and make available to the public a report that includes, for the fiscal year prior to the fiscal year in which the report is submitted, a comprehensive and detailed description of—

- (1) the operations and activities of the Foundation that were carried out using funds provided under this section;
- (2) grants made by the Foundation to other entities with funds provided under this section;
- (3) other activities of the Foundation to further the purposes specified in subsection (a); and
- (4) the financial condition of the Foundation.

(i) BROADER MIDDLE EAST REGION DEFINED.—In this section, the term “broader Middle East region” means Afghanistan, Algeria, Bahrain, Egypt, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Pakistan, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, West Bank and Gaza, and Yemen.

(j) REPEAL.—Section 534(k) of Public Law 109–102 is repealed.

Subtitle C—Reaffirming United States Moral Leadership

SEC. 2031. ADVANCING UNITED STATES INTERESTS THROUGH PUBLIC DIPLOMACY.

22 USC 6216
note.

(a) FINDING.—Congress finds that the report of the National Commission on Terrorist Attacks Upon the United States stated that “Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.”

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations; and

(2) public diplomacy should reaffirm the paramount commitment of the United States to democratic principles, including preserving the civil liberties of all the people of the United States, including Muslim-Americans.

(c) SPECIAL AUTHORITY FOR SURGE CAPACITY.—The United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.) is amended by adding at the end the following new section:

22 USC 6216.

“SEC. 316. SPECIAL AUTHORITY FOR SURGE CAPACITY.

“(a) EMERGENCY AUTHORITY.—

“(1) IN GENERAL.—Whenever the President determines it to be important to the national interests of the United States and so certifies to the appropriate congressional committees, the President, on such terms and conditions as the President may determine, is authorized to direct any department, agency, or other entity of the United States to furnish the Broadcasting Board of Governors with such assistance outside the United States as may be necessary to provide international broadcasting activities of the United States with a surge capacity to support United States foreign policy objectives during a crisis abroad.

“(2) SUPERSEDES EXISTING LAW.—The authority of paragraph (1) shall supersede any other provision of law.

“(3) SURGE CAPACITY DEFINED.—In this subsection, the term ‘surge capacity’ means the financial and technical resources necessary to carry out broadcasting activities in a geographical area during a crisis abroad.

“(4) DURATION.—The President is authorized to exercise the authority provided in subsection (a)(1) for a period of up to six months, which may be renewed for one additional six month period.

“(b) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary for the President to carry out this section, except that no such amount may be appropriated which, when added to amounts previously appropriated for such purpose but not yet obligated, would cause such amounts to exceed \$25,000,000.

“(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection are authorized to remain available until expended.

“(3) DESIGNATION OF APPROPRIATIONS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection may be referred to as the ‘United States International Broadcasting Surge Capacity Fund’.

“(c) REPORT.—The annual report submitted to the President and Congress by the Broadcasting Board of Governors under section 305(a)(9) shall provide a detailed description of any activities carried out under this section.”.

22 USC 6204
note.
Deadline.

SEC. 2032. OVERSIGHT OF INTERNATIONAL BROADCASTING.

(a) TRANSCRIPTION OF PERSIAN AND ARABIC LANGUAGE BROADCASTS.—Not later than 90 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall initiate a pilot project to transcribe into the English language news and

information programming broadcast by Radio Farda, Radio Sawa, the Persian Service of the Voice of America, and Alhurra.

(b) **RANDOM SAMPLING; PUBLIC AVAILABILITY.**—The transcription required under subsection (a) shall consist of a random sampling of such programming. The transcripts shall be available to Congress and the public on the Internet site of the Board.

(c) **REPORT.**—Not later than May 1, 2008, the Chairman of the Broadcasting Board of Governors shall submit to the Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate a report on the feasibility and utility of continuing the pilot project required under subsection (a).

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the “International Broadcasting Operations” account of the Broadcasting Board of Governors \$2,000,000 for fiscal year 2008 to carry out the pilot project required under subsection (a).

SEC. 2033. EXPANSION OF UNITED STATES SCHOLARSHIP, EXCHANGE, AND LIBRARY PROGRAMS IN PREDOMINANTLY MUSLIM COUNTRIES.

(a) **REPORT; CERTIFICATION.**—Not later than 30 days after the date of the enactment of this Act and every 180 days thereafter until December 31, 2009, the Secretary of State shall submit to the appropriate congressional committees a report on the recommendations of the National Commission on Terrorist Attacks Upon the United States and the policy goals described in section 7112 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) for expanding United States scholarship, exchange, and library programs in predominantly Muslim countries. Such report shall include—

(1) a certification by the Secretary of State that such recommendations have been implemented; or

(2) if the Secretary of State is unable to make the certification described in paragraph (1), a description of—

(A) the steps taken to implement such recommendations and achieve such policy goals;

(B) when the Secretary of State expects such recommendations to be implemented and such policy goals to be achieved; and

(C) any allocation of resources or other actions by Congress the Secretary of State considers necessary to implement such recommendations and achieve such policy goals.

(b) **TERMINATION OF DUTY TO REPORT.**—The duty to submit a report under subsection (a) shall terminate when the Secretary of State submits a certification pursuant to paragraph (1) of such subsection.

SEC. 2034. UNITED STATES POLICY TOWARD DETAINEES.

(a) **FINDINGS.**—Congress finds the following:

(1) The National Commission on Terrorist Attacks Upon the United States (commonly referred to as the “9/11 Commission”) declared that the United States “should work with friends to develop mutually agreed-on principles for the detention and humane treatment of captured international terrorists who are not being held under a particular country’s criminal laws” and recommended that the United States engage its allies

42 USC 2000dd
note.

“to develop a common coalition approach toward the detention and humane treatment of captured terrorists”.

(2) A number of investigations remain ongoing by countries that are close United States allies in the war on terrorism regarding the conduct of officials, employees, and agents of the United States and of other countries related to conduct regarding detainees.

(3) The Secretary of State has launched an initiative to try to address the differences between the United States and many of its allies regarding the treatment of detainees.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary, acting through the Legal Adviser of the Department of State, should continue to build on the Secretary’s efforts to engage United States allies to develop a common coalition approach, in compliance with Common Article 3 of the Geneva Conventions and other applicable legal principles, toward the detention and humane treatment of individuals detained during Operation Iraqi Freedom, Operation Enduring Freedom, or in connection with United States counterterrorist operations.

(c) REPORTING TO CONGRESS.—

(1) BRIEFINGS.—The Secretary of State shall keep the appropriate congressional committees fully and currently informed of the progress of any discussions between the United States and its allies regarding the development of the common coalition approach described in subsection (b).

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Attorney General and the Secretary of Defense, shall submit to the appropriate congressional committees a report on any progress towards developing the common coalition approach described in subsection (b).

(d) DEFINITION.—In this section, the term “appropriate congressional committees” means—

(1) with respect to the House of Representatives, the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence; and

(2) with respect to the Senate, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on the Judiciary, and the Select Committee on Intelligence.

Taliban.
al Qaeda.

Subtitle D—Strategy for the United States Relationship With Afghanistan, Pakistan, and Saudi Arabia

42 USC 7511
note.

SEC. 2041. AFGHANISTAN.

(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

(1) A democratic, stable, and prosperous Afghanistan is vital to the national security of the United States and to combating international terrorism.

(2) Following the ouster of the Taliban regime in 2001, the Government of Afghanistan, with assistance from the United States and the international community, has achieved some notable successes, including—

(A) adopting a constitution;

(B) holding presidential, parliamentary, and provincial council elections;

(C) improving the protection of human rights, including women's rights; and

(D) expanding educational opportunities.

(3) The following factors pose a serious and immediate threat to the stability of Afghanistan:

(A) Taliban and anti-government forces, al Qaeda, and criminal networks.

(B) Drug trafficking and corruption.

(C) Weak institutions of administration, security, and justice, including pervasive lack of the rule of law.

(D) Poverty, unemployment, and lack of provision of basic services.

(4) The United States and the international community must significantly increase political, economic, and military support to Afghanistan to ensure its long-term stability and prosperity, and to deny violent extremist groups such as al Qaeda sanctuary in Afghanistan.

(b) STATEMENTS OF POLICY.—The following shall be the policies of the United States:

(1) The United States shall vigorously support the people and Government of Afghanistan as they continue to commit to the path toward a government representing and protecting the rights of all Afghans, and shall maintain its long-term commitment to the people of Afghanistan by increased assistance and the continued deployment of United States troops in Afghanistan as long as the Government of Afghanistan supports such United States involvement.

(2) In order to reduce the ability of the Taliban and al Qaeda to finance their operations through the opium trade, the President shall engage aggressively with the Government of Afghanistan, countries in the region or otherwise influenced by the trade and transit of narcotics, as well as North Atlantic Treaty Organization (NATO) partners of the United States, and in consultation with Congress, to assess the success of the current Afghan counter-narcotics strategy and to explore additional options for addressing the narcotics crisis in Afghanistan, including possible changes in rules of engagement for NATO and Coalition forces for participation in actions against narcotics trafficking and kingpins, and the provision of comprehensive assistance to farmers who rely on opium for their livelihood, including through the promotion of alternative crops and livelihoods.

(3) The United States shall continue to work with and provide assistance to the Government of Afghanistan to strengthen local and national government institutions and the rule of law, including the training of judges and prosecutors, and to train and equip the Afghan National Security Forces.

(4) The United States shall continue to call on NATO members participating in operations in Afghanistan to meet their commitments to provide forces and equipment, and to lift restrictions on how such forces can be deployed.

(5) The United States shall continue to foster greater understanding and cooperation between the Governments of Afghanistan and Pakistan by taking the following actions:

(A) Facilitating greater communication, including through official mechanisms such as the Tripartite Commission and the Joint Intelligence Operations Center, and by promoting other forms of exchange between the parliaments and civil society of the two countries.

(B) Urging the Government of Afghanistan to enter into a political dialogue with Pakistan with respect to all issues relating to the border between the two countries, with the aim of establishing a mutually-recognized and monitored border, open to human and economic exchange, and with both countries fully responsible for border security.

(c) STATEMENT OF CONGRESS.—Congress strongly urges that the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) be reauthorized and updated to take into account new developments in Afghanistan and in the region so as to demonstrate the continued support by the United States for the people and Government of Afghanistan.

(d) EMERGENCY INCREASE IN EFFECTIVE POLICE TRAINING AND POLICING OPERATIONS.—

(1) CONGRESSIONAL FINDING.—Congress finds that police training programs in Afghanistan have achieved far less return on substantial investment to date and require a substantive review and justification of the means and purposes of such assistance, consequent to any provision of additional resources.

(2) ASSISTANCE AUTHORIZED.—The President shall make increased efforts, on an urgent basis, to—

(A) dramatically improve the capability and effectiveness of United States and international police trainers, mentors, and police personnel for police training programs in Afghanistan, as well as develop a pretraining screening program;

(B) increase the numbers of such trainers, mentors, and personnel only if such increase is determined to improve the performance and capabilities of the Afghanistan civil security forces; and

(C) assist the Government of Afghanistan, in conjunction with the Afghanistan civil security forces and their leadership, in addressing the corruption crisis that is threatening to undermine Afghanistan's future.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, and every 6 months thereafter until September 30, 2010, the President shall transmit to the appropriate congressional committees a report on United States efforts to fulfill the requirements of this subsection. The report required by this paragraph may be transmitted concurrently with any similar report required by the Afghanistan Freedom Support Act of 2002.

22 USC 2375
note.

SEC. 2042. PAKISTAN.

(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

(1) A democratic, stable, and prosperous Pakistan that is a full and reliable partner in the struggle against the Taliban, al Qaeda, and other terrorist groups, and is a responsible steward of its nuclear weapons and technology, is vital to the national security of the United States.

(2) Since September 11, 2001, the Government of Pakistan has been a critical ally and an important partner in removing the Taliban regime in Afghanistan and combating al Qaeda.

(3) Pakistan has made great sacrifices in the shared struggle against al Qaeda-affiliated terrorist groups, engaging in military operations that have led to the deaths of hundreds of Pakistani security personnel and enduring acts of terrorism that have killed hundreds of Pakistani civilians.

(4) Publicly-stated goals of the Government of Pakistan and the national interests of the United States are in close agreement in many areas, including—

(A) curbing the proliferation of nuclear weapons technology;

(B) combating poverty and corruption;

(C) enabling effective government institutions, including public education;

(D) promoting democracy and the rule of law, particularly at the national level;

(E) addressing the continued presence of Taliban and other violent extremist forces throughout the country;

(F) maintaining the authority of the Government of Pakistan in all parts of its national territory;

(G) securing the borders of Pakistan to prevent the movement of militants and terrorists into other countries and territories; and

(H) effectively dealing with violent extremism.

(5) The opportunity exists for shared effort in helping to achieve correlative goals with the Government of Pakistan, particularly—

(A) increased United States assistance to Pakistan, as appropriate, to achieve progress in meeting the goals of subparagraphs (A) through (C) of paragraph (4);

(B) increased commitment on the part of the Government of Pakistan to achieve the goals of paragraph (4)(D), particularly given continued concerns, based on the conduct of previous elections, regarding whether parliamentary elections scheduled for 2007 will be free, fair, and inclusive of all political parties and carried out in full accordance with internationally-recognized democratic norms; and

(C) increased commitment on the part of the Government of Pakistan to take actions described in paragraph (4)(E), particularly given—

(i) the continued operation of the Taliban's Quetta shura, as noted by then-North Atlantic Treaty Organization Supreme Allied Commander General James Jones in testimony before the Senate Foreign Relations Committee on September 21, 2006; and

(ii) the continued operation of al Qaeda affiliates Lashkar-e Taiba and Jaish-e Muhammad, sometimes under different names, as demonstrated by the lack of meaningful action taken against Hafiz Muhammad Saeed, Maulana Masood Azhar, and other known leaders and members of such terrorist organizations; and

(D) increased commitment on the part of the Government of the United States in regard to working with all elements of Pakistan society in helping to achieve the

correlative goals described in subparagraphs (A) through (H) of paragraph (4).

(b) STATEMENTS OF POLICY.—The following shall be the policy of the United States:

(1) To maintain and deepen its friendship and long-term strategic relationship with Pakistan.

(2) To work with the Government of Pakistan to combat international terrorism, especially in the frontier provinces of Pakistan, and to end the use of Pakistan as a safe haven for terrorist groups, including those associated with al Qaeda or the Taliban.

(3) To support robust funding for programs of the United States Agency for International Development and the Department of State that assist the Government of Pakistan in working toward the goals described in subsection (a)(4), as the Government of Pakistan demonstrates a clear commitment to building a moderate, democratic state.

(4) To work with the international community to secure additional financial and political support to effectively implement the policies set forth in this subsection.

(5) To facilitate a just resolution of the dispute over the territory of Kashmir, to the extent that such facilitation is invited and welcomed by the Governments of Pakistan and India and by the people of Kashmir.

(6) To facilitate greater communication and cooperation between the Governments of Afghanistan and Pakistan for the improvement of bilateral relations and cooperation in combating terrorism in both countries.

(7) To work with the Government of Pakistan to dismantle existing proliferation networks and prevent the proliferation of nuclear technology.

(c) STRATEGY RELATING TO PAKISTAN.—

(1) REQUIREMENT FOR REPORT ON STRATEGY.—Not later than 90 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report that describes the long-term strategy of the United States to engage with the Government of Pakistan to achieve the goals described in subparagraphs (A) through (H) of subsection (a)(4) and to carry out the policies described in subsection (b).

(2) FORM.—The report required by paragraph (1) shall be transmitted in unclassified form, but may include a classified annex, if necessary.

(d) LIMITATION ON UNITED STATES SECURITY ASSISTANCE TO PAKISTAN.—

(1) LIMITATION.—For fiscal year 2008, United States assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) or section 23 of the Arms Export Control Act (22 U.S.C. 2763) may not be provided to, and a license for any item controlled under the Arms Export Control Act (22 U.S.C. 2751 et seq.) may not be approved for, Pakistan until the President transmits to the appropriate congressional committees a report that contains a determination of the President that the Government of Pakistan—

(A) is committed to eliminating from Pakistani territory any organization such as the Taliban, al Qaeda, or

any successor, engaged in military, insurgent, or terrorist activities in Afghanistan;

(B) is undertaking a comprehensive military, legal, economic, and political campaign to achieving the goal described in subparagraph (A); and

(C) is currently making demonstrated, significant, and sustained progress toward eliminating support or safe haven for terrorists.

(2) MEMORANDUM OF JUSTIFICATION.—The President shall include in the report required by paragraph (1) a memorandum of justification setting forth the basis for the President's determination under paragraph (1).

(3) FORM.—The report required by paragraph (1) and the memorandum of justification required by paragraph (2) shall be transmitted in unclassified form, but may include a classified annex, if necessary.

(e) NUCLEAR PROLIFERATION.—

(1) CONGRESSIONAL FINDING.—Congress finds that the maintenance by any country of a procurement or supply network for the illicit proliferation of nuclear and missile technologies would be inconsistent with that country being considered an ally of the United States.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the national security interest of the United States will best be served if the United States develops and implements a long-term strategy to improve the United States relationship with Pakistan and works with the Government of Pakistan to stop nuclear proliferation.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the President such sums as may be necessary to provide assistance described in subsection (d)(1) for Pakistan for fiscal year 2008 in accordance with the requirements of subsection (d)(1).

(2) OTHER FUNDS.—Amounts authorized to be appropriated under this subsection are in addition to amounts otherwise available for such purposes.

(3) DECLARATION OF POLICY.—Congress declares that the amount of funds appropriated pursuant to the authorization of appropriations under paragraph (1) and for subsequent fiscal years shall be determined by the extent to which the Government of Pakistan displays demonstrable progress in—

(A) preventing al Qaeda and other terrorist organizations from operating in the territory of Pakistan, including eliminating terrorist training camps or facilities, arresting members and leaders of terrorist organizations, and countering recruitment efforts;

(B) preventing the Taliban from using the territory of Pakistan as a sanctuary from which to launch attacks within Afghanistan, including by arresting Taliban leaders, stopping cross-border incursions, and countering recruitment efforts; and

(C) implementing democratic reforms, including allowing free, fair, and inclusive elections at all levels of government in accordance with internationally-recognized democratic norms, and respecting the independence of the press and judiciary.

(4) BIENNIAL REPORTS TO CONGRESS.—

(A) IN GENERAL.—The Secretary of State shall submit to the appropriate congressional committees a biennial report describing in detail the extent to which the Government of Pakistan has displayed demonstrable progress in meeting the goals described in subparagraphs (A) through (C) of paragraph (3).

(B) SCHEDULE FOR SUBMISSION.—The report required by subparagraph (A) shall be submitted not later than April 15 and October 15 of each year until October 15, 2009.

(C) FORM.—The report required by subparagraph (A) shall be submitted in unclassified form, but may include a classified annex, if necessary.

(g) EXTENSION OF WAIVERS.—

(1) AMENDMENTS.—The Act entitled “An Act to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes”, approved October 27, 2001 (Public Law 107-57; 115 Stat. 403), is amended—

(A) in section 1(b)—

(i) in the heading, to read as follows:

“(b) FISCAL YEARS 2007 AND 2008—”; and

(ii) in paragraph (1), by striking “any provision” and all that follows through “that prohibits” and inserting “any provision of an Act making appropriations for foreign operations, export financing, and related programs appropriations for fiscal year 2007 or 2008 (or any other appropriations Act) that prohibits”;

(B) in section 3(2), by striking “Such provision” and all that follows through “as are” and inserting “Such provision of an Act making appropriations for foreign operations, export financing, and related programs appropriations for fiscal years 2002 through 2008 (or any other appropriations Act) as are”; and

(C) in section 6, by striking “the provisions” and all that follows and inserting “the provisions of this Act shall terminate on October 1, 2008.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2006.

(3) SENSE OF CONGRESS.—It is the sense of Congress that determinations to provide extensions of waivers of foreign assistance prohibitions with respect to Pakistan pursuant to Public Law 107-57 for fiscal years after the fiscal years specified in the amendments made by paragraph (1) to Public Law 107-57 should be informed by demonstrable progress in achieving the goals described in subparagraphs (A) through (C) of subsection (f)(3).

SEC. 2043. SAUDI ARABIA.

(a) CONGRESSIONAL FINDINGS.—Congress finds that:

(1) The National Commission on Terrorist Attacks Upon the United States concluded that the Kingdom of Saudi Arabia has “been a problematic ally in combating Islamic extremism. At the level of high policy, Saudi Arabia’s leaders cooperated with American diplomatic initiatives aimed at the Taliban or

Pakistan before 9/11. At the same time, Saudi Arabia's society was a place where al Qaeda raised money directly from individuals and through charities. It was the society that produced 15 of the 19 hijackers.”.

(2) Saudi Arabia has an uneven record in the fight against terrorism, especially with respect to terrorist financing, support for radical madrassas, a lack of political outlets for its citizens, and restrictions on religious pluralism, that poses a threat to the security of the United States, the international community, and Saudi Arabia itself.

(3) The National Commission on Terrorist Attacks Upon the United States concluded that the “problems in the U.S.-Saudi relationship must be confronted, openly”. It recommended that the two countries build a relationship that includes a “shared commitment to political and economic reform . . . and a shared interest in greater tolerance and cultural respect, translating into a commitment to fight the violent extremists who foment hatred”.

(4) The United States has a national security interest in working with the Government of Saudi Arabia to combat international terrorists that operate within that country or that operate outside Saudi Arabia with the support of citizens of Saudi Arabia.

(5) The United States and Saudi Arabia established a Strategic Dialogue in 2005, which provides a framework for the two countries to discuss a range of bilateral issues at high levels, including counterterrorism policy and political and economic reforms.

(6) It is in the national security interest of the United States to support the Government of Saudi Arabia in undertaking a number of political and economic reforms, including increasing anti-terrorism operations conducted by law enforcement agencies, providing more political and religious rights to its citizens, increasing the rights of women, engaging in comprehensive educational reform, enhancing monitoring of charitable organizations, and promulgating and enforcing domestic laws and regulation on terrorist financing.

(b) STATEMENT OF POLICY.—It is the policy of the United States—

(1) to engage with the Government of Saudi Arabia to openly confront the issue of terrorism, as well as other problematic issues such as the lack of political freedoms;

(2) to enhance counterterrorism cooperation with the Government of Saudi Arabia; and

(3) to support the efforts of the Government of Saudi Arabia to make political, economic, and social reforms, including greater religious freedom, throughout the country.

(c) PROGRESS IN COUNTERTERRORISM AND OTHER COOPERATION.—

(1) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report that—

(A) describes the long-term strategy of the United States—

(i) to engage with the Government of Saudi Arabia to facilitate political, economic, and social reforms, including greater religious freedom, that will enhance

the ability of the Government of Saudi Arabia to combat international terrorism; and

(ii) to work with the Government of Saudi Arabia to combat terrorism, including through effective measures to prevent and prohibit the financing of terrorists by Saudi institutions and citizens; and

(B) provides an assessment of the progress made by Saudi Arabia since 2001 on the matters described in subparagraph (A), including—

(i) whether Saudi Arabia has become a party to the International Convention for the Suppression of the Financing of Terrorism; and

(ii) the activities and authority of the Saudi Nongovernmental National Commission for Relief and Charity Work Abroad.

(2) FORM.—The report required by paragraph (1) shall be transmitted in unclassified form, but may include a classified annex, if necessary.

TITLE XXI—ADVANCING DEMOCRATIC VALUES

SEC. 2101. SHORT TITLE.

This title may be cited as the “Advance Democratic Values, Address Nondemocratic Countries, and Enhance Democracy Act of 2007” or the “ADVANCE Democracy Act of 2007”.

SEC. 2102. FINDINGS.

Congress finds the following:

(1) The United States Declaration of Independence, the United States Constitution, and the United Nations Universal Declaration of Human Rights declare that all human beings are created equal and possess certain rights and freedoms, including the fundamental right to participate in the political life and government of their respective countries.

(2) The development of democracy constitutes a long-term challenge that goes through unique phases and paces in individual countries as such countries develop democratic institutions such as a thriving civil society, a free media, and an independent judiciary, and must be led from within such countries, including by nongovernmental and governmental reformers.

(3) Individuals, nongovernmental organizations, and movements that support democratic principles, practices, and values are under increasing pressure from some governments of nondemocratic countries (as well as, in some cases, from governments of democratic transition countries), including by using administrative and regulatory mechanisms to undermine the activities of such individuals, organizations, and movements.

(4) Democratic countries have a number of instruments available for supporting democratic reformers who are committed to promoting effective, nonviolent change in nondemocratic countries and who are committed to keeping their countries on the path to democracy.

(5) United States efforts to promote democracy and protect human rights can be strengthened to improve assistance for

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Nondemocratic
Countries, and
Enhance
Democracy Act
of 2007.
22 USC 8201
note.
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note.

such reformers, including through an enhanced role for United States diplomats when properly trained and given the right incentives.

(6) The promotion of democracy requires a broad-based effort with cooperation between all democratic countries, including through the Community of Democracies.

SEC. 2103. STATEMENT OF POLICY.

22 USC 8202.

It is the policy of the United States—

(1) to promote freedom and democracy in foreign countries as a fundamental component of United States foreign policy, along with other key foreign policy goals;

(2) to affirm fundamental freedoms and internationally recognized human rights in foreign countries, as reflected in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and to condemn offenses against those freedoms and rights as a fundamental component of United States foreign policy, along with other key foreign policy goals;

(3) to protect and promote such fundamental freedoms and rights, including the freedoms of association, of expression, of the press, and of religion, and the right to own private property;

(4) to commit to the long-term challenge of promoting universal democracy by promoting democratic institutions, including institutions that support the rule of law (such as an independent judiciary), an independent and professional media, strong legislatures, a thriving civil society, transparent and professional independent governmental auditing agencies, civilian control of the military, and institutions that promote the rights of minorities and women;

(5) to use instruments of United States influence to support, promote, and strengthen democratic principles, practices, and values, including the right to free, fair, and open elections, secret balloting, and universal suffrage, including by—

(A) providing appropriate support to individuals, nongovernmental organizations, and movements located in nondemocratic countries that aspire to live in freedom and establish full democracy in such countries; and

(B) providing political, economic, and other support to foreign countries and individuals, nongovernmental organizations, and movements that are willingly undertaking a transition to democracy; and

(6) to strengthen cooperation with other democratic countries in order to better promote and defend shared values and ideals.

SEC. 2104. DEFINITIONS.

22 USC 8203.

In this title:

(1) **ANNUAL REPORT ON ADVANCING FREEDOM AND DEMOCRACY.**—The term “Annual Report on Advancing Freedom and Democracy” refers to the annual report submitted to Congress by the Department of State pursuant to section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note), in which the Department reports on actions taken by the United States Government to encourage respect for human rights and democracy.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(3) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary of State for Democracy, Human Rights, and Labor.

(4) COMMUNITY OF DEMOCRACIES AND COMMUNITY.—The terms “Community of Democracies” and “Community” mean the association of democratic countries committed to the global promotion of democratic principles, practices, and values, which held its First Ministerial Conference in Warsaw, Poland, in June 2000.

(5) DEPARTMENT.—The term “Department” means the Department of State.

(6) NONDEMOCRATIC COUNTRY OR DEMOCRATIC TRANSITION COUNTRY.—The term “nondemocratic country” or “democratic transition country” shall include any country which is not governed by a fully functioning democratic form of government, as determined by the Secretary, taking into account the general consensus regarding the status of civil and political rights in a country by major nongovernmental organizations that conduct assessments of such conditions in countries and whether the country exhibits the following characteristics:

(A) All citizens of such country have the right to, and are not restricted in practice from, fully and freely participating in the political life of such country.

(B) The national legislative body of such country and, if directly elected, the head of government of such country, are chosen by free, fair, open, and periodic elections, by universal and equal suffrage, and by secret ballot.

(C) More than one political party in such country has candidates who seek elected office at the national level and such parties are not restricted in their political activities or their process for selecting such candidates, except for reasonable administrative requirements commonly applied in countries categorized as fully democratic.

(D) All citizens in such country have a right to, and are not restricted in practice from, fully exercising such fundamental freedoms as the freedom of expression, conscience, and peaceful assembly and association, and such country has a free, independent, and pluralistic media.

(E) The current government of such country did not come to power in a manner contrary to the rule of law.

(F) Such country possesses an independent judiciary and the government of such country generally respects the rule of law.

(G) Such country does not violate other core principles enshrined in the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, United Nations Commission on Human Rights Resolution 1499/57 (entitled “Promotion of the Right to Democracy”), and the United Nations General Assembly Resolution 55/96 (entitled “Promoting and consolidating democracy”).

(H) As applicable, whether the country has scored favorably on the political, civil liberties, corruption, and

rule of law indicators used to determine eligibility for financial assistance disbursed from the Millennium Challenge Account.

(7) SECRETARY.—The term “Secretary” means the Secretary of State.

Subtitle A—Activities to Enhance the Promotion of Democracy

Establishment.

SEC. 2111. DEMOCRACY PROMOTION AT THE DEPARTMENT OF STATE. 22 USC 8211.

(a) DEMOCRACY LIAISON OFFICERS.—

(1) IN GENERAL.—The Secretary of State shall establish and staff Democracy Liaison Officer positions. Democracy Liaison Officers shall serve under the supervision of the Assistant Secretary. Democracy Liaison Officers may be assigned to the following posts:

(A) United States missions to, or liaisons with, regional and multilateral organizations, including the United States missions to the European Union, African Union, Organization of American States, and any other appropriate regional organization, the Organization for Security and Cooperation in Europe, the United Nations and its relevant specialized agencies, and the North Atlantic Treaty Organization.

(B) Regional public diplomacy centers of the Department of State.

(C) United States combatant commands.

(D) Other posts as designated by the Secretary.

(2) RESPONSIBILITIES.—Each Democracy Liaison Officer should—

(A) provide expertise on effective approaches to promote and build democracy;

(B) assist in formulating and implementing strategies for transitions to democracy; and

(C) carry out such other responsibilities as the Secretary or the Assistant Secretary may assign.

(3) NEW POSITIONS.—To the fullest extent practicable, taking into consideration amounts appropriated to carry out this subsection and personnel available for assignment to the positions described in paragraph (1), the Democracy Liaison Officer positions established under subsection (a) shall be new positions that are in addition to existing positions with responsibility for other human rights and democracy related issues and programs, including positions with responsibility for labor issues.

(4) RELATIONSHIP TO OTHER AUTHORITIES.—Nothing in this subsection may be construed as altering any authority or responsibility of a chief of mission or other employee of a diplomatic mission of the United States provided under any other provision of law, including any authority or responsibility for the development or implementation of strategies to promote democracy.

(b) OFFICE RELATED TO DEMOCRATIC MOVEMENTS AND TRANSITIONS.—

(1) ESTABLISHMENT.—There shall be identified within the Bureau of Democracy, Human Rights, and Labor of the Department at least one office that shall be responsible for working

with democratic movements and facilitating the transition to full democracy of nondemocratic countries and democratic transition countries.

(2) RESPONSIBILITIES.—The Assistant Secretary shall, including by acting through the office or offices identified pursuant to paragraph (1)—

(A) provide support for Democratic Liaison Officers established under subsection (a);

(B) develop relations with, consult with, and provide assistance to nongovernmental organizations, individuals, and movements that are committed to the peaceful promotion of democracy and fundamental rights and freedoms, including fostering relationships with the United States Government and the governments of other democratic countries; and

(C) assist officers and employees of regional bureaus of the Department to develop strategies and programs to promote peaceful change in nondemocratic countries and democratic transition countries.

(3) LIAISON.—Within the Bureau of Democracy, Human Rights, and Labor, the Assistant Secretary shall identify officers or employees who have expertise in and shall be responsible for working with nongovernmental organizations, individuals, and movements that develop relations with, consult with, and provide assistance to nongovernmental organizations, individuals, and movements in foreign countries that are committed to the peaceful promotion of democracy and fundamental rights and freedoms.

(c) ACTIONS BY CHIEFS OF MISSION.—Each chief of mission in each nondemocratic country or democratic transition country should—

(1) develop, as part of annual program planning, a strategy to promote democratic principles, practices, and values in each such foreign country and to provide support, as appropriate, to nongovernmental organizations, individuals, and movements in each such country that are committed to democratic principles, practices, and values, such as by—

(A) consulting and coordinating with and providing support to such nongovernmental organizations, individuals, and movements regarding the promotion of democracy;

(B) issuing public condemnations of violations of internationally recognized human rights, including violations of religious freedom, and visiting local landmarks and other local sites associated with nonviolent protest in support of democracy and freedom from oppression; and

(C) holding periodic meetings with such nongovernmental organizations, individuals, and movements to discuss democracy and political, social, and economic freedoms;

(2) hold ongoing discussions with the leaders of each such nondemocratic country or democratic transition country regarding progress toward a democratic system of governance and the development of political, social, and economic freedoms and respect for human rights, including freedom of religion or belief, in such country; and

(3) conduct meetings with civil society, interviews with media that can directly reach citizens of each such country, and discussions with students and young people of each such country regarding progress toward a democratic system of governance and the development of political, social, and economic freedoms in each such country.

(d) RECRUITMENT.—The Secretary should seek to increase the proportion of members of the Foreign Service who serve in the Bureau of Democracy, Human Rights, and Labor.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

SEC. 2112. DEMOCRACY FELLOWSHIP PROGRAM.

22 USC 8212.

(a) REQUIREMENT FOR PROGRAM.—The Secretary shall establish a Democracy Fellowship Program to enable officers of the Department to gain an additional perspective on democracy promotion in foreign countries by working on democracy issues in appropriate congressional offices or congressional committees with oversight over the subject matter of this title, including the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, and international or nongovernmental organizations involved in democracy promotion.

(b) SELECTION AND PLACEMENT.—The Assistant Secretary shall play a central role in the selection of Democracy Fellows and facilitate their placement in appropriate congressional offices, congressional committees, international organizations, and nongovernmental organizations.

SEC. 2113. INVESTIGATIONS OF VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW.

22 USC 8213.

(a) IN GENERAL.—The President, with the assistance of the Secretary, the Under Secretary of State for Democracy and Global Affairs, and the Ambassador-at-Large for War Crimes Issues, shall collect information regarding incidents that may constitute crimes against humanity, genocide, slavery, or other violations of international humanitarian law.

(b) ACCOUNTABILITY.—The President shall consider what actions can be taken to ensure that any government of a country or the leaders or senior officials of such government who are responsible for crimes against humanity, genocide, slavery, or other violations of international humanitarian law identified under subsection (a) are brought to account for such crimes in an appropriately constituted tribunal.

Subtitle B—Strategies and Reports on Human Rights and the Promotion of Democracy

SEC. 2121. STRATEGIES, PRIORITIES, AND ANNUAL REPORT.

22 USC 8221.

(a) EXPANSION OF COUNTRY-SPECIFIC STRATEGIES TO PROMOTE DEMOCRACY.—

(1) **COMMENDATION.**—Congress commends the Secretary for the ongoing work by the Department to develop country-specific strategies for promoting democracy.

(2) **EXPANSION.**—The Secretary shall expand the development of such strategies to all nondemocratic countries and democratic transition countries.

(3) **BRIEFINGS.**—The Secretary shall keep the appropriate congressional committees fully and currently informed as such strategies are developed.

(b) **REPORT TITLE.**—Section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note) is amended, in the first sentence, by inserting “entitled the Annual Report on Advancing Freedom and Democracy” before the period at the end.

(c) **ENHANCED REPORT.**—The Annual Report on Advancing Freedom and Democracy shall include, as appropriate—

(1) United States priorities for the promotion of democracy and the protection of human rights for each nondemocratic country and democratic transition country, developed in consultation with relevant parties in such countries; and

(2) specific actions and activities of chiefs of missions and other United States officials to promote democracy and protect human rights in each such country.

(d) **SCHEDULE OF SUBMISSION.**—Section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note) is amended, in the second sentence, by striking “30 days” and inserting “90 days”.

22 USC 8222.

SEC. 2122. TRANSLATION OF HUMAN RIGHTS REPORTS.

(a) **IN GENERAL.**—The Secretary shall continue to expand the timely translation of the applicable parts of the Country Reports on Human Rights Practices required under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)), the Annual Report on International Religious Freedom required under section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)), the Trafficking in Persons Report required under section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)), and any separate report on democracy and human rights policy submitted in accordance with section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note) into the principal languages of as many countries as possible, with particular emphasis on nondemocratic countries, democratic transition countries, and countries in which extrajudicial killings, torture, or other serious violations of human rights have occurred.

(b) **REPORT.**—

(1) **REQUIREMENT.**—Not later than April 1, 2008, and annually thereafter through 2010, the Secretary shall submit to the appropriate congressional committees a report describing any translations of the reports specified in subsection (a) for the preceding year, including which of such reports have been translated into which principal languages and the countries in which such translations have been distributed by posting on a relevant website or elsewhere.

(2) **FORM.**—The report required under paragraph (1) may be included in any separate report on democracy and human

rights policy submitted in accordance with section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003.

Subtitle C—Advisory Committee on Democracy Promotion and the Internet Website of the Department of State

SEC. 2131. ADVISORY COMMITTEE ON DEMOCRACY PROMOTION.

22 USC 8231.

Congress commends the Secretary for creating an Advisory Committee on Democracy Promotion, and it is the sense of Congress that the Committee should play a significant role in the Department's transformational diplomacy by advising the Secretary regarding United States efforts to promote democracy and democratic transition in connection with the formulation and implementation of United States foreign policy and foreign assistance, including reviewing and making recommendations on—

- (1) how to improve the capacity of the Department to promote democracy and human rights; and
- (2) how to improve foreign assistance programs related to the promotion of democracy.

SEC. 2132. SENSE OF CONGRESS REGARDING THE INTERNET WEBSITE OF THE DEPARTMENT OF STATE.

22 USC 8232.

It is the sense of Congress that in order to facilitate access by individuals, nongovernmental organizations, and movements in foreign countries to documents, streaming video and audio, and other media regarding democratic principles, practices, and values, and the promotion and strengthening of democracy, the Secretary should take additional steps to enhance the Internet site for global democracy and human rights of the Department, which should include, where practicable, the following:

- (1) Narratives and histories, published by the United States Government, of significant democratic movements in foreign countries, particularly regarding successful nonviolent campaigns to promote democracy in non-democratic countries and democratic transition countries.
- (2) Narratives, published by the United States Government, relating to the importance of the establishment of and respect for internationally recognized human rights, democratic principles, practices, and values, and other fundamental freedoms.
- (3) Major human rights reports by the United States Government, including translations of such materials, as appropriate.
- (4) Any other documents, references, or links to appropriate external Internet websites (such as websites of international or nongovernmental organizations), including references or links to training materials, narratives, and histories regarding successful democratic movements.

Subtitle D—Training in Democracy and Human Rights; Incentives

22 USC 8241.

SEC. 2141. TRAINING IN DEMOCRACY PROMOTION AND THE PROTECTION OF HUMAN RIGHTS.

(a) IN GENERAL.—The Secretary shall continue to enhance training for members of the Foreign Service and civil service responsible for the promotion of democracy and the protection of human rights. Such training shall include appropriate instruction and training materials regarding:

(1) International documents and United States policy regarding the promotion of democracy and respect for human rights.

(2) United States policy regarding the promotion and strengthening of democracy around the world, with particular emphasis on the transition to democracy in nondemocratic countries and democratic transition countries.

(3) For any member, chief of mission, or deputy chief of mission who is to be assigned to a nondemocratic country or democratic transition country, ways to promote democracy in such country and to assist individuals, nongovernmental organizations, and movements in such country that support democratic principles, practices, and values.

(4) The protection of internationally recognized human rights (including the protection of religious freedom) and standards related to such rights, provisions of United States law related to such rights, diplomatic tools to promote respect for such rights, and the protection of individuals who have fled their countries due to violations of such rights.

(b) CONSULTATION.—The Secretary, acting through the Director of the National Foreign Affairs Training Center of the Foreign Service Institute of the Department, shall consult, as appropriate, with nongovernmental organizations involved in the protection and promotion of such rights and the United States Commission on International Religious Freedom with respect to the training required by this subsection.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a description of the current and planned training provided to Foreign Service officers in human rights and democracy promotion, including such training provided to chiefs of mission serving or preparing to serve in nondemocratic countries or democratic transition countries.

22 USC 8242.

SEC. 2142. SENSE OF CONGRESS REGARDING ADVANCE DEMOCRACY AWARD.

It is the sense of Congress that—

(1) the Secretary should further strengthen the capacity of the Department to carry out results-based democracy promotion efforts through the establishment of an annual award to be known as the “Outstanding Achievements in Advancing Democracy Award”, or the “ADVANCE Democracy Award”, that would be awarded to officers or employees of the Department; and

(2) the Secretary should establish procedures for selecting recipients of such award, including any financial terms associated with such award.

SEC. 2143. PERSONNEL POLICIES AT THE DEPARTMENT OF STATE. 22 USC 8243.

In addition to the awards and other incentives already implemented, the Secretary should increase incentives for members of the Foreign Service and other employees of the Department who take assignments relating to the promotion of democracy and the protection of human rights, including the following:

(1) Providing performance pay under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) to such members and employees who carry out their assignment in an outstanding manner.

(2) Considering such an assignment as a basis for promotion into the Senior Foreign Service.

(3) Providing Foreign Service Awards under section 614 of the Foreign Service Act of 1980 (22 U.S.C. 4013) to such members and employees who provide distinguished or meritorious service in the promotion of democracy or the protection of human rights.

Subtitle E—Cooperation With Democratic Countries

SEC. 2151. COOPERATION WITH DEMOCRATIC COUNTRIES.

22 USC 8251.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should cooperate with other democratic countries to—

(1) promote and protect democratic principles, practices, and values;

(2) promote and protect shared political, social, and economic freedoms, including the freedoms of association, of expression, of the press, of religion, and to own private property;

(3) promote and protect respect for the rule of law;

(4) develop, adopt, and pursue strategies to advance common interests in international organizations and multilateral institutions to which members of cooperating democratic countries belong; and

(5) provide political, economic, and other necessary support to countries that are undergoing a transition to democracy.

(b) COMMUNITY OF DEMOCRACIES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the Community of Democracies should develop a more formal mechanism for carrying out work between ministerial meetings, such as through the creation of a permanent secretariat with appropriate staff to carry out such work, and should establish a headquarters; and

(B) nondemocratic countries should not participate in any association or group of democratic countries aimed at working together to promote democracy.

(2) DETAIL OF PERSONNEL.—The Secretary is authorized to detail on a nonreimbursable basis any employee of the Department to any permanent secretariat of the Community of Democracies or to the government of any country that is

a member of the Convening Group of the Community of Democracies.

(c) **ESTABLISHMENT OF AN OFFICE FOR MULTILATERAL DEMOCRACY PROMOTION.**—The Secretary should establish an office of multilateral democracy promotion with the mission to further develop and strengthen the institutional structure of the Community of Democracies, develop interministerial projects, enhance the United Nations Democracy Caucus, manage policy development of the United Nations Democracy Fund, and enhance coordination with other regional and multilateral bodies with jurisdiction over democracy issues.

(d) **INTERNATIONAL CENTER FOR DEMOCRATIC TRANSITION.**—

(1) **SENSE OF CONGRESS.**—It is the sense of Congress that the International Center for Democratic Transition, an initiative of the Government of Hungary, serves to promote practical projects and the sharing of best practices in the area of democracy promotion and should be supported by, in particular, the United States, other European countries with experiences in democratic transitions, and private individuals.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$1,000,000 for each of fiscal years 2008, 2009, and 2010 to the Secretary for a grant to the International Center for Democratic Transition. Amounts appropriated under this paragraph are authorized to remain available until expended.

Subtitle F—Funding for Promotion of Democracy

22 USC 8261.

SEC. 2161. THE UNITED NATIONS DEMOCRACY FUND.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the United States should work with other countries to enhance the goals and work of the United Nations Democracy Fund, an essential tool to promote democracy, and in particular support civil society in foreign countries in their efforts to help consolidate democracy and bring about transformational change.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$14,000,000 for each of fiscal years 2008 and 2009 to the Secretary for a United States contribution to the United Nations Democracy Fund.

22 USC 8262.

SEC. 2162. UNITED STATES DEMOCRACY ASSISTANCE PROGRAMS.

(a) **SENSE OF CONGRESS REGARDING USE OF INSTRUMENTS OF DEMOCRACY PROMOTION.**—It is the sense of Congress that—

(1) United States support for democracy is strengthened by using a variety of different instrumentalities, such as the National Endowment for Democracy, the United States Agency for International Development, and the Department; and

(2) the purpose of the Department's Human Rights and Democracy Fund should be to support innovative programming, media, and materials designed to uphold democratic principles, practices, and values, support and strengthen democratic institutions, promote human rights and the rule of law, and build civil societies in countries around the world.

(b) **SENSE OF CONGRESS REGARDING MECHANISMS FOR DELIVERING ASSISTANCE.**—

(1) FINDINGS.—Congress finds the following:

(A) Democracy assistance has many different forms, including assistance to promote the rule of law, build the capacity of civil society, political parties, and legislatures, improve the independence of the media and the judiciary, enhance independent auditing functions, and advance security sector reform.

(B) There is a need for greater clarity on the coordination and delivery mechanisms for United States democracy assistance.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary and the Administrator of the United States Agency for International Development should develop guidelines, in consultation with the appropriate congressional committees, building on the existing framework for grants, cooperative agreements, contracts, and other acquisition mechanisms to guide United States missions in foreign countries in coordinating United States democracy assistance and selecting the appropriate combination of such mechanisms for such assistance.

TITLE XXII—INTEROPERABLE EMERGENCY COMMUNICATIONS

SEC. 2201. INTEROPERABLE EMERGENCY COMMUNICATIONS.

(a) IN GENERAL.—Section 3006 of Public Law 109–171 (47 U.S.C. 309 note) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

“(1) may take such administrative action as is necessary to establish and implement—

“(A) a grant program to assist public safety agencies in the planning and coordination associated with, the acquisition of, deployment of, or training for the use of interoperable communications equipment, software and systems that—

“(i) utilize reallocated public safety spectrum for radio communication;

“(ii) enable interoperability with communications systems that can utilize reallocated public safety spectrum for radio communication; or

“(iii) otherwise improve or advance the interoperability of public safety communications systems that utilize other public safety spectrum bands; and

“(B) are used to establish and implement a strategic technology reserve to pre-position or secure interoperable communications in advance for immediate deployment in an emergency or major disaster;

“(2) shall make payments of not to exceed \$1,000,000,000, in the aggregate, through fiscal year 2010 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to carry out the grant program established under paragraph (1), of which at least \$75,000,000, in the aggregate, shall be used for purposes described in paragraph (1)(B); and

“(3) shall permit any funds allocated for use under paragraph (1)(B) to be used for purposes identified under paragraph (1)(A), if the public safety agency demonstrates that it has already implemented such a strategic technology reserve or demonstrates higher priority public safety communications needs.”;

(2) by redesignating subsections (b), (c), and (d) as subsections (h), (i), and (j), respectively, and inserting after subsection (a) the following:

“(b) ELIGIBILITY.—To be eligible for assistance under the grant program established under subparagraph (a)(1)(A), an applicant shall submit an application, at such time, in such form, and containing such information as the Assistant Secretary may require, including a detailed explanation of how assistance received under the program would be used to improve communications interoperability and ensure interoperability with other public safety agencies in an emergency or a major disaster.

“(c) CRITERIA FOR STRATEGIC TECHNOLOGY RESERVES.—

“(1) IN GENERAL.—In evaluating permitted uses under subparagraph (a)(1)(B), the Assistant Secretary shall consider the continuing technological evolution of communications technologies and devices, with its implicit risk of obsolescence, and shall ensure, to the maximum extent feasible, that a substantial part of the reserve involves prenegotiated contracts and other arrangements for rapid deployment of equipment, supplies, and systems (and communications service related to such equipment, supplies, and systems), rather than the warehousing or storage of equipment and supplies currently available at the time the reserve is established.

“(2) REQUIREMENTS AND CHARACTERISTICS.—Funds provided to meet uses described in paragraph (1) shall be used in support of reserves that—

“(A) are capable of re-establishing communications when existing critical infrastructure is damaged or destroyed in an emergency or a major disaster;

“(B) include appropriate current, widely-used equipment, such as Land Mobile Radio Systems, cellular telephones and satellite-enabled equipment (and related communications service), Cells-On-Wheels, Cells-On-Light-Trucks, or other self-contained mobile cell sites that can be towed, backup batteries, generators, fuel, and computers;

“(C) include equipment on hand for the Governor of each State, key emergency response officials, and appropriate State or local personnel;

“(D) include contracts (including prenegotiated contracts) for rapid delivery of the most current technology available from commercial sources; and

“(E) include arrangements for training to ensure that personnel are familiar with the operation of the equipment and devices to be delivered pursuant to such contracts.

“(3) ADDITIONAL CHARACTERISTICS.—Portions of the reserve may be virtual and may include items donated on an in-kind contribution basis.

“(4) ALLOCATION OF FUNDS.—In evaluating permitted uses under subparagraph (a)(1)(B), the Assistant Secretary shall take into account barriers to immediate deployment, including

time and distance, that may slow the rapid deployment of equipment, supplies, and systems (and communications service related to such equipment, supplies, and systems) in the event of an emergency in any State.

“(d) VOLUNTARY CONSENSUS STANDARDS.—In carrying out this section, the Assistant Secretary, in cooperation with the Secretary of Homeland Security, shall identify and, if necessary, encourage the development and implementation of, voluntary consensus standards for interoperable communications systems to the greatest extent practicable, but shall not require any such standard.

“(e) INSPECTOR GENERAL REPORT AND AUDITS.—

“(1) REPORT.—Beginning with the first fiscal year beginning after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department of Commerce shall conduct an annual assessment of the management of the grant program implemented under subsection (a)(1) and transmit a report containing the findings of that assessment and any recommendations related thereto to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

“(2) AUDITS.—Beginning with the first fiscal year beginning after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department of Commerce shall conduct financial audits of entities receiving grants from the program implemented under subsection (a)(1), and shall ensure that, over the course of 4 years, such audits cover recipients in a representative sample of not fewer than 25 States or territories. The results of any such audits shall be made publicly available via web site, subject to redaction as the Inspector General determines necessary to protect classified and other sensitive information.

Public
information.
Website.

“(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or interpreted to preclude the use of funds under this section by any public safety agency for interim- or long-term Internet Protocol-based interoperable solutions.”; and

(3) by striking paragraph (3) of subsection (j), as so redesignated.

(b) FCC VULNERABILITY ASSESSMENT AND REPORT ON EMERGENCY COMMUNICATIONS BACK-UP SYSTEM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall conduct a vulnerability assessment of the Nation’s critical communications and information systems infrastructure and shall evaluate the technical feasibility of creating a back-up emergency communications system that complements existing communications resources and takes into account next generation and advanced communications technologies. The overriding objective for the evaluation shall be providing a framework for the development of a resilient interoperable communications system for emergency responders in an emergency. The Commission shall consult with the National Communications System and shall evaluate all reasonable options, including satellites, wireless, and terrestrial-based communications systems and other alternative transport mechanisms that can be used in tandem with existing technologies.

Deadline.

(2) FACTORS TO BE EVALUATED.—The evaluation under paragraph (1) shall include—

(A) a survey of all Federal agencies that use terrestrial or satellite technology for communications security and an evaluation of the feasibility of using existing systems for the purpose of creating such an emergency back-up public safety communications system;

(B) the feasibility of using private satellite, wireless, or terrestrial networks for emergency communications;

(C) the technical options, cost, and deployment methods of software, equipment, handsets or desktop communications devices for public safety entities in major urban areas, and nationwide; and

(D) the feasibility and cost of necessary changes to the network operations center of terrestrial-based or satellite systems to enable the centers to serve as emergency back-up communications systems.

(3) REPORT.—

(A) IN GENERAL.—Upon the completion of the evaluation under subsection (a), the Commission shall submit a report to Congress that details the findings of the evaluation, including a full inventory of existing public and private resources most efficiently capable of providing emergency communications.

(B) CLASSIFIED INDEX.—The report on critical infrastructure under this subsection may contain a classified annex.

(C) RETENTION OF CLASSIFICATION.—The classification of information required to be provided to Congress or any other department or agency under this section by the Federal Communications Commission, including the assignment of a level of classification of such information, shall be binding on Congress and any other department or agency.

(c) JOINT ADVISORY COMMITTEE ON COMMUNICATIONS CAPABILITIES OF EMERGENCY MEDICAL AND PUBLIC HEALTH CARE FACILITIES.—

(1) ESTABLISHMENT.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of the Federal Communications Commission, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, shall establish a joint advisory committee to examine the communications capabilities and needs of emergency medical and public health care facilities. The joint advisory committee shall be composed of individuals with expertise in communications technologies and emergency medical and public health care, including representatives of Federal, State and local governments, industry and non-profit health organizations, and academia and educational institutions.

(2) DUTIES.—The joint advisory committee shall—

(A) assess specific communications capabilities and needs of emergency medical and public health care facilities, including the improvement of basic voice, data, and broadband capabilities;

(B) assess options to accommodate growth of basic and emerging communications services used by emergency medical and public health care facilities;

(C) assess options to improve integration of communications systems used by emergency medical and public health care facilities with existing or future emergency communications networks; and

(D) report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce, within 6 months after the date of enactment of this Act.

Reports.
Deadline.

(d) AUTHORIZATION OF EMERGENCY MEDICAL AND PUBLIC HEALTH COMMUNICATIONS PILOT PROJECTS.—

42 USC 247d–3a
note.

(1) IN GENERAL.—The Assistant Secretary of Commerce for Communications and Information may establish not more than 10 geographically dispersed project grants to emergency medical and public health care facilities to improve the capabilities of emergency communications systems in emergency medical care facilities.

(2) MAXIMUM AMOUNT.—The Assistant Secretary may not provide more than \$2,000,000 in Federal assistance under the pilot program to any applicant.

(3) COST SHARING.—The Assistant Secretary may not provide more than 20 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(4) MAXIMUM PERIOD OF GRANTS.—The Assistant Secretary may not fund any applicant under the pilot program for more than 3 years.

(5) DEPLOYMENT AND DISTRIBUTION.—The Assistant Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.

(6) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Assistant Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

SEC. 2202. CLARIFICATION OF CONGRESSIONAL INTENT.

6 USC 701 note.

The Federal departments and agencies (including independent agencies) identified under the provisions of this title and title III of this Act and title VI of Public Law 109–295 shall carry out their respective duties and responsibilities in a manner that does not impede the implementation of requirements specified under this title and title III of this Act and title VI of Public Law 109–295. Notwithstanding the obligations under section 1806 of Public Law 109–295, the provisions of this title and title III of this Act and title VI of Public Law 109–295 shall not preclude or obstruct any such department or agency from exercising its other authorities related to emergency communications matters.

SEC. 2203. CROSS BORDER INTEROPERABILITY REPORTS.

Canada.
Mexico.
6 USC 194 note.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Federal Communications Commission, in consultation with the Department of Homeland Security’s Office of Emergency Communications, the Office of Management of Budget, and the Department of State shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on—

(1) the status of the mechanism established by the President under section 7303(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(c)) for coordinating cross border interoperability issues between—

(A) the United States and Canada; and

(B) the United States and Mexico;

(2) the status of treaty negotiations with Canada and Mexico regarding the coordination of the re-banding of 800 megahertz radios, as required under the final rule of the Federal Communication Commission in the “Private Land Mobile Services; 800 MHz Public Safety Interface Proceeding” (WT Docket No. 02-55; ET Docket No. 00-258; ET Docket No. 95-18, RM-9498; RM-10024; FCC 04-168) including the status of any outstanding issues in the negotiations between—

(A) the United States and Canada; and

(B) the United States and Mexico;

(3) communications between the Commission and the Department of State over possible amendments to the bilateral legal agreements and protocols that govern the coordination process for license applications seeking to use channels and frequencies above Line A;

(4) the annual rejection rate for the last 5 years by the United States of applications for new channels and frequencies by Canadian private and public entities; and

(5) any additional procedures and mechanisms that can be taken by the Commission to decrease the rejection rate for applications by United States private and public entities seeking licenses to use channels and frequencies above Line A.

(b) **UPDATED REPORTS TO BE FILED ON THE STATUS OF TREATY OF NEGOTIATIONS.**—The Federal Communications Commission, in conjunction with the Department of Homeland Security, the Office of Management of Budget, and the Department of State shall continually provide updated reports to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the status of treaty negotiations under subsection (a)(2) until the appropriate United States treaty has been revised with each of—

(1) Canada; and

(2) Mexico.

(c) **INTERNATIONAL NEGOTIATIONS TO REMEDY SITUATION.**—Not later than 90 days after the date of enactment of this Act, the Secretary of the Department of State shall report to Congress on—

(1) the current process for considering applications by Canada for frequencies and channels by United States communities above Line A;

(2) the status of current negotiations to reform and revise such process;

(3) the estimated date of conclusion for such negotiations;

(4) whether the current process allows for automatic denials or dismissals of initial applications by the Government of Canada, and whether such denials or dismissals are currently occurring; and

(5) communications between the Department of State and the Federal Communications Commission pursuant to subsection (a)(3).

SEC. 2204. EXTENSION OF SHORT QUORUM.

Notwithstanding section 4(d) of the Consumer Product Safety Act (15 U.S.C. 2053(d)), 2 members of the Consumer Product Safety Commission, if they are not affiliated with the same political party, shall constitute a quorum for the 6-month period beginning on the date of enactment of this Act.

SEC. 2205. REQUIRING REPORTS TO BE SUBMITTED TO CERTAIN COMMITTEES. 6 USC 194 note.

In addition to the committees specifically enumerated to receive reports under this title, any report transmitted under the provisions of this title shall also be transmitted to the appropriate congressional committees (as defined in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2))).

TITLE XXIII—EMERGENCY COMMUNICATIONS MODERNIZATION

Improving
Emergency
Communications
Act of 2007.

SEC. 2301. SHORT TITLE.

This title may be cited as the “Improving Emergency Communications Act of 2007”.

47 USC 901 note.

SEC. 2302. FUNDING FOR PROGRAM.

Section 3011 of the Digital Television Transition and Public Safety Act of 2005 (Public Law 109–171; 47 U.S.C. 309 note) is amended—

(1) by striking “The” and inserting:

“(a) IN GENERAL.—The”; and

(2) by adding at the end the following:

“(b) CREDIT.—The Assistant Secretary may borrow from the Treasury, upon enactment of the 911 Modernization Act, such sums as necessary, but not to exceed \$43,500,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.”.

SEC. 2303. NTIA COORDINATION OF E-911 IMPLEMENTATION.

Section 158(b)(4) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(b)(4)) is amended by adding at the end thereof the following: “Within 180 days after the date of enactment of the 911 Modernization Act, the Assistant Secretary and the Administrator shall jointly issue regulations updating the criteria to allow a portion of the funds to be used to give priority to grants that are requested by public safety answering points that were not capable of receiving 911 calls as of the date of enactment of that Act, for the incremental cost of upgrading from Phase I to Phase II compliance. Such grants shall be subject to all other requirements of this section.”.

Regulations.
Deadline.
Grants.
Public safety.

TITLE XXIV—MISCELLANEOUS PROVISIONS

SEC. 2401. QUADRENNIAL HOMELAND SECURITY REVIEW.

(a) REVIEW REQUIRED.—Title VII of the Homeland Security Act of 2002 is amended by adding at the end the following:

6 USC 347.

“SEC. 707. QUADRENNIAL HOMELAND SECURITY REVIEW.**“(a) REQUIREMENT.—**

“(1) QUADRENNIAL REVIEWS REQUIRED.—In fiscal year 2009, and every 4 years thereafter, the Secretary shall conduct a review of the homeland security of the Nation (in this section referred to as a ‘quadrennial homeland security review’).

“(2) SCOPE OF REVIEWS.—Each quadrennial homeland security review shall be a comprehensive examination of the homeland security strategy of the Nation, including recommendations regarding the long-term strategy and priorities of the Nation for homeland security and guidance on the programs, assets, capabilities, budget, policies, and authorities of the Department.

“(3) CONSULTATION.—The Secretary shall conduct each quadrennial homeland security review under this subsection in consultation with—

“(A) the heads of other Federal agencies, including the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of the Treasury, the Secretary of Agriculture, and the Director of National Intelligence;

“(B) key officials of the Department; and

“(C) other relevant governmental and nongovernmental entities, including State, local, and tribal government officials, members of Congress, private sector representatives, academics, and other policy experts.

“(4) RELATIONSHIP WITH FUTURE YEARS HOMELAND SECURITY PROGRAM.—The Secretary shall ensure that each review conducted under this section is coordinated with the Future Years Homeland Security Program required under section 874.

“(b) CONTENTS OF REVIEW.—In each quadrennial homeland security review, the Secretary shall—

“(1) delineate and update, as appropriate, the national homeland security strategy, consistent with appropriate national and Department strategies, strategic plans, and Homeland Security Presidential Directives, including the National Strategy for Homeland Security, the National Response Plan, and the Department Security Strategic Plan;

“(2) outline and prioritize the full range of the critical homeland security mission areas of the Nation;

“(3) describe the interagency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland security program and policies of the Nation associated with the national homeland security strategy, required to execute successfully the full range of missions called for in the national homeland security strategy described in paragraph (1) and the homeland security mission areas outlined under paragraph (2);

“(4) identify the budget plan required to provide sufficient resources to successfully execute the full range of missions called for in the national homeland security strategy described in paragraph (1) and the homeland security mission areas outlined under paragraph (2);

“(5) include an assessment of the organizational alignment of the Department with the national homeland security strategy referred to in paragraph (1) and the homeland security mission areas outlined under paragraph (2); and

“(6) review and assess the effectiveness of the mechanisms of the Department for executing the process of turning the requirements developed in the quadrennial homeland security review into an acquisition strategy and expenditure plan within the Department.

“(c) REPORTING.—

“(1) IN GENERAL.—Not later than December 31 of the year in which a quadrennial homeland security review is conducted, the Secretary shall submit to Congress a report regarding that quadrennial homeland security review.

“(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include—

“(A) the results of the quadrennial homeland security review;

“(B) a description of the threats to the assumed or defined national homeland security interests of the Nation that were examined for the purposes of that review;

“(C) the national homeland security strategy, including a prioritized list of the critical homeland security missions of the Nation;

“(D) a description of the interagency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland security program and policies of the Nation associated with the national homeland security strategy, required to execute successfully the full range of missions called for in the applicable national homeland security strategy referred to in subsection (b)(1) and the homeland security mission areas outlined under subsection (b)(2);

“(E) an assessment of the organizational alignment of the Department with the applicable national homeland security strategy referred to in subsection (b)(1) and the homeland security mission areas outlined under subsection (b)(2), including the Department’s organizational structure, management systems, budget and accounting systems, human resources systems, procurement systems, and physical and technical infrastructure;

“(F) a discussion of the status of cooperation among Federal agencies in the effort to promote national homeland security;

“(G) a discussion of the status of cooperation between the Federal Government and State, local, and tribal governments in preventing terrorist attacks and preparing for emergency response to threats to national homeland security;

“(H) an explanation of any underlying assumptions used in conducting the review; and

“(I) any other matter the Secretary considers appropriate.

“(3) PUBLIC AVAILABILITY.—The Secretary shall, consistent with the protection of national security and other sensitive matters, make each report submitted under paragraph (1) publicly available on the Internet website of the Department.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.”

(b) PREPARATION FOR QUADRENNIAL HOMELAND SECURITY REVIEW.—

(1) IN GENERAL.—During fiscal years 2007 and 2008, the Secretary of Homeland Security shall make preparations to conduct the first quadrennial homeland security review under section 707 of the Homeland Security Act of 2002, as added by subsection (a), in fiscal year 2009, including—

(A) determining the tasks to be performed;

(B) estimating the human, financial, and other resources required to perform each task;

(C) establishing the schedule for the execution of all project tasks;

(D) ensuring that these resources will be available as needed; and

(E) all other preparations considered necessary by the Secretary.

(2) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall submit to Congress and make publicly available on the Internet website of the Department of Homeland Security a detailed resource plan specifying the estimated budget and number of staff members that will be required for preparation of the first quadrennial homeland security review.

(c) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by inserting after the item relating to section 706 the following new item:

“Sec. 707. Quadrennial Homeland Security Review.”.

SEC. 2402. SENSE OF THE CONGRESS REGARDING THE PREVENTION OF RADICALIZATION LEADING TO IDEOLOGICALLY-BASED VIOLENCE.

(a) FINDINGS.—Congress finds the following:

(1) The United States is engaged in a struggle against a transnational terrorist movement of radical extremists that plans, prepares for, and engages in acts of ideologically-based violence worldwide.

(2) The threat of radicalization that leads to ideologically-based violence transcends borders and has been identified as a potential threat within the United States.

(3) Radicalization has been identified as a precursor to terrorism caused by ideologically-based groups.

(4) Countering the threat of violent extremists domestically, as well as internationally, is a critical element of the plan of the United States for success in the fight against terrorism.

(5) United States law enforcement agencies have identified radicalization that leads to ideologically-based violence as an emerging threat and have in recent years identified cases of extremists operating inside the United States, known as “home-grown” extremists, with the intent to provide support for, or directly commit, terrorist attacks.

(6) Alienation of Muslim populations in the Western world has been identified as a factor in the spread of radicalization that could lead to ideologically-based violence.

(7) Many other factors have been identified as contributing to the spread of radicalization and resulting acts of ideologically-based violence. Among these is the appeal of left-wing and right-wing hate groups, and other hate groups, including

groups operating in prisons. Other such factors must be examined and countered as well in order to protect the homeland from violent extremists of every kind.

(8) Radicalization leading to ideologically-based violence cannot be prevented solely through law enforcement and intelligence measures.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Homeland Security, in consultation with other relevant Federal agencies, should make a priority of countering domestic radicalization that leads to ideologically-based violence by—

(1) using intelligence analysts and other experts to better understand the process of radicalization from sympathizer to activist to terrorist;

(2) recruiting employees with diverse worldviews, skills, languages, and cultural backgrounds, and expertise;

(3) consulting with experts to ensure that the lexicon used within public statements is precise and appropriate and does not aid extremists by offending religious, ethnic, and minority communities;

(4) addressing prisoner radicalization and post-sentence reintegration, in concert with the Attorney General and State and local corrections officials;

(5) pursuing broader avenues of dialogue with minority communities, including the American Muslim community, to foster mutual respect, understanding, and trust; and

(6) working directly with State, local, and community leaders to—

(A) educate such leaders about the threat of radicalization that leads to ideologically-based violence and the necessity of taking preventative action at the local level; and

(B) facilitate the sharing of best practices from other countries and communities to encourage outreach to minority communities, including the American Muslim community, and develop partnerships among and between all religious faiths and ethnic groups.

SEC. 2403. REQUIRING REPORTS TO BE SUBMITTED TO CERTAIN COMMITTEES. 6 USC 121 note.

The Committee on Commerce, Science, and Transportation of the Senate shall receive the reports required by the following provisions of law in the same manner and to the same extent that the reports are to be received by the Committee on Homeland Security and Governmental Affairs of the Senate:

(1) Section 1016(j)(1) of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 485(j)(1)).

(2) Section 511(d) of this Act.

(3) Subsection (a)(3)(D) of section 2022 of the Homeland Security Act of 2002, as added by section 101 of this Act.

(4) Section 7215(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 123(d)).

(5) Section 7209(b)(1)(C) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note).

(6) Section 804(c) of this Act.

(7) Section 901(b) of this Act.

(8) Section 1002(a) of this Act.

(9) Title III of this Act.

6 USC 121 note. **SEC. 2404. DEMONSTRATION PROJECT.**

Deadline. (a) DEMONSTRATION PROJECT REQUIRED.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall—

(1) establish a demonstration project to conduct demonstrations of security management systems that—

(A) shall use a management system standards approach; and

(B) may be integrated into quality, safety, environmental and other internationally adopted management systems; and

Contracts. (2) enter into one or more agreements with a private sector entity to conduct such demonstrations of security management systems.

(b) SECURITY MANAGEMENT SYSTEM DEFINED.—In this section, the term ‘security management system’ means a set of guidelines that address the security assessment needs of critical infrastructure and key resources that are consistent with a set of generally accepted management standards ratified and adopted by a standards making body.

SEC. 2405. UNDER SECRETARY FOR MANAGEMENT OF DEPARTMENT OF HOMELAND SECURITY.

(a) RESPONSIBILITIES.—Section 701(a) of the Homeland Security Act of 2002 (6 U.S.C. 341) is amended—

(1) by inserting “The Under Secretary for Management shall serve as the Chief Management Officer and principal advisor to the Secretary on matters related to the management of the Department, including management integration and transformation in support of homeland security operations and programs.” before “The Secretary”;

(2) by striking paragraph (7) and inserting the following: “(7) Strategic management planning and annual performance planning and identification and tracking of performance measures relating to the responsibilities of the Department.”; and

(3) by striking paragraph (9), and inserting the following: “(9) The management integration and transformation process, as well as the transition process, to ensure an efficient and orderly consolidation of functions and personnel in the Department and transition, including—

“(A) the development of a management integration strategy for the Department, and

Deadline. “(B) before December 1 of any year in which a Presidential election is held, the development of a transition and succession plan, to be made available to the incoming Secretary and Under Secretary for Management, to guide the transition of management functions to a new Administration.”.

(b) APPOINTMENT AND EVALUATION.—Section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341), as amended by subsection (a), is further amended by adding at the end the following:

“(c) APPOINTMENT AND EVALUATION.—The Under Secretary for Management shall—

“(1) be appointed by the President, by and with the advice and consent of the Senate, from among persons who have—

“(A) extensive executive level leadership and management experience in the public or private sector;

“(B) strong leadership skills;

“(C) a demonstrated ability to manage large and complex organizations; and

“(D) a proven record in achieving positive operational results;

“(2) enter into an annual performance agreement with the Secretary that shall set forth measurable individual and organizational goals; and

“(3) be subject to an annual performance evaluation by the Secretary, who shall determine as part of each such evaluation whether the Under Secretary for Management has made satisfactory progress toward achieving the goals set out in the performance agreement required under paragraph (2).”.

(c) DEADLINE FOR APPOINTMENT; INCUMBENT.—

(1) DEADLINE FOR APPOINTMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall name an individual who meets the qualifications of section 701 of the Homeland Security Act (6 U.S.C. 341), as amended by subsections (a) and (b), to serve as the Under Secretary of Homeland Security for Management. The Secretary may submit the name of the individual who serves in the position of Under Secretary of Homeland Security for Management on the date of enactment of this Act together with a statement that informs the Congress that the individual meets the qualifications of such section as so amended.

(2) INCUMBENT.—The incumbent serving as Under Secretary of Homeland Security for Management on November 4, 2008, is authorized to continue serving in that position until a successor is confirmed, to ensure continuity in the management functions of the Department.

(d) SENSE OF CONGRESS WITH RESPECT TO SERVICE OF INCUMBENTS.—It is the sense of the Congress that the person serving as Under Secretary of Homeland Security for Management on the date on which a Presidential election is held should be encouraged by the newly-elected President to remain in office in a new Administration until such time as a successor is confirmed by Congress.

Contracts.

6 USC 341 note.

(e) EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by inserting after the item relating to the Deputy Secretary of Homeland Security the following:

“Under Secretary of Homeland Security for Management.”.

Approved August 3, 2007.

LEGISLATIVE HISTORY—H.R. 1 (S. 4):

HOUSE REPORTS: No. 110–259 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Jan. 9, considered and passed House.

July 8, considered and passed Senate, amended, in lieu of S. 4.

July 26, Senate agreed to conference report.

July 27, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Aug. 3, Presidential statement.



Public Law 110–54
110th Congress

An Act

To amend title XVIII of the Social Security Act to provide an exception to the 60-day limit on Medicare reciprocal billing arrangements between two physicians during the period in which one of the physicians is ordered to active duty as a member of a reserve component of the Armed Forces.

Aug. 3, 2007
[H.R. 2429]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCEPTION TO 60-DAY LIMIT ON MEDICARE RECIPROCAL BILLING ARRANGEMENTS IN CASE OF PHYSICIANS ORDERED TO ACTIVE DUTY IN THE ARMED FORCES.

(a) IN GENERAL.—Section 1842(b)(6)(D)(iii) of the Social Security Act (42 U.S.C. 1395u(b)(6)(D)(iii)) is amended by inserting after “of more than 60 days” the following: “or are provided (before January 1, 2008) over a longer continuous period during all of which the first physician has been called or ordered to active duty as a member of a reserve component of the Armed Forces”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this section.

42 USC 1395u
note.

Approved August 3, 2007.

LEGISLATIVE HISTORY—H.R. 2429

CONGRESSIONAL RECORD, Vol. 153 (2007):
May 23, considered and passed House.
July 24, considered and passed Senate.



Public Law 110–55
110th Congress

An Act

Aug. 5, 2007
[S. 1927]

To amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes.

Protect America
Act of 2007.
50 USC 1801
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protect America Act of 2007”.

SEC. 2. ADDITIONAL PROCEDURE FOR AUTHORIZING CERTAIN ACQUISITIONS OF FOREIGN INTELLIGENCE INFORMATION.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105 the following:

“CLARIFICATION OF ELECTRONIC SURVEILLANCE OF PERSONS OUTSIDE THE UNITED STATES

50 USC 1805a.

“SEC. 105A. Nothing in the definition of electronic surveillance under section 101(f) shall be construed to encompass surveillance directed at a person reasonably believed to be located outside of the United States.

“ADDITIONAL PROCEDURE FOR AUTHORIZING CERTAIN ACQUISITIONS CONCERNING PERSONS LOCATED OUTSIDE THE UNITED STATES

50 USC 1805b.

“SEC. 105B. (a) Notwithstanding any other law, the Director of National Intelligence and the Attorney General, may for periods of up to one year authorize the acquisition of foreign intelligence information concerning persons reasonably believed to be outside the United States if the Director of National Intelligence and the Attorney General determine, based on the information provided to them, that—

“(1) there are reasonable procedures in place for determining that the acquisition of foreign intelligence information under this section concerns persons reasonably believed to be located outside the United States, and such procedures will be subject to review of the Court pursuant to section 105C of this Act;

“(2) the acquisition does not constitute electronic surveillance;

“(3) the acquisition involves obtaining the foreign intelligence information from or with the assistance of a communications service provider, custodian, or other person (including any officer, employee, agent, or other specified person of such service provider, custodian, or other person) who has access

to communications, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications;

“(4) a significant purpose of the acquisition is to obtain foreign intelligence information; and

“(5) the minimization procedures to be used with respect to such acquisition activity meet the definition of minimization procedures under section 101(h).

“This determination shall be in the form of a written certification, under oath, supported as appropriate by affidavit of appropriate officials in the national security field occupying positions appointed by the President, by and with the consent of the Senate, or the Head of any Agency of the Intelligence Community, unless immediate action by the Government is required and time does not permit the preparation of a certification. In such a case, the determination of the Director of National Intelligence and the Attorney General shall be reduced to a certification as soon as possible but in no event more than 72 hours after the determination is made.

Certification.

“(b) A certification under subsection (a) is not required to identify the specific facilities, places, premises, or property at which the acquisition of foreign intelligence information will be directed.

“(c) The Attorney General shall transmit as soon as practicable under seal to the court established under section 103(a) a copy of a certification made under subsection (a). Such certification shall be maintained under security measures established by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence, and shall remain sealed unless the certification is necessary to determine the legality of the acquisition under section 105B.

Records.

“(d) An acquisition under this section may be conducted only in accordance with the certification of the Director of National Intelligence and the Attorney General, or their oral instructions if time does not permit the preparation of a certification, and the minimization procedures adopted by the Attorney General. The Director of National Intelligence and the Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under section 108(a).

Reports.

“(e) With respect to an authorization of an acquisition under section 105B, the Director of National Intelligence and Attorney General may direct a person to—

“(1) immediately provide the Government with all information, facilities, and assistance necessary to accomplish the acquisition in such a manner as will protect the secrecy of the acquisition and produce a minimum of interference with the services that such person is providing to the target; and

“(2) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such person wishes to maintain.

“(f) The Government shall compensate, at the prevailing rate, a person for providing information, facilities, or assistance pursuant to subsection (e).

“(g) In the case of a failure to comply with a directive issued pursuant to subsection (e), the Attorney General may invoke the

Courts.	aid of the court established under section 103(a) to compel compliance with the directive. The court shall issue an order requiring the person to comply with the directive if it finds that the directive was issued in accordance with subsection (e) and is otherwise lawful. Failure to obey an order of the court may be punished by the court as contempt of court. Any process under this section may be served in any judicial district in which the person may be found.
Petitions.	<p>“(h)(1)(A) A person receiving a directive issued pursuant to subsection (e) may challenge the legality of that directive by filing a petition with the pool established under section 103(e)(1).</p> <p>“(B) The presiding judge designated pursuant to section 103(b) shall assign a petition filed under subparagraph (A) to one of the judges serving in the pool established by section 103(e)(1). Not later than 48 hours after the assignment of such petition, the assigned judge shall conduct an initial review of the directive. If the assigned judge determines that the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the directive or any part of the directive that is the subject of the petition. If the assigned judge determines the petition is not frivolous, the assigned judge shall, within 72 hours, consider the petition in accordance with the procedures established under section 103(e)(2) and provide a written statement for the record of the reasons for any determination under this subsection.</p> <p>“(2) A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that such directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall immediately affirm such directive, and order the recipient to comply with such directive.</p> <p>“(3) Any directive not explicitly modified or set aside under this subsection shall remain in full effect.</p>
Deadline.	“(i) The Government or a person receiving a directive reviewed pursuant to subsection (h) may file a petition with the Court of Review established under section 103(b) for review of the decision issued pursuant to subsection (h) not later than 7 days after the issuance of such decision. Such court of review shall have jurisdiction to consider such petitions and shall provide for the record a written statement of the reasons for its decision. On petition for a writ of certiorari by the Government or any person receiving such directive, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.
Records.	“(j) Judicial proceedings under this section shall be concluded as expeditiously as possible. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.
Petitions.	“(k) All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.
	“(l) Notwithstanding any other law, no cause of action shall lie in any court against any person for providing any information,

facilities, or assistance in accordance with a directive under this section.

“(m) A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.”. Records.

SEC. 3. SUBMISSION TO COURT REVIEW AND ASSESSMENT OF PROCEDURES.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105B the following:

“SUBMISSION TO COURT REVIEW OF PROCEDURES

“SEC. 105C. (a) No later than 120 days after the effective date of this Act, the Attorney General shall submit to the Court established under section 103(a), the procedures by which the Government determines that acquisitions conducted pursuant to section 105B do not constitute electronic surveillance. The procedures submitted pursuant to this section shall be updated and submitted to the Court on an annual basis.

Deadlines.
50 USC 1805c.

“(b) No later than 180 days after the effective date of this Act, the court established under section 103(a) shall assess the Government’s determination under section 105B(a)(1) that those procedures are reasonably designed to ensure that acquisitions conducted pursuant to section 105B do not constitute electronic surveillance. The court’s review shall be limited to whether the Government’s determination is clearly erroneous.

“(c) If the court concludes that the determination is not clearly erroneous, it shall enter an order approving the continued use of such procedures. If the court concludes that the determination is clearly erroneous, it shall issue an order directing the Government to submit new procedures within 30 days or cease any acquisitions under section 105B that are implicated by the court’s order.

“(d) The Government may appeal any order issued under subsection (c) to the court established under section 103(b). If such court determines that the order was properly entered, the court shall immediately provide for the record a written statement of each reason for its decision, and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision. Any acquisitions affected by the order issued under subsection (c) of this section may continue during the pendency of any appeal, the period during which a petition for writ of certiorari may be pending, and any review by the Supreme Court of the United States.”.

Records.

SEC. 4. REPORTING TO CONGRESS.

On a semi-annual basis the Attorney General shall inform the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning acquisitions under this section during the previous 6-month period. Each report made under this section shall include—

(1) a description of any incidents of non-compliance with a directive issued by the Attorney General and the Director of National Intelligence under section 105B, to include—

(A) incidents of non-compliance by an element of the Intelligence Community with guidelines or procedures established for determining that the acquisition of foreign intelligence authorized by the Attorney General and Director of National Intelligence concerns persons reasonably to be outside the United States; and

(B) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issue a directive under this section; and

(2) the number of certifications and directives issued during the reporting period.

SEC. 5. TECHNICAL AMENDMENT AND CONFORMING AMENDMENTS.

(a) **IN GENERAL.**—Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking “501(f)(1)” and inserting “105B(h) or 501(f)(1)”; and

(2) in paragraph (2), by striking “501(f)(1)” and inserting “105B(h) or 501(f)(1)”.

(b) **TABLE OF CONTENTS.**—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after the item relating to section 105 the following:

“105A. Clarification of electronic surveillance of persons outside the United States.

“105B. Additional procedure for authorizing certain acquisitions concerning persons located outside the United States.

“105C. Submission to court review of procedures.”.

SEC. 6. EFFECTIVE DATE; TRANSITION PROCEDURES.

(a) **EFFECTIVE DATE.**—Except as otherwise provided, the amendments made by this Act shall take effect immediately after the date of the enactment of this Act.

(b) **TRANSITION PROCEDURES.**—Notwithstanding any other provision of this Act, any order in effect on the date of enactment of this Act issued pursuant to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall remain in effect until the date of expiration of such order, and, at the request of the applicant, the court established under section 103(a) of such Act (50 U.S.C. 1803(a)) shall reauthorize such order as long as the facts and circumstances continue to justify issuance of such order under the provisions of the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the applicable effective date of this Act. The Government also may file new applications, and the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) shall enter orders granting such applications pursuant to such Act, as long as the application meets the requirements set forth under the provisions of such Act as in effect on the day before the effective date of this Act. At the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)), shall extinguish any extant authorization to conduct electronic surveillance or physical search entered pursuant to such Act. Any surveillance conducted pursuant to an order entered under this subsection shall be subject to the provisions of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as in effect on the day before the effective date of this Act.

(c) SUNSET.—Except as provided in subsection (d), sections 2, 3, 4, and 5 of this Act, and the amendments made by this Act, shall cease to have effect 180 days after the date of the enactment of this Act.

(d) AUTHORIZATIONS IN EFFECT.—Authorizations for the acquisition of foreign intelligence information pursuant to the amendments made by this Act, and directives issued pursuant to such authorizations, shall remain in effect until their expiration. Such acquisitions shall be governed by the applicable provisions of such amendments and shall not be deemed to constitute electronic surveillance as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(f)).

Approved August 5, 2007.

LEGISLATIVE HISTORY—S. 1927:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Aug. 3, considered and passed Senate.

Aug. 4, considered and passed House.



Public Law 110–56
110th Congress

An Act

Aug. 6, 2007
[H.R. 3311]

To authorize additional funds for emergency repairs and reconstruction of the Interstate I–35 bridge located in Minneapolis, Minnesota, that collapsed on August 1, 2007, to waive the \$100,000,000 limitation on emergency relief funds for those emergency repairs and reconstruction, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL EMERGENCY RELIEF FUNDING.

(a) IN GENERAL.—The Secretary of Transportation is authorized to carry out a project for the repair and reconstruction of the Interstate I–35W bridge located in Minneapolis, Minnesota, that collapsed on August 1, 2007.

(b) FEDERAL SHARE.—The Federal share of the cost of the project carried out under this section shall be 100 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$250,000,000 to carry out this section. Such sums shall remain available until expended.

SEC. 2. WAIVER OF EMERGENCY RELIEF LIMITATION.

The limitation contained in section 125(d)(1) of title 23, United States Code, of \$100,000,000 shall not apply to expenditures under section 125 of such title for the repair or reconstruction of the Interstate I–35W bridge located in Minneapolis, Minnesota, that collapsed on August 1, 2007.

SEC. 3. EXPANDED ELIGIBILITY FOR TRANSIT AND TRAVEL INFORMATION SERVICES.

Section 1112 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1171) is amended—

(1) by inserting “(a) IN GENERAL.—” before “There”; and

(2) by adding at the end the following:

“(b) MINNESOTA.—

“(1) IN GENERAL.—Notwithstanding any provision of chapter 1 of title 23, United States Code, the Secretary may—

“(A) use funds authorized to carry out the emergency relief program under section 125 of such title for the repair and reconstruction of the Interstate I–35W bridge in Minneapolis, Minnesota, that collapsed on August 1, 2007; and

“(B) use not to exceed \$5,000,000 of the funds made available for fiscal year 2007 for Federal Transit Administration Discretionary Programs, Bus and Bus Facilities

(without any local matching funds requirement) for operating expenses of the Minnesota State department of transportation for actual and necessary costs of maintenance and operation, less the amount of fares earned, which are provided by the Metropolitan Council (of Minnesota) as a temporary substitute for highway traffic service following the collapse of the Interstate I-35W bridge in Minneapolis, Minnesota, on August 1, 2007, until highway traffic service is restored on such bridge.

“(2) FEDERAL SHARE.—The Federal share of the cost of activities reimbursed under this subsection shall be 100 percent.”.

Approved August 6, 2007.

LEGISLATIVE HISTORY—H.R. 3311:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Aug. 3, considered and passed House. Considered and passed Senate, amended.

Aug. 4, House concurred in Senate amendment.



Public Law 110–57
110th Congress

An Act

Aug. 8, 2007
[H.R. 3206]

To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through December 15, 2007, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958.

(a) IN GENERAL.—Section 1 of the Act entitled “An Act to extend temporarily certain authorities of the Small Business Administration”, approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742), as amended by section 1 of Public Law 110–4 (121 Stat. 7), is further amended by striking “July 31, 2007” each place it appears and inserting “December 15, 2007”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 31, 2007.

Approved August 8, 2007.

LEGISLATIVE HISTORY—H.R. 3206:

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 30, considered and passed House.

July 31, considered and passed Senate.



Public Law 110–58
110th Congress

An Act

To designate the facility of the United States Postal Service located at 6301 Highway 58 in Harrison, Tennessee, as the “Claude Ramsey Post Office”.

Aug. 9, 2007

[H.R. 1260]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLAUDE RAMSEY POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 6301 Highway 58 in Harrison, Tennessee, shall be known and designated as the “Claude Ramsey Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Claude Ramsey Post Office”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 1260:

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 14, considered and passed House.

Aug. 3, considered and passed Senate.



Public Law 110–59
110th Congress

An Act

Aug. 9, 2007
[H.R. 1335]

To designate the facility of the United States Postal Service located at 508 East Main Street in Seneca, South Carolina, as the “S/Sgt Lewis G. Watkins Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. S/SGT LEWIS G. WATKINS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 508 East Main Street in Seneca, South Carolina, shall be known and designated as the “S/Sgt Lewis G. Watkins Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “S/Sgt Lewis G. Watkins Post Office Building”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 1335:

CONGRESSIONAL RECORD, Vol. 153 (2007):
May 14, considered and passed House.
Aug. 3, considered and passed Senate.



Public Law 110–60
110th Congress

An Act

To designate the facility of the United States Postal Service located at 118 Minner Avenue in Bakersfield, California, as the “Buck Owens Post Office”.

Aug. 9, 2007

[H.R. 1384]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BUCK OWENS POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 118 Minner Avenue in Bakersfield, California, shall be known and designated as the “Buck Owens Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Buck Owens Post Office”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 1384 (S. 1781):

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 30, considered and passed House.

Aug. 3, considered and passed Senate.



Public Law 110–61
110th Congress

An Act

Aug. 9, 2007
[H.R. 1425]

To designate the facility of the United States Postal Service located at 4551 East 52nd Street in Odessa, Texas, as the “Staff Sergeant Marvin ‘Rex’ Young Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STAFF SERGEANT MARVIN “REX” YOUNG POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 4551 East 52nd Street in Odessa, Texas, shall be known and designated as the “Staff Sergeant Marvin ‘Rex’ Young Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Staff Sergeant Marvin ‘Rex’ Young Post Office Building”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 1425:

CONGRESSIONAL RECORD, Vol. 153 (2007):
May 21, considered and passed House.
Aug. 3, considered and passed Senate.



Public Law 110–62
110th Congress

An Act

To designate the facility of the United States Postal Service located at 896 Pittsburgh Street in Springdale, Pennsylvania, as the “Rachel Carson Post Office Building”.

Aug. 9, 2007

[H.R. 1434]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RACHEL CARSON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 896 Pittsburgh Street in Springdale, Pennsylvania, shall be known and designated as the “Rachel Carson Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Rachel Carson Post Office Building”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 1434:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 23, considered and passed House.

Aug. 3, considered and passed Senate.



Public Law 110–63
110th Congress

An Act

Aug. 9, 2007
[H.R. 1617]

To designate the facility of the United States Postal Service located at 561 Kingsland Avenue in University City, Missouri, as the “Harriett F. Woods Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HARRIETT F. WOODS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 561 Kingsland Avenue in University City, Missouri, shall be known and designated as the “Harriett F. Woods Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Harriett F. Woods Post Office Building”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 1617:

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 14, considered and passed House.

Aug. 3, considered and passed Senate.



Public Law 110–64
110th Congress

An Act

To designate the facility of the United States Postal Service located at 601 Banyan Trail in Boca Raton, Florida, as the “Leonard W. Herman Post Office”.

Aug. 9, 2007

[H.R. 1722]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEONARD W. HERMAN POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 601 Banyan Trail in Boca Raton, Florida, shall be known and designated as the “Leonard W. Herman Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Leonard W. Herman Post Office”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 1722:

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 21, 22, considered and passed House.

Aug. 3, considered and passed Senate.



Public Law 110–65
110th Congress

An Act

Aug. 9, 2007
[H.R. 2025]

To designate the facility of the United States Postal Service located at 11033 South State Street in Chicago, Illinois, as the “Willye B. White Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WILLYE B. WHITE POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 11033 South State Street in Chicago, Illinois, shall be known and designated as the “Willye B. White Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Willye B. White Post Office Building”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 2025:

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 14, considered and passed House.

Aug. 3, considered and passed Senate.



Public Law 110–66
110th Congress

An Act

To designate the facility of the United States Postal Service located at 20805 State Route 125 in Blue Creek, Ohio, as the “George B. Lewis Post Office Building”.

Aug. 9, 2007

[H.R. 2077]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GEORGE B. LEWIS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 20805 State Route 125 in Blue Creek, Ohio, shall be known and designated as the “George B. Lewis Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “George B. Lewis Post Office Building”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 2077:

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 21, considered and passed House.

Aug. 3, considered and passed Senate.



Public Law 110–67
110th Congress

An Act

Aug. 9, 2007
[H.R. 2078]

To designate the facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio, as the “Staff Sergeant Omer ‘O.T.’ Hawkins Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STAFF SERGEANT OMER T. “O.T.” HAWKINS POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio, shall be known and designated as the “Staff Sergeant Omer T. ‘O.T.’ Hawkins Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Staff Sergeant Omer T. ‘O.T.’ Hawkins Post Office”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 2078:

CONGRESSIONAL RECORD, Vol. 153 (2007):
May 21, considered and passed House.
Aug. 3, considered and passed Senate.



Public Law 110–68
110th Congress

An Act

To designate the facility of the United States Postal Service located at 408 West 6th Street in Chelsea, Oklahoma, as the “Clem Rogers McSpadden Post Office Building”.

Aug. 9, 2007
[H.R. 2127]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLEM ROGERS MCSPADDEN POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 408 West 6th Street in Chelsea, Oklahoma, shall be known and designated as the “Clem Rogers McSpadden Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Clem Rogers McSpadden Post Office Building”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 2127:

CONGRESSIONAL RECORD, Vol. 153 (2007):
June 18, considered and passed House.
Aug. 3, considered and passed Senate.



Public Law 110–69
110th Congress

An Act

Aug. 9, 2007
[H.R. 2272]

To invest in innovation through research and development, and to improve the competitiveness of the United States.

America
COMPETES Act.
20 USC 9801
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “America COMPETES Act” or the “America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY; GOVERNMENT-WIDE SCIENCE

- Sec. 1001. National Science and Technology Summit.
- Sec. 1002. Study on barriers to innovation.
- Sec. 1003. National Technology and Innovation Medal.
- Sec. 1004. Semiannual Science, Technology, Engineering, and Mathematics Days.
- Sec. 1005. Study of service science.
- Sec. 1006. President’s Council on Innovation and Competitiveness.
- Sec. 1007. National coordination of research infrastructure.
- Sec. 1008. Sense of Congress on innovation acceleration research.
- Sec. 1009. Release of scientific research results.

TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

- Sec. 2001. NASA’s contribution to innovation.
- Sec. 2002. Aeronautics.
- Sec. 2003. Basic research enhancement.
- Sec. 2004. Aging workforce issues program.
- Sec. 2005. Sense of Congress regarding NASA’s undergraduate student research program.
- Sec. 2006. Use of International Space Station National Laboratory to support math and science education and competitiveness.

TITLE III—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

- Sec. 3001. Authorization of appropriations.
- Sec. 3002. Amendments to the Stevenson-Wydler Technology Innovation Act of 1980.
- Sec. 3003. Manufacturing Extension Partnership.
- Sec. 3004. Institute-wide planning report.
- Sec. 3005. Report by Visiting Committee.
- Sec. 3006. Meetings of Visiting Committee on Advanced Technology.
- Sec. 3007. Collaborative manufacturing research pilot grants.
- Sec. 3008. Manufacturing Fellowship Program.
- Sec. 3009. Procurement of temporary and intermittent services.
- Sec. 3010. Malcolm Baldrige awards.
- Sec. 3011. Report on National Institute of Standards and Technology efforts to recruit and retain early career science and engineering researchers.

- Sec. 3012. Technology Innovation Program.
- Sec. 3013. Technical amendments to the National Institute of Standards and Technology Act and other technical amendments.
- Sec. 3014. Retention of depreciation surcharge.
- Sec. 3015. Post-doctoral fellows.

TITLE IV—OCEAN AND ATMOSPHERIC PROGRAMS

- Sec. 4001. Ocean and atmospheric Research and development Program.
- Sec. 4002. NOAA ocean and atmospheric Science education Programs.
- Sec. 4003. NOAA's contribution to innovation.

TITLE V—DEPARTMENT OF ENERGY

- Sec. 5001. Short title.
- Sec. 5002. Definitions.
- Sec. 5003. Science, engineering, and mathematics education at the Department of Energy.
- Sec. 5004. Nuclear science talent expansion program for institutions of higher education.
- Sec. 5005. Hydrocarbon systems science talent expansion program for institutions of higher education.
- Sec. 5006. Department of Energy early career awards for science, engineering, and mathematics researchers.
- Sec. 5007. Authorization of appropriations for Department of Energy for basic research.
- Sec. 5008. Discovery science and engineering innovation institutes.
- Sec. 5009. Protecting America's Competitive Edge (PACE) graduate fellowship program.
- Sec. 5010. Sense of Congress regarding certain recommendations and reviews.
- Sec. 5011. Distinguished scientist program.
- Sec. 5012. Advanced Research Projects Agency—Energy.

TITLE VI—EDUCATION

- Sec. 6001. Findings.
- Sec. 6002. Definitions.

Subtitle A—Teacher Assistance

PART I—TEACHERS FOR A COMPETITIVE TOMORROW

- Sec. 6111. Purpose.
- Sec. 6112. Definitions.
- Sec. 6113. Programs for baccalaureate degrees in science, technology, engineering, mathematics, or critical foreign languages, with concurrent teacher certification.
- Sec. 6114. Programs for master's degrees in science, technology, engineering, mathematics, or critical foreign language education.
- Sec. 6115. General provisions.
- Sec. 6116. Authorization of appropriations.

PART II—ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS

- Sec. 6121. Purpose.
- Sec. 6122. Definitions.
- Sec. 6123. Advanced Placement and International Baccalaureate Programs.

PART III—PROMISING PRACTICES IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TEACHING

- Sec. 6131. Promising practices.

Subtitle B—Mathematics

- Sec. 6201. Math Now for elementary school and middle school students program.
- Sec. 6202. Summer term education programs.
- Sec. 6203. Math skills for secondary school students.
- Sec. 6204. Peer review of State applications.

Subtitle C—Foreign Language Partnership Program

- Sec. 6301. Findings and purpose.
- Sec. 6302. Definitions.
- Sec. 6303. Program authorized.
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Subtitle D—Alignment of Education Programs

- Sec. 6401. Alignment of secondary school graduation requirements with the demands of 21st century postsecondary endeavors and support for P–16 education data systems.

Subtitle E—Mathematics and Science Partnership Bonus Grants

- Sec. 6501. Mathematics and science partnership bonus grants.
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TITLE VII—NATIONAL SCIENCE FOUNDATION

- Sec. 7001. Definitions.
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 Sec. 7005. Curricula.
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 Sec. 7007. Interdisciplinary research.
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 Sec. 7010. Reporting of research results.
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 Sec. 7012. Funding for successful science, technology, engineering, and mathematics education programs.
 Sec. 7013. Cost sharing.
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 Sec. 7015. Administrative amendments.
 Sec. 7016. National Science Board reports.
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 Sec. 7018. Meeting critical national science needs.
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 Sec. 7021. Pilot program of grants for new investigators.
 Sec. 7022. Broader impacts merit review criterion.
 Sec. 7023. Donations.
 Sec. 7024. High-performance computing and networking.
 Sec. 7025. Science, technology, engineering, and mathematics talent expansion program.
 Sec. 7026. Laboratory science pilot program.
 Sec. 7027. Study on laboratory equipment donations for schools.
 Sec. 7028. Mathematics and Science Education Partnerships amendments.
 Sec. 7029. National Science Foundation teacher institutes for the 21st century.
 Sec. 7030. Robert Noyce Teacher Scholarship Program.
 Sec. 7031. Encouraging participation.
 Sec. 7032. National Academy of Sciences report on diversity in science, technology, engineering, and mathematics fields.
 Sec. 7033. Hispanic-serving institutions undergraduate program.
 Sec. 7034. Professional science master's degree programs.
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TITLE VIII—GENERAL PROVISIONS

- Sec. 8001. Collection of data relating to trade in services.
 Sec. 8002. Sense of the Senate regarding small business growth and capital markets.
 Sec. 8003. Government Accountability Office review of activities, grants, and programs.
 Sec. 8004. Sense of the Senate regarding anti-competitive tax policy.
 Sec. 8005. Study of the provision of online degree programs.
 Sec. 8006. Sense of the Senate regarding deemed exports.
 Sec. 8007. Sense of the Senate regarding capital markets.
 Sec. 8008. Accountability and transparency of activities authorized by this Act.

TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY; GOVERNMENT-WIDE SCIENCE

President.

SEC. 1001. NATIONAL SCIENCE AND TECHNOLOGY SUMMIT.

Deadline.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall convene a National

Science and Technology Summit to examine the health and direction of the United States' science, technology, engineering, and mathematics enterprises. The Summit shall include representatives of industry, small business, labor, academia, State government, Federal research and development agencies, non-profit environmental and energy policy groups concerned with science and technology issues, and other nongovernmental organizations, including representatives of science, technology, and engineering organizations and associations that represent individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(b) **REPORT.**—Not later than 90 days after the date of the conclusion of the Summit, the President shall submit to Congress a report on the results of the Summit. The report shall identify key research and technology challenges and recommendations, including recommendations to increase the representation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in science, engineering, and technology enterprises, for areas of investment for Federal research and technology programs to be carried out during the 5-year period beginning on the date the report is issued.

(c) **ANNUAL EVALUATION.**—Beginning with the President's budget submission for the fiscal year following the conclusion of the National Science and Technology Summit and for each of the following 4 budget submissions, the Analytical Perspectives component of the budget document that describes the Research and Development budget priorities shall include a description of how those priorities relate to the conclusions and recommendations of the Summit contained in the report required under subsection (b).

SEC. 1002. STUDY ON BARRIERS TO INNOVATION.

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall enter into a contract with the National Academy of Sciences to conduct and complete a study to identify, and to review methods to mitigate, new forms of risk for businesses beyond conventional operational and financial risk that affect the ability to innovate, including studying and reviewing—

Deadline.
Contracts.

(1) incentive and compensation structures that could effectively encourage long-term value creation and innovation;

(2) methods of voluntary and supplemental disclosure by industry of intellectual capital, innovation performance, and indicators of future valuation;

(3) means by which government could work with industry to enhance the legal and regulatory framework to encourage the disclosures described in paragraph (2);

(4) practices that may be significant deterrents to United States businesses engaging in innovation risk-taking compared to foreign competitors;

(5) costs faced by United States businesses engaging in innovation compared to foreign competitors, including the burden placed on businesses by high and rising health care costs;

(6) means by which industry, trade associations, and universities could collaborate to support research on management practices and methodologies for assessing the value and risks of longer term innovation strategies;

(7) means to encourage new, open, and collaborative dialogue between industry associations, regulatory authorities, management, shareholders, labor, and other concerned interests to encourage appropriate approaches to innovation risk-taking;

(8) incentives to encourage participation among institutions of higher education, especially those in rural and underserved areas, to engage in innovation;

(9) relevant Federal regulations that may discourage or encourage innovation;

(10) all provisions of the Internal Revenue Code of 1986, including tax provisions, compliance costs, and reporting requirements, that discourage innovation;

(11) the extent to which Federal funding promotes or hinders innovation; and

(12) the extent to which individuals are being equipped with the knowledge and skills necessary for success in the 21st century workforce, as measured by—

(A) elementary school and secondary school student academic achievement on the State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 (b)(3)), especially in mathematics, science, and reading, identified by ethnicity, race, and gender;

(B) the rate of student entrance into institutions of higher education, identified by ethnicity, race, and gender, by type of institution, and barriers to access to institutions of higher education;

(C) the rates of—

(i) students successfully completing postsecondary education programs, identified by ethnicity, race, and gender; and

(ii) certificates, associate degrees, and baccalaureate degrees awarded in the fields of science, technology, engineering, and mathematics, identified by ethnicity, race, and gender; and

(D) access to, and availability of, high quality job training programs.

(b) **REPORT REQUIRED.**—Not later than 1 year after entering into the contract required by subsection (a) and 4 years after entering into such contract, the National Academy of Sciences shall submit to Congress a report on the study conducted under such subsection.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Office of Science and Technology Policy \$1,000,000 for fiscal year 2008 for the purpose of carrying out the study required under this section.

SEC. 1003. NATIONAL TECHNOLOGY AND INNOVATION MEDAL.

Section 16 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711) is amended—

(1) in the section heading, by striking “**NATIONAL MEDAL**” and inserting “**NATIONAL TECHNOLOGY AND INNOVATION MEDAL**”; and

(2) in subsection (a), by striking “Technology Medal” and inserting “Technology and Innovation Medal”.

SEC. 1004. SEMIANNUAL SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS DAYS.

It is the sense of Congress that the Director of the Office of Science and Technology Policy should—

(1) encourage all elementary and middle schools to observe a Science, Technology, Engineering, and Mathematics Day twice in every school year for the purpose of bringing in science, technology, engineering, and mathematics mentors to provide hands-on lessons to excite and inspire students to pursue the science, technology, engineering, and mathematics fields (including continuing education and career paths);

(2) initiate a program, in consultation with Federal agencies and departments, to provide support systems, tools (from existing outreach offices), and mechanisms to allow and encourage Federal employees with scientific, technological, engineering, or mathematical responsibilities to reach out to local classrooms on such Science, Technology, Engineering, and Mathematics Days to instruct and inspire school children, focusing on real life science, technology, engineering, and mathematics-related applicable experiences along with hands-on demonstrations in order to demonstrate the advantages and direct applications of studying the science, technology, engineering, and mathematics fields; and

(3) promote Science, Technology, Engineering, and Mathematics Days involvement by private sector and institutions of higher education employees, including partnerships with scientific, engineering, and mathematical professional organizations representing individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b), in a manner similar to the Federal employee involvement described in paragraph (2).

SEC. 1005. STUDY OF SERVICE SCIENCE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, in order to strengthen the competitiveness of United States enterprises and institutions and to prepare the people of the United States for high-wage, high-skill employment, the Federal Government should better understand and respond strategically to the emerging management and learning discipline known as service science.

(b) STUDY.—Not later than 1 year after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall, through the National Academy of Sciences, conduct a study and report to Congress on how the Federal Government should support, through research, education, and training, the emerging management and learning discipline known as service science.

Deadline.
Reports.

(c) OUTSIDE RESOURCES.—In conducting the study under subsection (b), the National Academy of Sciences shall consult with leaders from 2- and 4-year institutions of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), leaders from corporations, and other relevant parties.

(d) SERVICE SCIENCE DEFINED.—In this section, the term “service science” means curricula, training, and research programs

that are designed to teach individuals to apply scientific, engineering, and management disciplines that integrate elements of computer science, operations research, industrial engineering, business strategy, management sciences, and social and legal sciences, in order to encourage innovation in how organizations create value for customers and shareholders that could not be achieved through such disciplines working in isolation.

15 USC 3718.

SEC. 1006. PRESIDENT'S COUNCIL ON INNOVATION AND COMPETITIVENESS.

Establishment.

(a) **IN GENERAL.**—The President shall establish a President's Council on Innovation and Competitiveness.

(b) **DUTIES.**—The duties of the Council shall include—

(1) monitoring implementation of public laws and initiatives for promoting innovation, including policies related to research funding, taxation, immigration, trade, and education that are proposed in this Act or in any other Act;

(2) providing advice to the President with respect to global trends in competitiveness and innovation and allocation of Federal resources in education, job training, and technology research and development considering such global trends in competitiveness and innovation;

(3) in consultation with the Director of the Office of Management and Budget, developing a process for using metrics to assess the impact of existing and proposed policies and rules that affect innovation capabilities in the United States;

(4) identifying opportunities and making recommendations for the heads of executive agencies to improve innovation, monitoring, and reporting on the implementation of such recommendations;

(5) developing metrics for measuring the progress of the Federal Government with respect to improving conditions for innovation, including through talent development, investment, and infrastructure improvements; and

(6) submitting to the President and Congress an annual report on such progress.

(c) **MEMBERSHIP AND COORDINATION.**—

(1) **MEMBERSHIP.**—The Council shall be composed of the Secretary or head of each of the following:

(A) The Department of Commerce.

(B) The Department of Defense.

(C) The Department of Education.

(D) The Department of Energy.

(E) The Department of Health and Human Services.

(F) The Department of Homeland Security.

(G) The Department of Labor.

(H) The Department of the Treasury.

(I) The National Aeronautics and Space Administration.

(J) The Securities and Exchange Commission.

(K) The National Science Foundation.

(L) The Office of the United States Trade Representative.

(M) The Office of Management and Budget.

(N) The Office of Science and Technology Policy.

(O) The Environmental Protection Agency.

(P) The Small Business Administration.

(Q) Any other department or agency designated by the President.

(2) CHAIRPERSON.—The Secretary of Commerce shall serve as Chairperson of the Council.

(3) COORDINATION.—The Chairperson of the Council shall ensure appropriate coordination between the Council and the National Economic Council, the National Security Council, and the National Science and Technology Council.

(4) MEETINGS.—The Council shall meet on a semi-annual basis at the call of the Chairperson and the initial meeting of the Council shall occur not later than 6 months after the date of the enactment of this Act. Deadline.

(d) DEVELOPMENT OF INNOVATION AGENDA.—

(1) IN GENERAL.—The Council shall develop a comprehensive agenda for strengthening the innovation and competitiveness capabilities of the Federal Government, State governments, academia, and the private sector in the United States.

(2) CONTENTS.—The comprehensive agenda required by paragraph (1) shall include the following:

(A) An assessment of current strengths and weaknesses of the United States investment in research and development.

(B) Recommendations for addressing weaknesses and maintaining the United States as a world leader in research and development and technological innovation, including strategies for increasing the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in science, technology, engineering, and mathematics fields.

(C) Recommendations for strengthening the innovation and competitiveness capabilities of the Federal Government, State governments, academia, and the private sector in the United States.

(3) ADVISORS.—

(A) RECOMMENDATION.—Not later than 30 days after the date of the enactment of this Act, the National Academy of Sciences, in consultation with the National Academy of Engineering, the Institute of Medicine, and the National Research Council, shall develop and submit to the President a list of 50 individuals that are recommended to serve as advisors to the Council during the development of the comprehensive agenda required by paragraph (1). The list of advisors shall include appropriate representatives from the following: Deadline.

(i) The private sector of the economy.

(ii) Labor.

(iii) Various fields including information technology, energy, engineering, high-technology manufacturing, health care, and education.

(iv) Scientific organizations.

(v) Academic organizations and other nongovernmental organizations working in the area of science or technology.

(vi) Nongovernmental organizations, such as professional organizations, that represent individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a

or 1885b) in the areas of science, engineering, technology, and mathematics.

Deadline.
President. (B) DESIGNATION.—Not later than 30 days after the date that the National Academy of Sciences submits the list of recommended individuals to serve as advisors, the President shall designate 50 individuals to serve as advisors to the Council.

(C) REQUIREMENT TO CONSULT.—The Council shall develop the comprehensive agenda required by paragraph (1) in consultation with the advisors.

Deadlines. (4) INITIAL SUBMISSION AND UPDATES.—

(A) INITIAL SUBMISSION.—Not later than 1 year after the date of the enactment of this Act, the Council shall submit to Congress and the President the comprehensive agenda required by paragraph (1).

(B) UPDATES.—At least once every 2 years, the Council shall update the comprehensive agenda required by paragraph (1) and submit each such update to Congress and the President.

(e) OPTIONAL ASSIGNMENT.—Notwithstanding subsection (a) and paragraphs (1) and (2) of subsection (c), the President may designate an existing council to carry out the requirements of this section.

42 USC 6619.

SEC. 1007. NATIONAL COORDINATION OF RESEARCH INFRASTRUCTURE.

(a) IDENTIFICATION AND PRIORITIZATION OF DEFICIENCIES IN FEDERAL RESEARCH FACILITIES.—Each year the Director of the Office of Science and Technology Policy shall, through the National Science and Technology Council, identify and prioritize the deficiencies in research facilities and major instrumentation located at Federal laboratories and national user facilities at academic institutions that are widely accessible for use by researchers in the United States. In prioritizing such deficiencies, the Director shall consider research needs in areas relevant to the specific mission requirements of Federal agencies.

(b) PLANNING FOR ACQUISITION, REFURBISHMENT, AND MAINTENANCE OF RESEARCH FACILITIES AND MAJOR INSTRUMENTATION.—The Director shall, through the National Science and Technology Council, coordinate the planning by Federal agencies for the acquisition, refurbishment, and maintenance of research facilities and major instrumentation to address the deficiencies identified under subsection (a).

(c) REPORT.—The Director shall submit to Congress each year, together with documents submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31, United States Code), a report, current as of the fiscal year ending in the year before such report is submitted, setting forth the following:

(1) A description of the deficiencies in research infrastructure identified in accordance with subsection (a).

(2) A list of projects and budget proposals of Federal research facilities, set forth by agency, for major instrumentation acquisitions that are included in the budget proposal of the President.

(3) An explanation of how the projects and instrumentation acquisitions described in paragraph (2) relate to the deficiencies and priorities identified pursuant to subsection (a).

SEC. 1008. SENSE OF CONGRESS ON INNOVATION ACCELERATION RESEARCH. 42 USC 6603.

(a) SENSE OF CONGRESS ON SUPPORT AND PROMOTION OF INNOVATION IN THE UNITED STATES.—It is the sense of Congress that each Federal research agency should strive to support and promote innovation in the United States through high-risk, high-reward basic research projects that—

- (1) meet fundamental technological or scientific challenges;
- (2) involve multidisciplinary work; and
- (3) involve a high degree of novelty.

(b) SENSE OF CONGRESS ON SETTING ANNUAL FUNDING GOALS FOR BASIC RESEARCH.—It is the sense of Congress that each Executive agency that funds research in science, technology, engineering, or mathematics should set a goal of allocating an appropriate percentage of the annual basic research budget of such agency to funding high-risk, high-reward basic research projects described in subsection (a).

(c) REPORT.—Each Executive agency described in subsection (b) shall submit to Congress each year, together with documents submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31, United States Code), a report describing whether a funding goal as described in subsection (b) has been established, and if such a goal has been established, the following:

- (1) A description of such funding goal.
- (2) Whether such funding goal is being met by the agency.
- (3) A description of activities supported by amounts allocated in accordance with such funding goal.

(d) DEFINITIONS.—In this section:

(1) BASIC RESEARCH.—The term “basic research” has the meaning given such term in the Office of Management and Budget Circular No. A–11.

(2) EXECUTIVE AGENCY.—The term “Executive agency” has the meaning given such term in section 105 of title 5, United States Code.

SEC. 1009. RELEASE OF SCIENTIFIC RESEARCH RESULTS.

42 USC 6620.

(a) PRINCIPLES.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy, in consultation with the Director of the Office of Management and Budget and the heads of all Federal civilian agencies that conduct scientific research, shall develop and issue an overarching set of principles to ensure the communication and open exchange of data and results to other agencies, policymakers, and the public of research conducted by a scientist employed by a Federal civilian agency and to prevent the intentional or unintentional suppression or distortion of such research findings. The principles shall encourage the open exchange of data and results of research undertaken by a scientist employed by such an agency and shall be consistent with existing Federal laws, including chapter 18 of title 35, United States Code (commonly known as the “Bayh-Dole Act”). The principles shall also take into consideration the policies of peer-reviewed scientific journals in which Federal scientists may currently publish results.

Deadline.

Deadline.
Procedures.

(b) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall ensure that all civilian Federal agencies that conduct scientific research develop specific policies and procedures regarding the public release of data and results of research conducted by a scientist employed by such an agency consistent with the principles established under subsection (a). Such policies and procedures shall—

- (1) specifically address what is and what is not permitted or recommended under such policies and procedures;
- (2) be specifically designed for each such agency;
- (3) be applied uniformly throughout each such agency; and
- (4) be widely communicated and readily accessible to all employees of each such agency and the public.

TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

42 USC 16611a.

SEC. 2001. NASA'S CONTRIBUTION TO INNOVATION.

(a) PARTICIPATION IN INTERAGENCY ACTIVITIES.—The National Aeronautics and Space Administration shall be a full participant in any interagency effort to promote innovation and economic competitiveness through near-term and long-term basic scientific research and development and the promotion of science, technology, engineering, and mathematics education, consistent with the National Aeronautics and Space Administration's mission, including authorized activities.

(b) HISTORIC FOUNDATION.—In order to carry out the participation described in subsection (a), the Administrator of the National Aeronautics and Space Administration shall build on the historic role of the National Aeronautics and Space Administration in stimulating excellence in the advancement of physical science and engineering disciplines and in providing opportunities and incentives for the pursuit of academic studies in science, technology, engineering, and mathematics.

(c) BALANCED SCIENCE PROGRAM AND ROBUST AUTHORIZATION LEVELS.—The balanced science program authorized by section 101(d) of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16611) shall be an element of the contribution by the National Aeronautics and Space Administration to such interagency programs.

(d) SENSE OF CONGRESS ON CONTRIBUTION OF APPROPRIATELY FUNDED NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—It is the sense of Congress that a robust National Aeronautics and Space Administration, funded at the levels authorized for fiscal years 2007 and 2008 under sections 202 and 203 of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16631 and 16632) and at appropriate levels in subsequent fiscal years—

- (1) can contribute significantly to innovation in, and the competitiveness of, the United States;
- (2) would enable a fair balance among science, aeronautics, education, exploration, and human space flight programs; and
- (3) would allow full participation in any interagency efforts to promote innovation and economic competitiveness.

(e) ANNUAL REPORT.—

(1) **REQUIREMENT.**—The Administrator shall submit to Congress and the President an annual report describing the activities conducted pursuant to this section, including a description of the goals and the objective metrics upon which funding decisions were made.

(2) **CONTENT.**—Each report submitted pursuant to paragraph (1) shall include, with regard to science, technology, engineering, and mathematics education programs, at a minimum, the following:

(A) A description of each program.

(B) The amount spent on each program.

(C) The number of students or teachers served by each program.

(f) **ASSESSMENT PLAN.**—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to Congress a report on its plan for instituting assessments of the effectiveness of the National Aeronautics and Space Administration's science, technology, engineering, and mathematics education programs in improving student achievement, including with regard to challenging State achievement standards.

Deadline.
Reports.

SEC. 2002. AERONAUTICS.

42 USC 16712.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the aeronautics research and development program of the National Aeronautics and Space Administration has been an important contributor to innovation and to the competitiveness of the United States and the National Aeronautics and Space Administration should maintain its capabilities to advance the state of aeronautics.

(b) **COOPERATION WITH OTHER AGENCIES ON AERONAUTICS ACTIVITIES.**—The Administrator shall coordinate, as appropriate, the National Aeronautics and Space Administration's aeronautics activities with relevant programs in the Department of Transportation, the Department of Defense, the Department of Commerce, and the Department of Homeland Security, including the activities of the Joint Planning and Development Office established under section 709 of the Vision 100–Century of Aviation Reauthorization Act (Public Law 108–176; 117 Stat. 2582).

SEC. 2003. BASIC RESEARCH ENHANCEMENT.

42 USC 16658.

(a) **IN GENERAL.**—The Administrator of the National Aeronautics and Space Administration, the Director of the National Science Foundation, the Secretary of Energy, the Secretary of Defense, and Secretary of Commerce shall, to the extent practicable, coordinate basic research activities related to physical sciences, technology, engineering, and mathematics.

(b) **BASIC RESEARCH DEFINED.**—In this section, the term “basic research” has the meaning given such term in Office of Management and Budget Circular No. A–11.

SEC. 2004. AGING WORKFORCE ISSUES PROGRAM.

It is the sense of Congress that the Administrator of the National Aeronautics and Space Administration should implement a program to address aging work force issues in aerospace that—

(1) documents technical and management experiences before senior people leave the National Aeronautics and Space Administration, including—

(A) documenting lessons learned;

(B) briefing organizations;

(C) providing opportunities for archiving lessons in a database; and

(D) providing opportunities for near-term retirees to transition out early from their primary assignment in order to document their career lessons learned and brief new employees prior to their separation from the National Aeronautics and Space Administration;

(2) provides incentives for retirees to return and teach new employees about their career lessons and experiences; and

(3) provides for the development of an award to recognize and reward outstanding senior employees for their contributions to knowledge sharing.

SEC. 2005. SENSE OF CONGRESS REGARDING NASA'S UNDERGRADUATE STUDENT RESEARCH PROGRAM.

It is the sense of Congress that in order to generate interest in careers in science, technology, engineering, and mathematics and to help train the next generation of space and aeronautical scientists, technologists, engineers, and mathematicians the Administrator of the National Aeronautics and Space Administration should utilize the existing Undergraduate Student Research Program of the National Aeronautics and Space Administration to support basic research projects on subjects of relevance to the National Aeronautics and Space Administration that—

(1) are to be carried out primarily by undergraduate students; and

(2) combine undergraduate research with other research supported by the National Aeronautics and Space Administration.

Plans.
42 USC 2451
note.

SEC. 2006. USE OF INTERNATIONAL SPACE STATION NATIONAL LABORATORY TO SUPPORT MATH AND SCIENCE EDUCATION AND COMPETITIVENESS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the International Space Station National Laboratory offers unique opportunities for educational activities and provides a unique resource for research and development in science, technology, and engineering, which can enhance the global competitiveness of the United States.

(b) DEVELOPMENT OF EDUCATIONAL PROJECTS.—The Administrator of the National Aeronautics and Space Administration shall develop a detailed plan for implementation of 1 or more education projects that utilize the resources offered by the International Space Station. In developing any detailed plan according to this paragraph, the Administrator shall make use of the findings and recommendations of the International Space Station National Laboratory Education Concept Development Task Force.

(c) DEVELOPMENT OF RESEARCH PLANS FOR COMPETITIVENESS ENHANCEMENT.—The Administrator shall develop a detailed plan for identification and support of research to be conducted aboard the International Space Station, which offers the potential for enhancement of United States competitiveness in science, technology, and engineering. In developing any detailed plan pursuant to this subsection, the Administrator shall consult with agencies and entities with which cooperative agreements have been reached regarding utilization of International Space Station National Laboratory facilities.

TITLE III—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SEC. 3001. AUTHORIZATION OF APPROPRIATIONS.

(a) SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES.—

(1) LABORATORY ACTIVITIES.—There are authorized to be appropriated to the Secretary of Commerce for the scientific and technical research and services laboratory activities of the National Institute of Standards and Technology—

- (A) \$502,100,000 for fiscal year 2008;
- (B) \$541,900,000 for fiscal year 2009; and
- (C) \$584,800,000 for fiscal year 2010.

(2) CONSTRUCTION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary of Commerce for construction and maintenance of facilities of the National Institute of Standards and Technology—

- (A) \$150,900,000 for fiscal year 2008;
- (B) \$86,400,000 for fiscal year 2009; and
- (C) \$49,700,000 for fiscal year 2010.

(b) INDUSTRIAL TECHNOLOGY SERVICES.—There are authorized to be appropriated to the Secretary of Commerce for Industrial Technology Services activities of the National Institute of Standards and Technology—

(1) \$210,000,000 for fiscal year 2008, of which—

(A) \$100,000,000 shall be for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), of which at least \$40,000,000 shall be for new awards; and

(B) \$110,000,000 shall be for the Manufacturing Extension Partnership program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l), of which not more than \$1,000,000 shall be for the competitive grant program under section 25(f) of such Act;

(2) \$253,500,000 for fiscal year 2009, of which—

(A) \$131,500,000 shall be for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), of which at least \$40,000,000 shall be for new awards; and

(B) \$122,000,000 shall be for the Manufacturing Extension Partnership Program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l), of which not more than \$4,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(3) \$272,300,000 for fiscal year 2010, of which—

(A) \$140,500,000 shall be for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), of which at least \$40,000,000 shall be for new awards; and

(B) \$131,800,000 shall be for the Manufacturing Extension Partnership Program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l), of which not more than \$4,000,000 shall be for the competitive grant program under section 25(f) of such Act.

SEC. 3002. AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.

(a) **IN GENERAL.**—Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended—

(1) by striking subsections (a) through (e);

(2) by redesignating subsection (f) as subsection (a);

(3) in subsection (a), as redesignated by paragraph (2)—

(A) in paragraph (1), by striking “The Secretary, acting through the Under Secretary, shall establish for fiscal year 1999” and inserting “Beginning in fiscal year 1999, the Secretary shall establish”;

(B) by striking “, acting through the Under Secretary,” each place it appears;

(C) by redesignating paragraph (6) as subsection (b);

(D) by striking paragraph (7); and

(E) in the subsection heading, by striking “EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY” and inserting “PROGRAM ESTABLISHMENT”;

(4) in subsection (b), as redesignated by paragraph (3)(C), by striking “this subsection” and inserting “subsection (a)”;

and

(5) in the section heading by striking “**COMMERCE AND TECHNOLOGICAL INNOVATION**” and inserting “**EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY**”.

(b) **CONSTRUCTION.**—The amendments made by subsection (a) shall not be construed to eliminate the National Institute of Standards and Technology or the National Technical Information Service.

(c) **CONFORMING AMENDMENTS.**—

(1) **TITLE 5, UNITED STATES CODE.**—Section 5314 of title 5, United States Code, is amended by striking “Under Secretary of Commerce for Technology.”.

(2) **NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.**—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(A) in section 2 of such Act (15 U.S.C. 272)—

(i) in subsection (b), by striking “and, if appropriate, through other officials,”; and

(ii) in subsection (c), by striking “and, if appropriate, through other appropriate officials,”; and

(B) in section 5 of such Act (15 U.S.C. 274), by striking “The Director shall have the general” and inserting “The Director shall report directly to the Secretary and shall have the general”.

(3) **DEFINITIONS.**—Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended—

(A) by striking paragraphs (1) and (3); and

(B) by redesignating paragraphs (2) through (13) as paragraphs (1) through (11), respectively.

(4) **FUNCTIONS OF SECRETARY.**—Section 11(g)(1) of such Act (15 U.S.C. 3710(g)(1)) is amended by striking “through the Under Secretary, and”.

(5) **REPEAL OF AUTHORIZATION.**—Section 21(a) of such Act (15 U.S.C. 3713(a)) is amended—

(A) in paragraph (1), by striking “sections 5, 11(g), and 16” and inserting “sections 11(g) and 16”; and

(B) in paragraph (2), by striking “\$500,000 is authorized only for the purpose of carrying out the requirements

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note.

of the Japanese technical literature program established under section 5(d) of this Act;”.

(6) HIGH-PERFORMANCE COMPUTING ACT OF 1991.—Section 208 of the High-Performance Computing Act of 1991 (15 U.S.C. 5528) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(7) ASSISTIVE TECHNOLOGY ACT OF 1998.—Section 6(b)(4)(B)(v) of the Assistive Technology Act of 1998 (29 U.S.C. 3005(b)(4)(B)(v)) is amended by striking “the Technology Administration of the Department of Commerce,” and inserting “the National Institute of Standards and Technology,”.

SEC. 3003. MANUFACTURING EXTENSION PARTNERSHIP.

(a) CLARIFICATION OF ELIGIBLE CONTRIBUTIONS IN CONNECTION WITH REGIONAL CENTERS RESPONSIBLE FOR IMPLEMENTING THE OBJECTIVES OF THE PROGRAM.—Paragraph (3) of section 25(c) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(3)) is amended to read as follows:

“(3)(A) Any nonprofit institution, or group thereof, or consortia of nonprofit institutions, including entities existing on August 23, 1988, may submit to the Secretary an application for financial support under this subsection, in accordance with the procedures established by the Secretary and published in the Federal Register under paragraph (2).

“(B) In order to receive assistance under this section, an applicant for financial assistance under subparagraph (A) shall provide adequate assurances that non-Federal assets obtained from the applicant and the applicant’s partnering organizations will be used as a funding source to meet not less than 50 percent of the costs incurred for the first 3 years and an increasing share for each of the last 3 years. For purposes of the preceding sentence, the costs incurred means the costs incurred in connection with the activities undertaken to improve the management, productivity, and technological performance of small- and medium-sized manufacturing companies.

“(C) In meeting the 50 percent requirement, it is anticipated that a Center will enter into agreements with other entities such as private industry, universities, and State governments to accomplish programmatic objectives and access new and existing resources that will further the impact of the Federal investment made on behalf of small- and medium-sized manufacturing companies. All non-Federal costs, contributed by such entities and determined by a Center as programmatically reasonable and allocable under MEP program procedures are includable as a portion of the Center’s contribution.

“(D) Each applicant under subparagraph (A) shall also submit a proposal for the allocation of the legal rights associated with any invention which may result from the proposed Center’s activities.”.

Proposal.

(b) MANUFACTURING CENTER EVALUATION.—Paragraph (5) of section 25(c) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(5)) is amended by inserting “A Center that has not received a positive evaluation by the evaluation panel shall be notified by the panel of the deficiencies in its performance and shall be placed on probation for one year, after which time the panel shall reevaluate the Center. If the Center has not

Notification.

addressed the deficiencies identified by the panel, or shown a significant improvement in its performance, the Director shall conduct a new competition to select an operator for the Center or may close the Center.” after “at declining levels.”.

(c) FEDERAL SHARE.—Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) is amended by striking subsection (d) and inserting the following:

“(d) ACCEPTANCE OF FUNDS.—

“(1) IN GENERAL.—In addition to such sums as may be appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies and under section 2(c)(7) from the private sector for the purpose of strengthening United States manufacturing.

“(2) ALLOCATION OF FUNDS.—

“(A) FUNDS ACCEPTED FROM OTHER FEDERAL DEPARTMENTS OR AGENCIES.—The Director shall determine whether funds accepted from other Federal departments or agencies shall be counted in the calculation of the Federal share of capital and annual operating and maintenance costs under subsection (c).

“(B) FUNDS ACCEPTED FROM THE PRIVATE SECTOR.—Funds accepted from the private sector under section 2(c)(7), if allocated to a Center, shall not be considered in the calculation of the Federal share under subsection (c) of this section.”.

(d) MEP ADVISORY BOARD.—Such section 25 is further amended by adding at the end the following:

“(e) MEP ADVISORY BOARD.—

“(1) ESTABLISHMENT.—There is established within the Institute a Manufacturing Extension Partnership Advisory Board (in this subsection referred to as the ‘MEP Advisory Board’).

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—The MEP Advisory Board shall consist of 10 members broadly representative of stakeholders, to be appointed by the Director. At least 2 members shall be employed by or on an advisory board for the Centers, and at least 5 other members shall be from United States small businesses in the manufacturing sector. No member shall be an employee of the Federal Government.

“(B) TERM.—Except as provided in subparagraph (C) or (D), the term of office of each member of the MEP Advisory Board shall be 3 years.

“(C) CLASSES.—The original members of the MEP Advisory Board shall be appointed to 3 classes. One class of 3 members shall have an initial term of 1 year, one class of 3 members shall have an initial term of 2 years, and one class of 4 members shall have an initial term of 3 years.

“(D) VACANCIES.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

“(E) SERVING CONSECUTIVE TERMS.—Any person who has completed two consecutive full terms of service on the MEP Advisory Board shall thereafter be ineligible for

appointment during the one-year period following the expiration of the second such term.

“(3) MEETINGS.—The MEP Advisory Board shall meet not less than 2 times annually, and provide to the Director—

“(A) advice on Manufacturing Extension Partnership programs, plans, and policies;

“(B) assessments of the soundness of Manufacturing Extension Partnership plans and strategies; and

“(C) assessments of current performance against Manufacturing Extension Partnership program plans.

“(4) FEDERAL ADVISORY COMMITTEE ACT.—In discharging its duties under this subsection, the MEP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

“(5) REPORT.—The MEP Advisory Board shall transmit an annual report to the Secretary for transmittal to Congress within 30 days after the submission to Congress of the President’s annual budget request in each year. Such report shall address the status of the program established pursuant to this section and comment on the relevant sections of the programmatic planning document and updates thereto transmitted to Congress by the Director under subsections (c) and (d) of section 23.”

(e) MANUFACTURING EXTENSION CENTER COMPETITIVE GRANT PROGRAM.—Such section 25 is further amended by adding at the end the following:

“(f) COMPETITIVE GRANT PROGRAM.—

“(1) ESTABLISHMENT.—The Director shall establish, within the Centers program under this section and section 26 of this Act, a program of competitive awards among participants described in paragraph (2) for the purposes described in paragraph (3).

“(2) PARTICIPANTS.—Participants receiving awards under this subsection shall be the Centers, or a consortium of such Centers.

“(3) PURPOSE.—The purpose of the program under this subsection is to develop projects to solve new or emerging manufacturing problems as determined by the Director, in consultation with the Director of the Centers program, the Manufacturing Extension Partnership Advisory Board, and small and medium-sized manufacturers. One or more themes for the competition may be identified, which may vary from year to year, depending on the needs of manufacturers and the success of previous competitions. These themes shall be related to projects associated with manufacturing extension activities, including supply chain integration and quality management, and including the transfer of technology based on the technological needs of manufacturers and available technologies from institutions of higher education, laboratories, and other technology producing entities, or extend beyond these traditional areas.

“(4) APPLICATIONS.—Applications for awards under this subsection shall be submitted in such manner, at such time, and containing such information as the Director shall require, in consultation with the Manufacturing Extension Partnership Advisory Board.

“(5) SELECTION.—Awards under this subsection shall be peer reviewed and competitively awarded. The Director shall select proposals to receive awards—

“(A) that utilize innovative or collaborative approaches to solving the problem described in the competition;

“(B) that will improve the competitiveness of industries in the region in which the Center or Centers are located; and

“(C) that will contribute to the long-term economic stability of that region.

“(6) PROGRAM CONTRIBUTION.—Recipients of awards under this subsection shall not be required to provide a matching contribution.”.

SEC. 3004. INSTITUTE-WIDE PLANNING REPORT.

Section 23 of the National Institute of Standards and Technology Act (15 U.S.C. 278i) is amended by adding at the end the following:

“(c) THREE-YEAR PROGRAMMATIC PLANNING DOCUMENT.—Concurrent with the submission to Congress of the President’s annual budget request in the first year after the date of enactment of this subsection, the Director shall submit to Congress a 3-year programmatic planning document for the Institute, including programs under the Scientific and Technical Research and Services, Industrial Technology Services, and Construction of Research Facilities functions.

“(d) ANNUAL UPDATE ON THREE-YEAR PROGRAMMATIC PLANNING DOCUMENT.—Concurrent with the submission to the Congress of the President’s annual budget request in each year after the date of enactment of this subsection, the Director shall submit to Congress an update to the 3-year programmatic planning document submitted under subsection (c), revised to cover the first 3 fiscal years after the date of that update.”.

SEC. 3005. REPORT BY VISITING COMMITTEE.

Section 10(h)(1) of the National Institute of Standards and Technology Act (15 U.S.C. 278(h)(1)) is amended—

(1) by striking “on or before January 31 in each year” and inserting “not later than 30 days after the submittal to Congress of the President’s annual budget request in each year”; and

(2) by adding to the end the following: “Such report also shall comment on the programmatic planning document and updates thereto submitted to Congress by the Director under subsections (c) and (d) of section 23.”.

SEC. 3006. MEETINGS OF VISITING COMMITTEE ON ADVANCED TECHNOLOGY.

Section 10(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278(d)) is amended by striking “quarterly” and inserting “twice each year”.

SEC. 3007. COLLABORATIVE MANUFACTURING RESEARCH PILOT GRANTS.

The National Institute of Standards and Technology Act is amended—

(1) by redesignating the first section 32 (15 U.S.C. 271 note) as section 34 and moving it to the end of the Act; and

(2) by inserting before the section moved by paragraph (1) the following new section:

“SEC. 33. COLLABORATIVE MANUFACTURING RESEARCH PILOT GRANTS. 15 USC 278r.

“(a) **AUTHORITY.**—

“(1) **ESTABLISHMENT.**—The Director shall establish a pilot program of awards to partnerships among participants described in paragraph (2) for the purposes described in paragraph (3). Awards shall be made on a peer-reviewed, competitive basis.

“(2) **PARTICIPANTS.**—Such partnerships shall include at least—

“(A) 1 manufacturing industry partner; and

“(B) 1 nonindustry partner.

“(3) **PURPOSE.**—The purpose of the program under this section is to foster cost-shared collaborations among firms, educational institutions, research institutions, State agencies, and nonprofit organizations to encourage the development of innovative, multidisciplinary manufacturing technologies. Partnerships receiving awards under this section shall conduct applied research to develop new manufacturing processes, techniques, or materials that would contribute to improved performance, productivity, and competitiveness of United States manufacturing, and build lasting alliances among collaborators.

“(b) **PROGRAM CONTRIBUTION.**—Awards under this section shall provide for not more than one-third of the costs of a partnership. Not more than an additional one-third of such costs may be obtained directly or indirectly from other Federal sources.

“(c) **APPLICATIONS.**—Applications for awards under this section shall be submitted in such manner, at such time, and containing such information as the Director shall require. Such applications shall describe at a minimum—

“(1) how each partner will participate in developing and carrying out the research agenda of the partnership;

“(2) the research that the grant would fund; and

“(3) how the research to be funded with the award would contribute to improved performance, productivity, and competitiveness of the United States manufacturing industry.

“(d) **SELECTION CRITERIA.**—In selecting applications for awards under this section, the Director shall consider at a minimum—

“(1) the degree to which projects will have a broad impact on manufacturing;

“(2) the novelty and scientific and technical merit of the proposed projects; and

“(3) the demonstrated capabilities of the applicants to successfully carry out the proposed research.

“(e) **DISTRIBUTION.**—In selecting applications under this section the Director shall ensure, to the extent practicable, a distribution of overall awards among a variety of manufacturing industry sectors and a range of firm sizes.

“(f) **DURATION.**—In carrying out this section, the Director shall run a single pilot competition to solicit and make awards. Each award shall be for a 3-year period.”.

SEC. 3008. MANUFACTURING FELLOWSHIP PROGRAM.

Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–1) is amended—

(1) by inserting “(a) IN GENERAL.—” before “The Director is authorized”; and

(2) by adding at the end the following new subsection: “(b) MANUFACTURING FELLOWSHIP PROGRAM.—

“(1) ESTABLISHMENT.—To promote the development of a robust research community working at the leading edge of manufacturing sciences, the Director shall establish a program to award—

“(A) postdoctoral research fellowships at the Institute for research activities related to manufacturing sciences; and

“(B) senior research fellowships to established researchers in industry or at institutions of higher education who wish to pursue studies related to the manufacturing sciences at the Institute.

“(2) APPLICATIONS.—To be eligible for an award under this subsection, an individual shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

“(3) STIPEND LEVELS.—Under this subsection, the Director shall provide stipends for postdoctoral research fellowships at a level consistent with the National Institute of Standards and Technology Postdoctoral Research Fellowship Program, and senior research fellowships at levels consistent with support for a faculty member in a sabbatical position.”.

15 USC 275 note. **SEC. 3009. PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**

(a) IN GENERAL.—The Director of the National Institute of Standards and Technology may procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code, to assist with urgent or short-term research projects.

(b) EXTENT OF AUTHORITY.—A procurement under this section may not exceed 1 year in duration, and the Director shall procure no more than 200 experts and consultants per year.

(c) SUNSET.—This section shall cease to be effective after September 30, 2010.

(d) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on whether additional safeguards would be needed with respect to the use of authorities granted under this section if such authorities were to be made permanent.

SEC. 3010. MALCOLM BALDRIGE AWARDS.

Section 17(c)(3) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(3)) is amended to read as follows:

“(3) In any year, not more than 18 awards may be made under this section to recipients who have not previously received an award under this section, and no award shall be made within any category described in paragraph (1) if there are no qualifying enterprises in that category.”.

SEC. 3011. REPORT ON NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY EFFORTS TO RECRUIT AND RETAIN EARLY CAREER SCIENCE AND ENGINEERING RESEARCHERS.

Not later than 3 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall submit to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report on efforts to recruit and retain young scientists and engineers at the early stages of their careers at the National Institute of Standards and Technology laboratories and joint institutes. The report shall include—

(1) a description of National Institute of Standards and Technology policies and procedures, including financial incentives, awards, promotions, time set aside for independent research, access to equipment or facilities, and other forms of recognition, designed to attract and retain young scientists and engineers;

(2) an evaluation of the impact of these incentives on the careers of young scientists and engineers at the National Institute of Standards and Technology, and also on the quality of the research at the National Institute of Standards and Technology's laboratories and in the National Institute of Standards and Technology's programs;

(3) a description of what barriers, if any, exist to efforts to recruit and retain young scientists and engineers, including limited availability of full time equivalent positions, legal and procedural requirements, and pay grading systems; and

(4) the amount of funding devoted to efforts to recruit and retain young researchers and the source of such funds.

SEC. 3012. TECHNOLOGY INNOVATION PROGRAM.

(a) **REPEAL OF ADVANCED TECHNOLOGY PROGRAM.**—Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is repealed.

(b) **ESTABLISHMENT OF TECHNOLOGY INNOVATION PROGRAM.**—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by inserting after section 27 the following:

“SEC. 28. TECHNOLOGY INNOVATION PROGRAM.

15 USC 278n.

“(a) **ESTABLISHMENT.**—There is established within the Institute a program linked to the purpose and functions of the Institute, to be known as the ‘Technology Innovation Program’ for the purpose of assisting United States businesses and institutions of higher education or other organizations, such as national laboratories and nonprofit research institutions, to support, promote, and accelerate innovation in the United States through high-risk, high-reward research in areas of critical national need.

“(b) **EXTERNAL FUNDING.**—

“(1) **IN GENERAL.**—The Director shall award competitive, merit-reviewed grants, cooperative agreements, or contracts to—

“(A) eligible companies that are small-sized businesses or medium-sized businesses; or

“(B) joint ventures.

“(2) **SINGLE COMPANY AWARDS.**—No award given to a single company shall exceed \$3,000,000 over 3 years.

“(3) JOINT VENTURE AWARDS.—No award given to a joint venture shall exceed \$9,000,000 over 5 years.

“(4) FEDERAL COST SHARE.—The Federal share of a project funded by an award under the program shall not be more than 50 percent of total project costs.

“(5) PROHIBITIONS.—Federal funds awarded under this program may be used only for direct costs and not for indirect costs, profits, or management fees of a contractor. Any business that is not a small-sized or medium-sized business may not receive any funding under this program.

“(c) AWARD CRITERIA.—The Director shall only provide assistance under this section to an entity—

“(1) whose proposal has scientific and technical merit and may result in intellectual property vesting in a United States entity that can commercialize the technology in a timely manner;

“(2) whose application establishes that the proposed technology has strong potential to address critical national needs through transforming the Nation’s capacity to deal with major societal challenges that are not currently being addressed, and generate substantial benefits to the Nation that extend significantly beyond the direct return to the applicant;

“(3) whose application establishes that the research has strong potential for advancing the state-of-the-art and contributing significantly to the United States science and technology knowledge base;

“(4) whose proposal explains why Technology Innovation Program support is necessary, including evidence that the research will not be conducted within a reasonable time period in the absence of financial assistance under this section;

“(5) whose application demonstrates that reasonable efforts have been made to secure funding from alternative funding sources and no other alternative funding sources are reasonably available to support the proposal; and

“(6) whose application explains the novelty of the technology and demonstrates that other entities have not already developed, commercialized, marketed, distributed, or sold similar technologies.

“(d) COMPETITIONS.—The Director shall solicit proposals at least annually to address areas of critical national need for high-risk, high-reward projects.

“(e) INTELLECTUAL PROPERTY RIGHTS OWNERSHIP.—

“(1) IN GENERAL.—Title to any intellectual property developed by a joint venture from assistance provided under this section may vest in any participant in the joint venture, as agreed by the members of the joint venture, notwithstanding section 202 (a) and (b) of title 35, United States Code. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practice for or on behalf of the United States in connection with any such intellectual property, but shall not in the exercise of such license publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a participant in the joint venture, until the expiration of the first patent obtained in connection with such intellectual property.

“(2) LICENSING.—Nothing in this subsection shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.

“(3) DEFINITION.—For purposes of this subsection, the term ‘intellectual property’ means an invention patentable under title 35, United States Code, or any patent on such an invention, or any work for which copyright protection is available under title 17, United States Code.

“(f) PROGRAM OPERATION.—Not later than 9 months after the date of the enactment of this section, the Director shall promulgate regulations—

Deadline.
Regulations.

“(1) establishing criteria for the selection of recipients of assistance under this section;

“(2) establishing procedures regarding financial reporting and auditing to ensure that awards are used for the purposes specified in this section, are in accordance with sound accounting practices, and are not funding existing or planned research programs that would be conducted within a reasonable time period in the absence of financial assistance under this section; and

“(3) providing for appropriate dissemination of Technology Innovation Program research results.

“(g) ANNUAL REPORT.—The Director shall submit annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report describing the Technology Innovation Program’s activities, including a description of the metrics upon which award funding decisions were made in the previous fiscal year, any proposed changes to those metrics, metrics for evaluating the success of ongoing and completed awards, and an evaluation of ongoing and completed awards. The first annual report shall include best practices for management of programs to stimulate high-risk, high-reward research.

“(h) CONTINUATION OF ATP GRANTS.—The Director shall, through the Technology Innovation Program, continue to provide support originally awarded under the Advanced Technology Program, in accordance with the terms of the original award and consistent with the goals of the Technology Innovation Program.

“(i) COORDINATION WITH OTHER STATE AND FEDERAL TECHNOLOGY PROGRAMS.—In carrying out this section, the Director shall, as appropriate, coordinate with other senior State and Federal officials to ensure cooperation and coordination in State and Federal technology programs and to avoid unnecessary duplication of efforts.

“(j) ACCEPTANCE OF FUNDS FROM OTHER FEDERAL AGENCIES.—In addition to amounts appropriated to carry out this section, the Secretary and the Director may accept funds from other Federal agencies to support awards under the Technology Innovation Program. Any award under this section which is supported with funds from other Federal agencies shall be selected and carried out according to the provisions of this section. Funds accepted from other Federal agencies shall be included as part of the Federal cost share of any project funded under this section.

“(k) TIP ADVISORY BOARD.—

“(1) ESTABLISHMENT.—There is established within the Institute a TIP Advisory Board.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—The TIP Advisory Board shall consist of 10 members appointed by the Director, at least 7 of whom shall be from United States industry, chosen to reflect the wide diversity of technical disciplines and industrial sectors represented in Technology Innovation Program projects. No member shall be an employee of the Federal Government.

“(B) TERM.—Except as provided in subparagraph (C) or (D), the term of office of each member of the TIP Advisory Board shall be 3 years.

“(C) CLASSES.—The original members of the TIP Advisory Board shall be appointed to 3 classes. One class of 3 members shall have an initial term of 1 year, one class of 3 members shall have an initial term of 2 years, and one class of 4 members shall have an initial term of 3 years.

“(D) VACANCIES.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

“(E) SERVING CONSECUTIVE TERMS.—Any person who has completed 2 consecutive full terms of service on the TIP Advisory Board shall thereafter be ineligible for appointment during the 1-year period following the expiration of the second such term.

“(3) PURPOSE.—The TIP Advisory Board shall meet not less than 2 times annually, and provide the Director—

“(A) advice on programs, plans, and policies of the Technology Innovation Program;

“(B) reviews of the Technology Innovation Program’s efforts to accelerate the research and development of challenging, high-risk, high-reward technologies in areas of critical national need;

“(C) reports on the general health of the program and its effectiveness in achieving its legislatively mandated mission; and

“(D) guidance on investment areas that are appropriate for Technology Innovation Program funding;

“(4) ADVISORY CAPACITY.—In discharging its duties under this subsection, the TIP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

“(5) ANNUAL REPORT.—The TIP Advisory Board shall transmit an annual report to the Secretary for transmittal to the Congress not later than 30 days after the submission to Congress of the President’s annual budget request in each year. Such report shall address the status of the Technology Innovation Program and comment on the relevant sections of the programmatic planning document and updates thereto transmitted to Congress by the Director under subsections (c) and (d) of section 23.

“(1) DEFINITIONS.—In this section—

“(1) the term ‘eligible company’ means a small-sized or medium-sized business that is incorporated in the United States and does a majority of its business in the United States, and that either—

“(A) is majority owned by citizens of the United States;
or

“(B) is owned by a parent company incorporated in another country and the Director finds that—

“(i) the company’s participation in the Technology Innovation Program would be in the economic interest of the United States, as evidenced by—

“(I) investments in the United States in research and manufacturing;

“(II) significant contributions to employment in the United States; and

“(III) agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology; and

“(ii) the company is incorporated in a country which—

“(I) affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those receiving funding under this section;

“(II) affords to United States-owned companies local investment opportunities comparable to those afforded any other company; and

“(III) affords adequate and effective protection for intellectual property rights of United States-owned companies;

“(2) the term ‘high-risk, high-reward research’ means research that—

“(A) has the potential for yielding transformational results with far-ranging or wide-ranging implications;

“(B) addresses critical national needs within the National Institute of Standards and Technology’s areas of technical competence; and

“(C) is too novel or spans too diverse a range of disciplines to fare well in the traditional peer-review process;

“(3) the term ‘institution of higher education’ has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

“(4) the term ‘joint venture’ means a joint venture that—

“(A) includes either—

“(i) at least 2 separately owned for-profit companies that are both substantially involved in the project and both of which are contributing to the cost-sharing required under this section, with the lead entity of the joint venture being one of those companies that is a small-sized or medium-sized business; or

“(ii) at least 1 small-sized or medium-sized business and 1 institution of higher education or other organization, such as a national laboratory or nonprofit research institute, that are both substantially involved in the project and both of which are contributing to the cost-sharing required under this section, with the lead entity of the joint venture being either that small-

sized or medium-sized business or that institution of higher education; and

“(B) may include additional for-profit companies, institutions of higher education, and other organizations, such as national laboratories and nonprofit research institutes, that may or may not contribute non-Federal funds to the project; and

“(5) the term ‘TIP Advisory Board’ means the advisory board established under subsection (k).”.

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note.

(c) **TRANSITION.**—Notwithstanding the repeal made by subsection (a), the Director shall carry out section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) as such section was in effect on the day before the date of the enactment of this Act, with respect to applications for grants under such section submitted before such date, until the earlier of—

(1) the date that the Director promulgates the regulations required under section 28(f) of the National Institute of Standards and Technology Act, as added by subsection (b); or

(2) December 31, 2007.

SEC. 3013. TECHNICAL AMENDMENTS TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AND OTHER TECHNICAL AMENDMENTS.

(a) **RESEARCH FELLOWSHIPS.**—Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–l) is amended by striking “up to 1 per centum of the” and inserting “up to 1.5 percent of the”.

(b) **FINANCIAL AGREEMENTS CLARIFICATION.**—Section 2(b)(4) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)(4)) is amended by inserting “and grants and cooperative agreements,” after “arrangements,”.

(c) **OUTDATED SPECIFICATIONS.**—

(1) **REDEFINITION OF THE METRIC SYSTEM.**—Section 3570 of the Revised Statutes of the United States (derived from section 2 of the Act of July 28, 1866, entitled “An Act to authorize the Use of the Metric System of Weights and Measures” (15 U.S.C. 205; 14 Stat. 339)) is amended to read as follows:

15 USC 205.

“SEC. 3570. METRIC SYSTEM DEFINED.

“The metric system of measurement shall be defined as the International System of Units as established in 1960, and subsequently maintained, by the General Conference of Weights and Measures, and as interpreted or modified for the United States by the Secretary of Commerce.”.

(2) **REPEAL OF REDUNDANT AND OBSOLETE AUTHORITY.**—The Act of July 21, 1950, entitled, “An Act To redefine the units and establish the standards of electrical and photometric measurements.” (15 U.S.C. 223 and 224) is hereby repealed.

(3) **STANDARD TIME.**—Section 1 of the Act of March 19, 1918, (commonly known as the “Calder Act”) (15 U.S.C. 261) is amended—

(A) by inserting “(a) **IN GENERAL.**—” before “For the purpose”;

(B) by striking the second sentence and the extra period after it and inserting “Except as provided in section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a), the

standard time of the first zone shall be Coordinated Universal Time retarded by 4 hours; that of the second zone retarded by 5 hours; that of the third zone retarded by 6 hours; that of the fourth zone retarded by 7 hours; that of the fifth zone retarded 8 hours; that of the sixth zone retarded by 9 hours; that of the seventh zone retarded by 10 hours; that of the eighth zone retarded by 11 hours; and that of the ninth zone shall be Coordinated Universal Time advanced by 10 hours.”; and

(C) by adding at the end the following:

“(b) COORDINATED UNIVERSAL TIME DEFINED.—In this section, the term ‘Coordinated Universal Time’ means the time scale maintained through the General Conference of Weights and Measures and interpreted or modified for the United States by the Secretary of Commerce in coordination with the Secretary of the Navy.”.

(4) IDAHO TIME ZONE.—Section 3 of the Act of March 19, 1918, (commonly known as the “Calder Act”) (15 U.S.C. 264) is amended by striking “third zone” and inserting “fourth zone”.

(d) NON-ENERGY INVENTIONS PROGRAM.—Section 27 of the National Institute of Standards and Technology Act (15 U.S.C. 278m) is repealed.

SEC. 3014. RETENTION OF DEPRECIATION SURCHARGE.

Section 14 of the National Institute of Standards and Technology Act (15 U.S.C. 278d) is amended—

(1) by inserting “(a) IN GENERAL.—” before “Within”; and

(2) by adding at the end the following:

“(b) RETENTION OF FEES.—The Director is authorized to retain all building use and depreciation surcharge fees collected pursuant to OMB Circular A–25. Such fees shall be collected and credited to the Construction of Research Facilities Appropriation Account for use in maintenance and repair of the Institute’s existing facilities.”.

SEC. 3015. POST-DOCTORAL FELLOWS.

Section 19 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–2) is amended by striking “nor more than 60 new fellows” and inserting “nor more than 120 new fellows”.

TITLE IV—OCEAN AND ATMOSPHERIC PROGRAMS

SEC. 4001. OCEAN AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM. 33 USC 893.

The Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Director of the National Science Foundation and the Administrator of the National Aeronautics and Space Administration, shall establish a coordinated program of ocean, coastal, Great Lakes, and atmospheric research and development, in collaboration with academic institutions and other nongovernmental entities, that shall focus on the development of advanced technologies and analytical methods that will promote United States leadership in ocean and atmospheric science and competitiveness in the applied uses of such knowledge.

33 USC 893a.

SEC. 4002. NOAA OCEAN AND ATMOSPHERIC SCIENCE EDUCATION PROGRAMS.

(a) **IN GENERAL.**—The Administrator of the National Oceanic and Atmospheric Administration shall conduct, develop, support, promote, and coordinate formal and informal educational activities at all levels to enhance public awareness and understanding of ocean, coastal, Great Lakes, and atmospheric science and stewardship by the general public and other coastal stakeholders, including underrepresented groups in ocean and atmospheric science and policy careers. In conducting those activities, the Administrator shall build upon the educational programs and activities of the agency.

(b) **NOAA SCIENCE EDUCATION PLAN.**—The Administrator, appropriate National Oceanic and Atmospheric Administration programs, ocean atmospheric science and education experts, and interested members of the public shall develop a science education plan setting forth education goals and strategies for the Administration, as well as programmatic actions to carry out such goals and priorities over the next 20 years, and evaluate and update such plan every 5 years.

(c) **CONSTRUCTION.**—Nothing in this section may be construed to affect the application of section 438 of the General Education Provisions Act (20 U.S.C. 1232a) or sections 504 and 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794 and 794d).

33 USC 893b.

SEC. 4003. NOAA'S CONTRIBUTION TO INNOVATION.

(a) **PARTICIPATION IN INTERAGENCY ACTIVITIES.**—The National Oceanic and Atmospheric Administration shall be a full participant in any interagency effort to promote innovation and economic competitiveness through near-term and long-term basic scientific research and development and the promotion of science, technology, engineering, and mathematics education, consistent with the agency mission, including authorized activities.

(b) **HISTORIC FOUNDATION.**—In order to carry out the participation described in subsection (a), the Administrator of the National Oceanic and Atmospheric Administration shall build on the historic role of the National Oceanic and Atmospheric Administration in stimulating excellence in the advancement of ocean and atmospheric science and engineering disciplines and in providing opportunities and incentives for the pursuit of academic studies in science, technology, engineering, and mathematics.

Protecting
America's
Competitive Edge
Through Energy
Act.
42 USC 15801
note.

42 USC 16531.

TITLE V—DEPARTMENT OF ENERGY**SEC. 5001. SHORT TITLE.**

This title may be cited as the “Protecting America’s Competitive Edge Through Energy Act” or the “PACE–Energy Act”.

SEC. 5002. DEFINITIONS.

In this title:

(1) **DEPARTMENT.**—The term “Department” means the Department of Energy.

(2) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) NATIONAL LABORATORY.—The term “National Laboratory” has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

(4) SECRETARY.—The term “Secretary” means the Secretary of Energy.

SEC. 5003. SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION AT THE DEPARTMENT OF ENERGY.

(a) SCIENCE EDUCATION PROGRAMS.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (f), respectively;

(2) by inserting after subsection (a) the following:

“(b) ORGANIZATION OF SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS.—

“(1) DIRECTOR OF SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION.—Notwithstanding any other provision of law, the Secretary, acting through the Under Secretary for Science (referred to in this subsection as the ‘Under Secretary’), shall appoint a Director of Science, Engineering, and Mathematics Education (referred to in this subsection as the ‘Director’) with the principal responsibility for administering science, engineering, and mathematics education programs across all functions of the Department.

“(2) QUALIFICATIONS.—The Director shall be an individual, who by reason of professional background and experience, is specially qualified to advise the Under Secretary on all matters pertaining to science, engineering, and mathematics education at the Department.

“(3) DUTIES.—The Director shall—

“(A) oversee all science, engineering, and mathematics education programs of the Department;

“(B) represent the Department as the principal inter-agency liaison for all science, engineering, and mathematics education programs, unless otherwise represented by the Secretary or the Under Secretary;

“(C) prepare the annual budget and advise the Under Secretary on all budgetary issues for science, engineering, and mathematics education programs of the Department; Budget.

“(D) increase, to the maximum extent practicable, the participation and advancement of women and underrepresented minorities at every level of science, technology, engineering, and mathematics education; and

“(E) perform other such matters relating to science, engineering, and mathematics education as are required by the Secretary or the Under Secretary.

“(4) STAFF AND OTHER RESOURCES.—The Secretary shall assign to the Director such personnel and other resources as the Secretary considers necessary to permit the Director to carry out the duties of the Director.

“(5) ASSESSMENT.—

“(A) IN GENERAL.—The Secretary shall offer to enter into a contract with the National Academy of Sciences under which the National Academy, not later than 5 years after, and not later than 10 years after, the date of enactment of this paragraph, shall assess the performance of Contracts. Deadlines.

the science, engineering, and mathematics education programs of the Department.

“(B) CONSIDERATIONS.—An assessment under this paragraph shall be conducted taking into consideration, where applicable, the effect of science, engineering, and mathematics education programs of the Department on student academic achievement in science and mathematics.

“(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.”; and

(3) by striking subsection (d) (as redesignated by paragraph (1)) and inserting the following:

“(d) SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION FUND.—The Secretary shall establish a Science, Engineering, and Mathematics Education Fund, using not less than 0.3 percent of the amount made available to the Department for research, development, demonstration, and commercial application for each fiscal year, to carry out sections 3165, 3166, and 3167.

Reports.

“(e) ANNUAL PLAN FOR ALLOCATION OF EDUCATION FUNDING.—The Secretary shall submit to Congress as part of the annual budget submission for a fiscal year a report describing the manner in which the Department has complied with subsection (d) for the prior fiscal year and the manner in which the Department proposes to comply with subsection (d) during the following fiscal year, including—

“(1) the total amount of funding for research, development, demonstration, and commercial application activities for the corresponding fiscal year;

“(2) the amounts set aside for the Science, Engineering, and Mathematics Education Fund under subsection (d) from funding for research activities, development activities, demonstration activities, and commercial application activities for the corresponding fiscal year; and

“(3) a description of how the funds set aside under subsection (d) were allocated for the prior fiscal year and will be allocated for the following fiscal year.”.

42 USC 7381g
note.

(b) CONSULTATION.—The Secretary shall—

(1) consult with the Secretary of Education and the Director of the National Science Foundation regarding activities authorized under subpart B of the Department of Energy Science Education Enhancement Act (as added by subsection (d)(3)) to improve science and mathematics education; and

(2) otherwise make available to the Secretary of Education reports associated with programs authorized under that section.

(c) DEFINITION.—Section 3168 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381d) is amended by adding at the end the following:

“(5) NATIONAL LABORATORY.—The term ‘National Laboratory’ has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).”.

(d) SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

(1) by inserting after section 3162 (42 U.S.C. 7381) the following:

“Subpart A—Science Education Enhancement”;

- (2) in section 3169 (42 U.S.C. 7381e), by striking “part” and inserting “subpart”; and
- (3) by adding at the end the following:

“Subpart B—Science, Engineering, and Mathematics Education Programs**“SEC. 3170. DEFINITIONS.**

42 USC 7381g.

“In this subpart:

“(1) DIRECTOR.—The term ‘Director’ means the Director of Science, Engineering, and Mathematics Education.

“(2) NATIONAL LABORATORY.—The term ‘National Laboratory’ has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

“CHAPTER 1—PILOT PROGRAM OF GRANTS TO SPECIALTY SCHOOLS FOR SCIENCE AND MATHEMATICS

Inter-governmental relations.

“SEC. 3171. PILOT PROGRAM OF GRANTS TO SPECIALTY SCHOOLS FOR SCIENCE AND MATHEMATICS.

42 USC 7381h.

“(a) PURPOSE.—The purpose of this section is to establish a pilot program of grants to States to help establish or expand public, statewide specialty secondary schools that provide comprehensive science and mathematics (including technology and engineering) education to improve the academic achievement of students in science and mathematics.

“(b) DEFINITION OF SPECIALTY SCHOOL FOR SCIENCE AND MATHEMATICS.—In this chapter, the term ‘specialty school for science and mathematics’ means a public secondary school (including a school that provides residential services to students) that—

“(1) serves students residing in the State in which the school is located; and

“(2) offers to those students a high-quality, comprehensive science and mathematics (including technology and engineering) curriculum designed to improve the academic achievement of students in science and mathematics.

“(c) PILOT PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—From the amounts authorized under subsection (i), the Secretary, acting through the Director and in consultation with the Director of the National Science Foundation, shall award grants, on a competitive basis, to States in order to provide assistance to the States for the costs of establishing or expanding public, statewide specialty schools for science and mathematics.

“(2) RESOURCES.—The Director shall ensure that appropriate resources of the Department, including the National Laboratories, are available to schools funded under this section in order to—

“(A) increase experiential, hands-on learning opportunities in science, technology, engineering, and mathematics for students attending such schools; and

“(B) provide ongoing professional development opportunities for teachers employed at such schools.

“(3) ASSISTANCE.—Consistent with sections 3165 and 3166, the Director shall make available from funds authorized in this section to carry out a program using scientific and engineering staff of the National Laboratories, during which the staff—

“(A) assists teachers in teaching courses at the schools funded under this section;

“(B) uses National Laboratory scientific equipment in teaching the courses; and

“(C) uses distance education and other technologies to provide assistance described in subparagraphs (A) and (B) to schools funded under this section that are not located near the National Laboratories.

“(4) RESTRICTIONS.—

“(A) MAXIMUM NUMBER OF FUNDED SPECIALTY SCHOOLS PER STATE.—No State shall receive funding for more than 1 specialty school for science and mathematics for a fiscal year.

“(B) MAXIMUM AMOUNT AND DURATION OF GRANTS.—A grant awarded to a State for a specialty school for science and mathematics under this section—

“(i) shall not exceed \$2,000,000 for a fiscal year; and

“(ii) shall not be provided for more than 3 fiscal years.

“(d) FEDERAL AND NON-FEDERAL SHARES.—

“(1) FEDERAL SHARE.—The Federal share of the costs described in subsection (c)(1) shall not exceed 33 percent.

“(2) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (c)(1) shall be—

“(A) not less than 67 percent; and

“(B) provided from non-Federal sources, in cash or in kind, fairly evaluated, including services.

“(e) APPLICATION.—To be eligible to receive a grant under this section, a State shall submit to the Director an application at such time, in such manner, and containing such information as the Director may require that describes—

“(1) the process by which and selection criteria with which the State will select and designate a school as a specialty school for science and mathematics in accordance with this section;

“(2) how the State will ensure that funds made available under this section are used to establish or expand a specialty school for science and mathematics—

“(A) in accordance with the activities described in subsection (g); and

“(B) that has the capacity to improve the academic achievement of all students in all core academic subjects, and particularly in science and mathematics;

“(3) how the State will measure the extent to which the school increases student academic achievement on State academic achievement standards in science, mathematics, and, to the maximum extent applicable, technology and engineering;

“(4) the curricula and materials to be used in the school;

“(5) the availability of funds from non-Federal sources for the costs of the activities authorized under this section; and

“(6) how the State will use technical assistance and support from the Department, including the National Laboratories, and other entities with experience and expertise in science, technology, engineering, and mathematics education, including institutions of higher education.

“(f) DISTRIBUTION.—In awarding grants under this section, the Director shall—

“(1) ensure a wide, equitable distribution among States that propose to serve students from urban and rural areas; and

“(2) provide equal consideration to States without National Laboratories.

“(g) USES OF FUNDS.—

“(1) REQUIREMENT.—A State that receives a grant under this section shall use the funds made available through the grant to—

“(A) employ proven strategies and methods for improving student learning and teaching in science, technology, engineering, and mathematics;

“(B) integrate into the curriculum of the school comprehensive science and mathematics education, including instruction and assessments in science, mathematics, and to the extent applicable, technology and engineering that are aligned with the academic content and student academic achievement standards of the State, within the meaning of section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311);

“(C) create opportunities for enhanced and ongoing professional development for teachers that improves the science, technology, engineering, and mathematics content knowledge of the teachers; and

“(D) design and implement hands-on laboratory experiences to help prepare students to pursue postsecondary studies in science, technology, engineering, and mathematics fields.

“(2) SPECIAL RULE.—Grant funds under this section may be used for activities described in paragraph (1) only if the activities are directly relating to improving student academic achievement in science, mathematics, and to the extent applicable, technology and engineering.

“(h) EVALUATION AND REPORT.—

“(1) STATE EVALUATION AND REPORT.—

“(A) EVALUATION.—Each State that receives a grant under this section shall develop and carry out an evaluation and accountability plan for the activities funded through the grant that measures the impact of the activities, including measurable objectives for improved student academic achievement on State science, mathematics, and, to the maximum extent applicable, technology and engineering assessments.

“(B) REPORT.—The State shall submit to the Director a report containing the results of the evaluation and accountability plan.

“(2) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the PACE–Energy Act, the Director shall submit a report detailing the impact of the activities assisted with funds made available under this section to—

“(A) the Committee on Science and Technology of the House of Representatives;

“(B) the Committee on Energy and Natural Resources of the Senate; and

“(C) the Committee on Health, Education, Labor, and Pensions of the Senate.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$14,000,000 for fiscal year 2008;

“(2) \$22,500,000 for fiscal year 2009; and

“(3) \$30,000,000 for fiscal year 2010.

“CHAPTER 2—EXPERIENTIAL-BASED LEARNING OPPORTUNITIES

42 USC 7381j.

“SEC. 3175. EXPERIENTIAL-BASED LEARNING OPPORTUNITIES.

“(a) INTERNSHIPS AUTHORIZED.—

“(1) IN GENERAL.—From the amounts authorized under subsection (f), the Secretary, acting through the Director, shall establish a summer internship program for middle school and secondary school students that shall—

“(A) provide the students with internships at the National Laboratories;

“(B) promote experiential, hands-on learning in science, technology, engineering, or mathematics; and

“(C) be of at least 2 weeks in duration.

“(2) RESIDENTIAL SERVICES.—The Director may provide residential services to students participating in the internship program authorized under paragraph (1).

“(b) SELECTION CRITERIA.—

“(1) IN GENERAL.—The Director shall establish criteria to determine the sufficient level of academic preparedness necessary for a student to be eligible for an internship under this section.

“(2) PARTICIPATION.—The Director shall ensure the participation of students from a wide distribution of States, including States without National Laboratories.

“(3) STUDENT ACHIEVEMENT.—The Director may consider the academic achievement of middle and secondary school students in determining eligibility under this section, in accordance with paragraphs (1) and (2).

“(c) PRIORITY.—

“(1) IN GENERAL.—The Director shall give priority for an internship under this section to a student who meets the eligibility criteria described in subsection (b) and who attends a school—

“(A)(i) in which not less than 30 percent of the children enrolled in the school are from low-income families; or

“(ii) that is designated with a school locale code of 41, 42, or 43, as determined by the Secretary of Education; and

“(B) for which there is—

“(i) a high percentage of teachers who are not teaching in the academic subject areas or grade levels in which the teachers were trained to teach;

“(ii) a high teacher turnover rate; or

“(iii) a high percentage of teachers with emergency, provisional, or temporary certification or licenses.

“(2) COORDINATION.—The Director shall consult with the Secretary of Education in order to determine whether a student meets the priority requirements of this subsection.

“(d) OUTREACH AND EXPERIENTIAL-BASED PROGRAMS FOR MINORITY STUDENTS.—

“(1) IN GENERAL.—The Secretary, acting through the Director, in cooperation with Hispanic-serving institutions, historically Black colleges and universities, tribally controlled colleges and universities, Alaska Native- and Native Hawaiian-serving institutions, and other minority-serving institutions and nonprofit entities with substantial experience relating to outreach and experiential-based learning projects, shall establish outreach and experiential-based learning programs that will encourage underrepresented minority students in kindergarten through grade 12 to pursue careers in science, engineering, and mathematics.

“(2) COMMUNITY INVOLVEMENT.—The Secretary shall ensure that the programs established under paragraph (1) involve, to the maximum extent practicable—

“(A) participation by parents and educators; and

“(B) the establishment of partnerships with business organizations and appropriate Federal, State, and local agencies.

“(3) DISTRIBUTION.—The Secretary shall ensure that the programs established under paragraph (1) are located in diverse geographic regions of the United States, to the maximum extent practicable.

“(e) EVALUATION AND ACCOUNTABILITY PLAN.—The Director shall develop an evaluation and accountability plan for the activities funded under this chapter that objectively measures the impact of the activities.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$7,500,000 for each of fiscal years 2008 through 2010.

“CHAPTER 3—NATIONAL LABORATORIES CENTERS OF EXCELLENCE IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION

“SEC. 3181. NATIONAL LABORATORIES CENTERS OF EXCELLENCE IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION.

42 USC 7381l.

“(a) DEFINITION OF HIGH-NEED PUBLIC SECONDARY SCHOOL.—In this section, the term ‘high-need public secondary school’ means a secondary school—

“(1) with a high concentration of low-income individuals (as defined in section 1707 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537)); or

“(2) designated with a school locale code of 41, 42, or 43, as determined by the Secretary of Education.

“(b) ESTABLISHMENT.—The Secretary shall establish at each of the National Laboratories a program to support a Center of Excellence in Science, Technology, Engineering, and Mathematics (referred to in this section as a ‘Center of Excellence’) in at least 1 high-need public secondary school located in the region served

by the National Laboratory to provide assistance in accordance with subsection (f).

“(c) COLLABORATION.—

“(1) IN GENERAL.—To comply with subsection (g), each high-need public secondary school selected as a Center of Excellence and the National Laboratory shall form a partnership with a school, department, or program of education at an institution of higher education.

“(2) NONPROFIT ENTITIES.—The partnership may include a nonprofit entity with demonstrated experience and effectiveness in science or mathematics, as agreed to by other members of the partnership.

“(d) SELECTION.—

“(1) IN GENERAL.—The Secretary, acting through the Director, shall establish criteria to guide the National Laboratories in selecting the sites for Centers of Excellence.

“(2) PROCESS.—A National Laboratory shall select a site for a Center of Excellence through an open, widely-publicized, and competitive process.

“(e) GOALS.—The Secretary shall establish goals and performance assessments for each Center of Excellence authorized under subsection (b).

“(f) ASSISTANCE.—Consistent with sections 3165 and 3166, the Director shall make available necessary assistance for a program established under this section through the use of scientific and engineering staff of a National Laboratory, including the use of staff—

“(1) to assist teachers in teaching a course at a Center of Excellence in Science, Technology, Engineering, and Mathematics; and

“(2) to use National Laboratory scientific equipment in the teaching of the course.

“(g) SPECIAL RULES.—A Center of Excellence in a region shall ensure—

“(1) provision of clinical practicum, student teaching, or internship experiences for science, technology, and mathematics teacher candidates as part of the teacher preparation program of the Center of Excellence;

“(2) provision of supervision and mentoring for teacher candidates in the teacher preparation program; and

“(3) to the maximum extent practicable, provision of professional development for veteran teachers in the public secondary schools in the region.

“(h) EVALUATION.—The Secretary shall consider the results of performance assessments required under subsection (e) in determining the contract award fee of a National Laboratory management and operations contractor.

“(i) PLAN.—The Director shall—

“(1) develop an evaluation and accountability plan for the activities funded under this section that objectively measures the impact of the activities; and

“(2) disseminate information obtained from those measurements.

“(j) NO EFFECT ON SIMILAR PROGRAMS.—Nothing in this section displaces or otherwise affects any similar program being carried out as of the date of enactment of this section at any National Laboratory under any other provision of law.

“CHAPTER 4—SUMMER INSTITUTES**“SEC. 3185. SUMMER INSTITUTES.**

42 USC 7381n.

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE PARTNER.—The term ‘eligible partner’ means—

“(A) the science, engineering, or mathematics department at an institution of higher education, acting in coordination with a school, department, or program of education at an institution of higher education that provides training for teachers and principals; or

“(B) a nonprofit entity with expertise in providing professional development for science, technology, engineering, or mathematics teachers.

“(2) SUMMER INSTITUTE.—The term ‘summer institute’ means an institute, operated during the summer, that—

“(A) is hosted by a National Laboratory or an eligible partner;

“(B) is operated for a period of not less than 2 weeks;

“(C) includes, as a component, a program that provides direct interaction between students and faculty, including personnel of 1 or more National Laboratories who have scientific expertise;

“(D) provides for follow-up training, during the academic year, that is conducted in the classroom; and

“(E) provides hands-on science, technology, engineering, or mathematics laboratory experience for not less than 2 days.

“(b) SUMMER INSTITUTE PROGRAMS AUTHORIZED.—

“(1) PROGRAMS AT THE NATIONAL LABORATORIES.—The Secretary, acting through the Director, shall establish or expand programs of summer institutes at each of the National Laboratories to provide additional training to strengthen the science, technology, engineering, and mathematics teaching skills of teachers employed at public schools for kindergarten through grade 12, in accordance with the activities authorized under paragraphs (3) and (4).

“(2) PROGRAMS WITH ELIGIBLE PARTNERS.—

“(A) IN GENERAL.—The Secretary, acting through the Director, shall identify and provide assistance as described in subparagraph (C) to eligible partners to establish or expand programs of summer institutes that provide additional training to strengthen the science, technology, engineering, and mathematics teaching skills of teachers employed at public schools for kindergarten through grade 12, in accordance with paragraphs (3) and (4).

“(B) SELECTION CRITERIA.—In identifying eligible partners under subparagraph (A), the Secretary shall require that partner institutions describe—

“(i) how the partner institution has the capability to administer the program in accordance with this section, which may include a description of any existing programs at the institution of the applicant that are targeted at education of science and mathematics teachers and the number of teachers graduated annually from the programs; and

“(ii) how the partner institution will assist the National Laboratory in carrying out the activities described in paragraphs (3) and (4).

“(C) ASSISTANCE.—Consistent with sections 3165 and 3166, the Director shall make available funds authorized under this section to carry out a program using scientific and engineering staff of the National Laboratories, during which the staff—

“(i) assists in providing training to teachers at summer institutes; and

“(ii) uses National Laboratory scientific equipment in the training.

“(3) REQUIRED ACTIVITIES.—Funds authorized under this section shall be used for—

“(A) creating opportunities for enhanced and ongoing professional development for teachers that improves the science, technology, engineering, and mathematics content knowledge of the teachers;

“(B) training to improve the ability of science, technology, engineering, and mathematics teachers to translate content knowledge and recent developments in pedagogy into classroom practice, including training to use curricula that are—

“(i) based on scientific research; and

“(ii) aligned with challenging State academic content standards;

“(C) training on the use and integration of technology in the classrooms; and

“(D) supplemental and follow-up professional development activities as described in subsection (a)(2)(D).

“(4) ADDITIONAL USES OF FUNDS.—Funds authorized under this section may be used for—

“(A) training and classroom materials to assist in carrying out paragraph (3);

“(B) expenses associated with scientific and engineering staff at the National Laboratories assisting in providing training to teachers at summer institutes;

“(C) instruction in the use and integration of data and assessments to inform and instruct classroom practice; and

“(D) stipends and travel expenses for teachers participating in the program.

“(c) PRIORITY.—To the maximum extent practicable, the Director shall ensure that each summer institute program authorized under subsection (b) provides training to—

“(1) teachers from a wide range of school districts;

“(2) teachers from high-need school districts; and

“(3) teachers from groups underrepresented in the fields of science, technology, engineering, and mathematics teaching, including women and members of minority groups.

“(d) COORDINATION AND CONSULTATION.—The Director shall consult and coordinate with the Secretary of Education and the Director of the National Science Foundation regarding the implementation of the programs authorized under subsection (b).

“(e) EVALUATION AND ACCOUNTABILITY PLAN.—

“(1) IN GENERAL.—The Director shall develop an evaluation and accountability plan for the activities funded under this section that measures the impact of the activities.

“(2) CONTENTS.—The evaluation and accountability plan shall include—

“(A) measurable objectives to increase the number of science, technology, and mathematics teachers who participate in the summer institutes involved; and

“(B) measurable objectives for improved student academic achievement on State science, mathematics, and to the maximum extent applicable, technology and engineering assessments.

“(3) REPORT TO CONGRESS.—The Secretary shall submit to Congress with the annual budget submission of the Secretary a report on how the activities assisted under this section improve the science, technology, engineering, and mathematics teaching skills of participating teachers.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$15,000,000 for fiscal year 2008;

“(2) \$20,000,000 for fiscal year 2009; and

“(3) \$25,000,000 for fiscal year 2010.

“CHAPTER 5—NATIONAL ENERGY EDUCATION DEVELOPMENT

“SEC. 3191. NATIONAL ENERGY EDUCATION DEVELOPMENT.

42 USC 7381p.

“(a) IN GENERAL.—The Secretary, acting through the Director and in consultation with the Director of the National Science Foundation, shall establish a program to coordinate and make available to teachers and students web-based kindergarten through high school science, technology, engineering, and mathematics education resources relating to the science and energy mission of the Department, including existing instruction materials and protocols for classroom laboratory experiments.

“(b) ENERGY EDUCATION.—The materials and other resources required under subsection (a) shall include instruction relating to—

“(1) the science of energy;

“(2) the sources of energy;

“(3) the uses of energy in society; and

“(4) the environmental consequences and benefits of all energy sources and uses.

“(c) DISSEMINATION.—The Secretary, acting through the Director, shall take all steps necessary, such as through participation in education association conferences, to advertise the program authorized under this section to K–12 teachers and science education coordinators across the United States.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$500,000 for fiscal year 2008; and

“(2) such sums as necessary for each fiscal year thereafter.

“CHAPTER 6—ADMINISTRATION

“SEC. 3195. MENTORING PROGRAM.

42 USC 7381r.

“(a) IN GENERAL.—As part of the programs established under chapters 1, 3, and 4, the Director shall establish a program to

recruit and provide mentors for women and underrepresented minorities who are interested in careers in science, engineering, and mathematics.

“(b) PAIRING.—The program shall pair mentors with women and minorities who are in programs of study at specialty schools for science and mathematics, Centers of Excellence, and summer institutes established under chapters 1, 3, and 4, respectively.

Reports.

“(c) PROGRAM EVALUATION.—The Secretary shall annually—

“(1) use metrics to evaluate the success of the programs established under subsection (a); and

“(2) submit to Congress a report that describes the results of each evaluation.”.

42 USC 16532.

SEC. 5004. NUCLEAR SCIENCE TALENT EXPANSION PROGRAM FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) PURPOSES.—The purposes of this section are—

(1) to address the decline in the number of and resources available to nuclear science programs at institutions of higher education; and

(2) to increase the number of graduates with degrees in nuclear science, an area of strategic importance to the economic competitiveness and energy security of the United States.

(b) DEFINITION OF NUCLEAR SCIENCE.—In this section, the term “nuclear science” includes—

- (1) nuclear science;
- (2) nuclear engineering;
- (3) nuclear chemistry;
- (4) radio chemistry; and
- (5) health physics.

(c) ESTABLISHMENT.—The Secretary shall establish, in accordance with this section, a program to expand and enhance institution of higher education nuclear science educational capabilities.

(d) NUCLEAR SCIENCE PROGRAM EXPANSION GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—

(1) IN GENERAL.—The Secretary shall award up to 3 competitive grants for each fiscal year to institutions of higher education that establish new academic degree programs in nuclear science.

(2) PRIORITY.—In evaluating grants under this subsection, the Secretary shall give priority to proposals that involve partnerships with a National Laboratory or other eligible nuclear-related entity, as determined by the Secretary.

(3) CRITERIA.—Criteria for a grant awarded under this subsection shall be based on—

- (A) the potential to attract new students to the program;
- (B) academic rigor; and
- (C) the ability to offer hands-on learning opportunities.

(4) DURATION AND AMOUNT.—

(A) DURATION.—A grant under this subsection may be up to 5 years in duration.

(B) AMOUNT.—An institution of higher education that receives a grant under this subsection shall be eligible for up to \$1,000,000 for each year of the grant period.

(5) USE OF FUNDS.—An institution of higher education that receives a grant under this subsection may use the grant to—

- (A) recruit and retain new faculty;

- (B) develop core and specialized course content;
- (C) encourage collaboration between faculty and researchers in the nuclear science field; and
- (D) support outreach efforts to recruit students.

(e) NUCLEAR SCIENCE COMPETITIVENESS GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—

(1) IN GENERAL.—The Secretary shall award up to 5 competitive grants for each fiscal year to institutions of higher education with existing academic degree programs that produce graduates in nuclear science.

(2) CRITERIA.—Criteria for a grant awarded under this subsection shall be based on the potential for increasing the number and academic quality of graduates in the nuclear sciences who enter into careers in nuclear-related fields.

(3) DURATION AND AMOUNT.—

(A) DURATION.—A grant under this subsection may be up to 5 years in duration.

(B) AMOUNT.—An institution of higher education that receives a grant under this subsection shall be eligible for up to \$500,000 for each year of the grant period.

(4) USE OF FUNDS.—An institution of higher education that receives a grant under this subsection may use the grant to—

(A) increase the number of graduates in nuclear science that enter into careers in the nuclear science field;

(B) enhance the teaching of advanced nuclear technologies;

(C) aggressively pursue collaboration opportunities with industry and National Laboratories;

(D) bolster or sustain nuclear infrastructure and research facilities of the institution of higher education, such as research and training reactors or laboratories; and

(E) provide tuition assistance and stipends to undergraduate and graduate students.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) NUCLEAR SCIENCE PROGRAM EXPANSION GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—There are authorized to be appropriated to carry out subsection (d)—

(A) \$3,500,000 for fiscal year 2008;

(B) \$6,500,000 for fiscal year 2009; and

(C) \$9,500,000 for fiscal year 2010.

(2) NUCLEAR SCIENCE COMPETITIVENESS GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—There are authorized to be appropriated to carry out subsection (e)—

(A) \$3,000,000 for fiscal year 2008;

(B) \$5,500,000 for fiscal year 2009; and

(C) \$8,000,000 for fiscal year 2010.

SEC. 5005. HYDROCARBON SYSTEMS SCIENCE TALENT EXPANSION PROGRAM FOR INSTITUTIONS OF HIGHER EDUCATION. 42 USC 16533.

(a) PURPOSES.—The purposes of this section are—

(1) to address the decline in the number of and resources available to hydrocarbon systems science programs at institutions of higher education; and

(2) to increase the number of graduates with degrees in hydrocarbon systems science, an area of strategic importance to the economic competitiveness and energy security of the United States.

(b) DEFINITION OF HYDROCARBON SYSTEMS SCIENCE.—In this section:

(1) IN GENERAL.—The term “hydrocarbon systems science” means a science involving natural gas or other petroleum exploration, development, or production.

(2) INCLUSIONS.—The term “hydrocarbon systems science” includes—

- (A) petroleum or reservoir engineering;
- (B) environmental geoscience;
- (C) petrophysics;
- (D) geophysics;
- (E) geochemistry;
- (F) petroleum geology;
- (G) ocean engineering;
- (H) environmental engineering; and
- (I) computer science, as computer science relates to a science described in this subsection.

(c) ESTABLISHMENT.—The Secretary shall establish, in accordance with this section, a program to expand and enhance institution of higher education hydrocarbon systems science educational capabilities.

(d) HYDROCARBON SYSTEMS SCIENCE PROGRAM EXPANSION GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—

(1) IN GENERAL.—The Secretary shall award up to 3 competitive grants for each fiscal year to institutions of higher education that establish new academic degree programs in hydrocarbon systems science.

(2) ELIGIBILITY.—In evaluating grants under this subsection, the Secretary shall give priority to proposals that involve partnerships with the National Laboratories, including the National Energy Technology Laboratory, or other hydrocarbon systems scientific entities, as determined by the Secretary.

(3) CRITERIA.—Criteria for a grant awarded under this subsection shall be based on—

- (A) the potential to attract new students to the program;
- (B) academic rigor; and
- (C) the ability to offer hands-on learning opportunities.

(4) DURATION AND AMOUNT.—

(A) DURATION.—A grant under this subsection may be up to 5 years in duration.

(B) AMOUNT.—An institution of higher education that receives a grant under this subsection shall be eligible for up to \$1,000,000 for each year of the grant period.

(5) USE OF FUNDS.—An institution of higher education that receives a grant under this subsection may use the grant to—

- (A) recruit and retain new faculty;
- (B) develop core and specialized course content;
- (C) encourage collaboration between faculty and researchers in the hydrocarbon systems science field; and
- (D) support outreach efforts to recruit students.

(e) HYDROCARBON SYSTEMS SCIENCE COMPETITIVENESS GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—

(1) IN GENERAL.—The Secretary shall award up to 5 competitive grants for each fiscal year to institutions of higher

education with existing academic degree programs that produce graduates in hydrocarbon systems science.

(2) **CRITERIA.**—Criteria for a grant awarded under this subsection shall be based on the potential for increasing the number and academic quality of graduates in hydrocarbon systems sciences who enter into careers in natural gas and other petroleum exploration, development, and production related fields.

(3) **DURATION AND AMOUNT.**—

(A) **DURATION.**—A grant under this subsection may be up to 5 years in duration.

(B) **AMOUNT.**—An institution of higher education that receives a grant under this subsection shall be eligible for up to \$500,000 for each year of the grant period.

(4) **USE OF FUNDS.**—An institution of higher education that receives a grant under this subsection may use the grant to—

(A) increase the number of graduates in the hydrocarbon systems sciences that enter into careers in the natural gas and other petroleum exploration, development, and production science fields;

(B) enhance the teaching of advanced natural gas and other petroleum exploration, development, and production technologies;

(C) aggressively pursue collaboration opportunities with industry and the National Laboratories, including the National Energy Technology Laboratory;

(D) bolster or sustain natural gas and other petroleum exploration, development, and production infrastructure and research facilities of the institution of higher education, such as research and training or laboratories; and

(E) provide tuition assistance and stipends to undergraduate and graduate students.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **HYDROCARBON SYSTEMS SCIENCE PROGRAM EXPANSION GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.**—There are authorized to be appropriated to carry out subsection (d)—

(A) \$3,500,000 for fiscal year 2008;

(B) \$6,500,000 for fiscal year 2009; and

(C) \$9,500,000 for fiscal year 2010.

(2) **HYDROCARBON SYSTEMS SCIENCE COMPETITIVENESS GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.**—There are authorized to be appropriated to carry out subsection (e)—

(A) \$3,000,000 for fiscal year 2008;

(B) \$5,500,000 for fiscal year 2009; and

(C) \$8,000,000 for fiscal year 2010.

SEC. 5006. DEPARTMENT OF ENERGY EARLY CAREER AWARDS FOR SCIENCE, ENGINEERING, AND MATHEMATICS RESEARCHERS. 42 USC 16534.

(a) **GRANT AWARDS.**—The Director of the Office of Science of the Department (referred to in this section as the “Director”) shall carry out a program to award grants to scientists and engineers at an early career stage at institutions of higher education and organizations described in subsection (c) to conduct research in fields relevant to the mission of the Department.

(b) **AMOUNT AND DURATION.**—

(1) AMOUNT.—The amount of a grant awarded under this section shall be—

(A) not less than \$80,000; and

(B) not more than \$125,000.

(2) DURATION.—The term of a grant awarded under this section shall be not more than 5 years.

(c) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, an individual shall, as determined by the Director—

(A) subject to paragraph (2), have completed a doctorate or other terminal degree not more than 10 years before the date on which the proposal for a grant is submitted under subsection (e)(1);

(B) have demonstrated promise in a science, engineering, or mathematics field relevant to the missions of the Department; and

(C) be employed—

(i) in a tenure track-position as an assistant professor or equivalent title at an institution of higher education in the United States;

(ii) at an organization in the United States that is a nonprofit, nondegree-granting research organization such as a museum, observatory, or research laboratory; or

(iii) as a scientist at a National Laboratory.

(2) WAIVER.—Notwithstanding paragraph (1)(A), the Director may determine that an individual who has completed a doctorate more than 10 years before the date of submission of a proposal under subsection (e)(1) is eligible to receive a grant under this section if the individual was unable to conduct research for a period of time because of extenuating circumstances, including military service or family responsibilities, as determined by the Director.

(d) SELECTION.—Grant recipients shall be selected on a competitive, merit-reviewed basis.

(e) SELECTION PROCESS AND CRITERIA.—

(1) PROPOSAL.—To be eligible to receive a grant under this section, an individual shall submit to the Director a proposal at such time, in such manner, and containing such information as the Director may require.

(2) EVALUATION.—In evaluating the proposals submitted under paragraph (1), the Director shall take into consideration, at a minimum—

(A) the intellectual merit of the proposed project;

(B) the innovative or transformative nature of the proposed research;

(C) the extent to which the proposal integrates research and education, including undergraduate education in science and engineering disciplines; and

(D) the potential of the applicant for leadership at the frontiers of knowledge.

(f) DIVERSITY REQUIREMENT.—

(1) IN GENERAL.—In awarding grants under this section, the Director shall endeavor to ensure that the grant recipients represent a variety of types of institutions of higher education and nonprofit, nondegree-granting research organizations.

(2) REQUIREMENT.—In support of the goal described in paragraph (1), the Director shall broadly disseminate information regarding the deadlines applicable to, and manner in which to submit, proposals for grants under this section, including by conducting outreach activities for—

(A) part B institutions, as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061); and

(B) minority institutions, as defined in section 365 of that Act (20 U.S.C. 1067k).

(g) REPORT ON RECRUITING AND RETAINING EARLY CAREER SCIENCE AND ENGINEERING RESEARCHERS AT NATIONAL LABORATORIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing efforts of the Director to recruit and retain young scientists and engineers at early career stages at the National Laboratories.

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) a description of applicable Department and National Laboratory policies and procedures, including policies and procedures relating to financial incentives, awards, promotions, time reserved for independent research, access to equipment or facilities, and other forms of recognition, designed to attract and retain young scientists and engineers;

(B) an evaluation of the impact of the incentives described in subparagraph (A) on—

(i) the careers of young scientists and engineers at the National Laboratories; and

(ii) the quality of the research at the National Laboratories and in Department programs;

(C) a description of barriers, if any, that exist with respect to efforts to recruit and retain young scientists and engineers, including the limited availability of full-time equivalent positions, legal and procedural requirements, and pay grading systems; and

(D) the amount of funding devoted to efforts to recruit and retain young researchers, and the source of the funds.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, acting through the Director, to carry out this section \$25,000,000 for each of fiscal years 2008 through 2010.

SEC. 5007. AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF ENERGY FOR BASIC RESEARCH.

Section 971(b) of the Energy Policy Act of 2005 (42 U.S.C. 16311(b)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(4) \$5,814,000,000 for fiscal year 2010.”.

42 USC 16535.

SEC. 5008. DISCOVERY SCIENCE AND ENGINEERING INNOVATION INSTITUTES.

Establishment.

(a) **IN GENERAL.**—The Secretary shall establish distributed, multidisciplinary institutes (referred to in this section as “Institutes”) centered at National Laboratories to apply fundamental science and engineering discoveries to technological innovations relating to—

- (1) the missions of the Department; and
- (2) the global competitiveness of the United States.

(b) **TOPICAL AREAS.**—The Institutes shall support scientific and engineering research and education activities on critical emerging technologies determined by the Secretary to be essential to global competitiveness, including activities relating to—

- (1) sustainable energy technologies;
- (2) multiscale materials and processes;
- (3) micro- and nano-engineering;
- (4) computational and information engineering; and
- (5) genomics and proteomics.

(c) **PARTNERSHIPS.**—In carrying out this section, the Secretary shall establish partnerships between the Institutes and—

- (1) institutions of higher education—

- (A) to train undergraduate and graduate science and engineering students;

- (B) to develop innovative undergraduate and graduate educational curricula; and

- (C) to conduct research within the topical areas described in subsection (b); and

- (2) private industry to develop innovative technologies within the topical areas described in subsection (b).

(d) **GRANTS.**—

(1) **IN GENERAL.**—For each fiscal year, the Secretary may select not more than 3 Institutes to receive a grant under this section.

(2) **MERIT-BASED SELECTION.**—The selection of Institutes under paragraph (1) shall be—

- (A) merit-based; and

- (B) made through an open, competitive selection process.

(3) **TERM.**—An Institute shall receive a grant under this section for not more than 3 fiscal years.

Contracts.
Deadline.
Reports.

(e) **REVIEW.**—The Secretary shall offer to enter into an agreement with the National Academy of Sciences under which the Academy shall, by not later than 3 years after the date of enactment of this Act—

- (1) review the performance of the Institutes under this section; and

- (2) submit to Congress and the Secretary a report describing the results of the review.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to provide grants to each Institute selected under this section \$10,000,000 for each of fiscal years 2008 through 2010.

42 USC 16536.

SEC. 5009. PROTECTING AMERICA'S COMPETITIVE EDGE (PACE) GRADUATE FELLOWSHIP PROGRAM.

(a) **DEFINITION OF ELIGIBLE STUDENT.**—In this section, the term “eligible student” means a student who attends an institution

of higher education that offers a doctoral degree in a field relevant to a mission area of the Department.

(b) ESTABLISHMENT.—The Secretary shall establish a graduate fellowship program for eligible students pursuing a doctoral degree in a mission area of the Department.

(c) SELECTION.—

(1) IN GENERAL.—The Secretary shall award fellowships to eligible students under this section through a competitive merit review process, involving written and oral interviews, that will result in a wide distribution of awards throughout the United States, as determined by the Secretary.

(2) CRITERIA.—The Secretary shall establish selection criteria for awarding fellowships under this section that require an eligible student—

(A) to pursue a field of science or engineering of importance to a mission area of the Department;

(B) to demonstrate to the Secretary—

(i) the capacity of the eligible student to understand technical topics relating to the fellowship that can be derived from the first principles of the technical topics;

(ii) imagination and creativity;

(iii) leadership skills in organizations or intellectual endeavors, demonstrated through awards and past experience; and

(iv) excellent verbal and communication skills to explain, defend, and demonstrate an understanding of technical subjects relating to the fellowship; and

(C) to be a citizen or legal permanent resident of the United States.

(d) AWARDS.—

(1) AMOUNT.—A fellowship awarded under this section shall—

(A) provide an annual living stipend; and

(B) cover—

(i) graduate tuition at an institution of higher education described in subsection (a); and

(ii) incidental expenses associated with curricula and research at the institution of higher education (including books, computers, and software).

(2) DURATION.—A fellowship awarded under this section shall be up to 3 years duration within a 5-year period.

(3) PORTABILITY.—A fellowship awarded under this section shall be portable with the eligible student.

(e) ADMINISTRATION.—The Secretary, acting through the Director of Science, Engineering, and Mathematics Education—

(1) shall administer the program established under this section; and

(2) may enter into a contract with a nonprofit entity to administer the program, including the selection and award of fellowships.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) \$7,500,000 for fiscal year 2008;

(2) \$12,000,000 for fiscal year 2009, including nonexpiring fellowships for the preceding fiscal year; and

(3) \$20,000,000 for fiscal year 2010, including nonexpiring fellowships for preceding fiscal years.

SEC. 5010. SENSE OF CONGRESS REGARDING CERTAIN RECOMMENDATIONS AND REVIEWS.

It is the sense of Congress that—

(1) the Department of Energy should implement the recommendations contained in the report of the Government Accountability Office numbered 04-639; and

(2) the Secretary of Energy should annually conduct reviews in accordance with title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) of at least 2 recipients of grants provided by the Department of Energy.

42 USC 16537.

SEC. 5011. DISTINGUISHED SCIENTIST PROGRAM.

(a) **PURPOSE.**—The purpose of this section is to promote scientific and academic excellence through collaborations between institutions of higher education and National Laboratories.

(b) **ESTABLISHMENT.**—The Secretary shall establish a program to support the joint appointment of distinguished scientists by institutions of higher education and National Laboratories.

(c) **QUALIFICATIONS.**—To be eligible for appointment as a distinguished scientist under this section, an individual, by reason of professional background and experience, shall be able to bring international recognition to the appointing institution of higher education or National Laboratory in the field of scientific endeavor of the individual.

(d) **SELECTION.**—A distinguished scientist appointed under this section shall be selected through an open, competitive process.

(e) **APPOINTMENT.**—

(1) **INSTITUTION OF HIGHER EDUCATION.**—An appointment by an institution of higher education under this section shall be filled within the tenure allotment of the institution of higher education, at a minimum rank of professor.

(2) **NATIONAL LABORATORY.**—An appointment by a National Laboratory under this section shall be at the rank of the highest grade of distinguished scientist or technical staff of the National Laboratory.

(f) **DURATION.**—An appointment under this section shall—

(1) be for a term of 6 years; and

(2) consist of 2 3-year funding allotments.

(g) **USE OF FUNDS.**—Funds made available under this section may be used for—

(1) the salary of the distinguished scientist and support staff;

(2) undergraduate, graduate, and post-doctoral appointments;

(3) research-related equipment;

(4) professional travel; and

(5) such other requirements as the Secretary determines to be necessary to carry out the purpose of the program.

(h) **REVIEW.**—

(1) **IN GENERAL.**—The appointment of a distinguished scientist under this section shall be reviewed at the end of the first 3-year allotment for the distinguished scientist through an open peer-review process to determine whether the appointment is meeting the purpose of this section under subsection (a).

(2) **FUNDING.**—Funding of the appointment of the distinguished scientist for the second 3-year allotment shall be determined based on the review conducted under paragraph (1).

(i) **COST SHARING.**—To be eligible for assistance under this section, an appointing institution of higher education shall pay at least 50 percent of the total costs of the appointment.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

- (1) \$15,000,000 for fiscal year 2008;
- (2) \$20,000,000 for fiscal year 2009; and
- (3) \$30,000,000 for fiscal year 2010.

SEC. 5012. ADVANCED RESEARCH PROJECTS AGENCY—ENERGY.

42 USC 16538.

(a) **DEFINITIONS.**—In this section:

(1) **ARPA-E.**—The term “ARPA-E” means the Advanced Research Projects Agency—Energy established by subsection (b).

(2) **DIRECTOR.**—The term “Director” means the Director of ARPA-E appointed under subsection (d).

(3) **FUND.**—The term “Fund” means the Energy Transformation Acceleration Fund established under subsection (m)(1).

(b) **ESTABLISHMENT.**—There is established the Advanced Research Projects Agency—Energy within the Department to overcome the long-term and high-risk technological barriers in the development of energy technologies.

(c) **GOALS.**—

(1) **IN GENERAL.**—The goals of ARPA-E shall be—

(A) to enhance the economic and energy security of the United States through the development of energy technologies that result in—

(i) reductions of imports of energy from foreign sources;

(ii) reductions of energy-related emissions, including greenhouse gases; and

(iii) improvement in the energy efficiency of all economic sectors; and

(B) to ensure that the United States maintains a technological lead in developing and deploying advanced energy technologies.

(2) **MEANS.**—ARPA-E shall achieve the goals established under paragraph (1) through energy technology projects by—

(A) identifying and promoting revolutionary advances in fundamental sciences;

(B) translating scientific discoveries and cutting-edge inventions into technological innovations; and

(C) accelerating transformational technological advances in areas that industry by itself is not likely to undertake because of technical and financial uncertainty.

(d) **DIRECTOR.**—

(1) **APPOINTMENT.**—There shall be in the Department of Energy a Director of ARPA-E, who shall be appointed by the President, by and with the advice and consent of the Senate.

President.

(2) **QUALIFICATIONS.**—The Director shall be an individual who, by reason of professional background and experience, is especially qualified to advise the Secretary on, and manage research programs addressing, matters pertaining to long-term

and high-risk technological barriers to the development of energy technologies.

(3) RELATIONSHIP TO SECRETARY.—The Director shall report to the Secretary.

(4) RELATIONSHIP TO OTHER PROGRAMS.—No other programs within the Department shall report to the Director.

(e) RESPONSIBILITIES.—The responsibilities of the Director shall include—

(1) approving all new programs within ARPA-E;

(2) developing funding criteria and assessing the success of programs through the establishment of technical milestones;

(3) administering the Fund through awards to institutions of higher education, companies, research foundations, trade and industry research collaborations, or consortia of such entities, which may include federally-funded research and development centers, to achieve the goals described in subsection (c) through targeted acceleration of—

(A) novel early-stage energy research with possible technology applications;

(B) development of techniques, processes, and technologies, and related testing and evaluation;

(C) research and development of manufacturing processes for novel energy technologies; and

(D) coordination with nongovernmental entities for demonstration of technologies and research applications to facilitate technology transfer; and

(4) terminating programs carried out under this section that are not achieving the goals of the programs.

(f) PERSONNEL.—

(1) PROGRAM MANAGERS.—

(A) IN GENERAL.—The Director shall designate employees to serve as program managers for each of the programs established pursuant to the responsibilities established for ARPA-E under subsection (e).

(B) RESPONSIBILITIES.—A program manager of a program shall be responsible for—

(i) establishing research and development goals for the program, including through the convening of workshops and conferring with outside experts, and publicizing the goals of the program to the public and private sectors;

(ii) soliciting applications for specific areas of particular promise, especially areas that the private sector or the Federal Government are not likely to undertake alone;

(iii) building research collaborations for carrying out the program;

(iv) selecting on the basis of merit, with advice under subsection (j) as appropriate, each of the projects to be supported under the program after considering—

(I) the novelty and scientific and technical merit of the proposed projects;

(II) the demonstrated capabilities of the applicants to successfully carry out the proposed project;

(III) the consideration by the applicant of future commercial applications of the project,

including the feasibility of partnering with 1 or more commercial entities; and

(IV) such other criteria as are established by the Director;

(v) monitoring the progress of projects supported under the program; and

(vi) recommending program restructure or termination of research partnerships or whole projects.

(C) TERM.—The term of a program manager shall be 3 years and may be renewed.

(2) HIRING AND MANAGEMENT.—

(A) IN GENERAL.—The Director shall have the authority to—

(i) make appointments of scientific, engineering, and professional personnel without regard to the civil service laws; and

(ii) fix the compensation of such personnel at a rate to be determined by the Director.

(B) NUMBER.—The Director shall appoint not less than 70, and not more than 120, personnel under this section.

(C) PRIVATE RECRUITING FIRMS.—The Secretary, or the Director serving as an agent of the Secretary, may contract with private recruiting firms for the hiring of qualified technical staff to carry out this section.

(D) ADDITIONAL STAFF.—The Director may use all authorities in existence on the date of enactment of this Act that are provided to the Secretary to hire administrative, financial, and clerical staff as necessary to carry out this section.

(g) REPORTS AND ROADMAPS.—

(1) ANNUAL REPORT.—As part of the annual budget request submitted for each fiscal year, the Director shall provide to the relevant authorizing and appropriations committees of Congress a report describing projects supported by ARPA-E during the previous fiscal year.

(2) STRATEGIC VISION ROADMAP.—Not later than October 1, 2008, and October 1, 2011, the Director shall provide to the relevant authorizing and appropriations committees of Congress a roadmap describing the strategic vision that ARPA-E will use to guide the choices of ARPA-E for future technology investments over the following 3 fiscal years.

(h) COORDINATION AND NONDUPLICATION.—

(1) IN GENERAL.—To the maximum extent practicable, the Director shall ensure that the activities of ARPA-E are coordinated with, and do not duplicate the efforts of, programs and laboratories within the Department and other relevant research agencies.

(2) TECHNOLOGY TRANSFER COORDINATOR.—To the extent appropriate, the Director may coordinate technology transfer efforts with the Technology Transfer Coordinator appointed under section 1001 of the Energy Policy Act of 2005 (42 U.S.C. 16391).

(i) FEDERAL DEMONSTRATION OF TECHNOLOGIES.—The Secretary shall make information available to purchasing and procurement programs of Federal agencies regarding the potential to demonstrate technologies resulting from activities funded through ARPA-E.

(j) ADVICE.—

(1) **ADVISORY COMMITTEES.**—The Director may seek advice on any aspect of ARPA-E from—

(A) an existing Department of Energy advisory committee; and

(B) a new advisory committee organized to support the programs of ARPA-E and to provide advice and assistance on—

(i) specific program tasks; or

(ii) overall direction of ARPA-E.

(2) **ADDITIONAL SOURCES OF ADVICE.**—In carrying out this section, the Director may seek advice and review from—

(A) the President's Committee of Advisors on Science and Technology; and

(B) any professional or scientific organization with expertise in specific processes or technologies under development by ARPA-E.

(k) **ARPA-E EVALUATION.**—

(1) **IN GENERAL.**—After ARPA-E has been in operation for 4 years, the Secretary shall offer to enter into a contract with the National Academy of Sciences under which the National Academy shall conduct an evaluation of how well ARPA-E is achieving the goals and mission of ARPA-E.

(2) **INCLUSIONS.**—The evaluation shall include—

(A) the recommendation of the National Academy of Sciences on whether ARPA-E should be continued or terminated; and

(B) a description of lessons learned from operation of ARPA-E.

(3) **AVAILABILITY.**—On completion of the evaluation, the evaluation shall be made available to Congress and the public.

(l) **EXISTING AUTHORITIES.**—The authorities granted by this section are—

(1) in addition to existing authorities granted to the Secretary; and

(2) are not intended to supersede or modify any existing authorities.

(m) **FUNDING.**—

(1) **FUND.**—There is established in the Treasury of the United States a fund, to be known as the “Energy Transformation Acceleration Fund”, which shall be administered by the Director for the purposes of carrying out this section.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—Subject to paragraphs (4) and (5), there are authorized to be appropriated to the Director for deposit in the Fund, without fiscal year limitation—

(A) \$300,000,000 for fiscal year 2008; and

(B) such sums as are necessary for each of fiscal years 2009 and 2010.

(3) **SEPARATE BUDGET AND APPROPRIATION.**—

(A) **BUDGET REQUEST.**—The budget request for ARPA-E shall be separate from the rest of the budget of the Department.

(B) **APPROPRIATIONS.**—Appropriations to the Fund shall be separate and distinct from the rest of the budget for the Department.

(4) **LIMITATION.**—No amounts may be appropriated for ARPA-E for fiscal year 2008 unless the amount appropriated

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information.

for the activities of the Office of Science of the Department for fiscal year 2008 exceeds the amount appropriated for the Office for fiscal year 2007, as adjusted for inflation in accordance with the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

(5) ALLOCATION.—Of the amounts appropriated for a fiscal year under paragraph (2)—

(A) not more than 50 percent of the amount shall be used to carry out subsection (e)(3)(D);

(B) at least 2.5 percent of the amount shall be used for technology transfer and outreach activities; and

(C) no funds may be used for construction of new buildings or facilities during the 5-year period beginning on the date of enactment of this Act.

TITLE VI—EDUCATION

SEC. 6001. FINDINGS.

20 USC 9801.

Congress makes the following findings:

(1) A well-educated population is essential to retaining America’s competitiveness in the global economy.

(2) The United States needs to build on and expand the impact of existing programs by taking additional, well-coordinated steps to ensure that all students are able to obtain the knowledge the students need to obtain postsecondary education and participate successfully in the workforce or the Armed Forces.

(3) The next steps must be informed by independent information on the effectiveness of current programs in science, technology, engineering, mathematics, and critical foreign language education, and by identification of best practices that can be replicated.

(4) Teacher preparation and elementary school and secondary school programs and activities must be aligned with the requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the requirements of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(5) The ever increasing knowledge and skill demands of the 21st century require that secondary school preparation and requirements be better aligned with the knowledge and skills needed to succeed in postsecondary education and the workforce, and States need better data systems to track educational achievement from prekindergarten through baccalaureate degrees.

SEC. 6002. DEFINITIONS.

20 USC 9802.

(a) ESEA DEFINITIONS.—Unless otherwise specified in this title, the terms used in this title have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) OTHER DEFINITIONS.—In this title:

(1) CRITICAL FOREIGN LANGUAGE.—The term “critical foreign language” means a foreign language that the Secretary determines, in consultation with the heads of such Federal

departments and agencies as the Secretary determines appropriate, is critical to the national security and economic competitiveness of the United States.

(2) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Education.

(4) **SCIENTIFICALLY VALID RESEARCH.**—The term “scientifically valid research” includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with accepted principles of scientific research.

Subtitle A—Teacher Assistance

PART I—TEACHERS FOR A COMPETITIVE TOMORROW

20 USC 9811.

SEC. 6111. PURPOSE.

The purpose of this part is—

(1) to develop and implement programs to provide integrated courses of study in science, technology, engineering, mathematics, or critical foreign languages, and teacher education, that lead to a baccalaureate degree in science, technology, engineering, mathematics, or a critical foreign language, with concurrent teacher certification;

(2) to develop and implement 2- or 3-year part-time master’s degree programs in science, technology, engineering, mathematics, or critical foreign language education for teachers in order to enhance the teachers’ content knowledge and pedagogical skills; and

(3) to develop programs for professionals in science, technology, engineering, mathematics, or critical foreign language education that lead to a master’s degree in teaching that results in teacher certification.

20 USC 9812.

SEC. 6112. DEFINITIONS.

In this part:

(1) **CHILDREN FROM LOW-INCOME FAMILIES.**—The term “children from low-income families” means children described in section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)).

(2) **ELIGIBLE RECIPIENT.**—The term “eligible recipient” means an institution of higher education that receives grant funds under this part on behalf of a department of science, technology, engineering, mathematics, or a critical foreign language, or on behalf of a department or school with a competency-based degree program (in science, technology, engineering, mathematics, or a critical foreign language) that includes teacher certification, for use in carrying out activities assisted under this part.

(3) **HIGH-NEED LOCAL EDUCATIONAL AGENCY.**—The term “high-need local educational agency” means a local educational agency or educational service agency—

(A)(i) that serves not fewer than 10,000 children from low-income families;

(ii) for which not less than 20 percent of the children served by the agency are children from low-income families; or

(iii) with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools are designated with a school locale code of 41, 42, or 43, as determined by the Secretary; and

(B)(i) for which there is a high percentage of teachers providing instruction in academic subject areas or grade levels for which the teachers are not highly qualified; or

(ii) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

(4) HIGHLY QUALIFIED.—The term “highly qualified” has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) and, with respect to special education teachers, in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(5) PARTNERSHIP.—The term “partnership” means a partnership that—

(A) shall include—

(i) an eligible recipient;

(ii)(I)(aa) a department within the eligible recipient that provides a program of study in science, technology, engineering, mathematics, or a critical foreign language; and

(bb) a school, department, or program of education within the eligible recipient, or a 2-year institution of higher education that has a teacher preparation offering or a dual enrollment program with the eligible recipient; or

(II) a department or school within the eligible recipient with a competency-based degree program (in science, technology, engineering, mathematics, or a critical foreign language) that includes teacher certification; and

(iii) not less than 1 high-need local educational agency and a public school or a consortium of public schools served by the agency; and

(B) may include a nonprofit organization that has a demonstrated record of providing expertise or support to meet the purposes of this part.

(6) TEACHING SKILLS.—The term “teaching skills” means the ability to—

(A) increase student achievement and learning and increase a student’s ability to apply knowledge;

(B) effectively convey and explain academic subject matter;

(C) employ strategies grounded in the disciplines of teaching and learning that—

(i) are based on scientifically valid research;

(ii) are specific to academic subject matter; and

(iii) focus on the identification of students' specific learning needs, particularly students with disabilities, students who are limited English proficient, students who are gifted and talented, and students with low literacy levels, and the tailoring of academic instruction to such needs;

(D) conduct ongoing assessment of student learning;

(E) effectively manage a classroom; and

(F) communicate and work with parents and guardians, and involve parents and guardians in their children's education.

20 USC 9813.

SEC. 6113. PROGRAMS FOR BACCALAUREATE DEGREES IN SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, OR CRITICAL FOREIGN LANGUAGES, WITH CONCURRENT TEACHER CERTIFICATION.

Grants.

(a) PROGRAM AUTHORIZED.—From the amounts made available to carry out this section under section 6116(1) and not reserved under section 6115(d) for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible recipients to enable partnerships served by the eligible recipients to develop and implement programs to provide courses of study in science, technology, engineering, mathematics, or critical foreign languages that—

(1) are integrated with teacher education; and

(2) lead to a baccalaureate degree in science, technology, engineering, mathematics, or a critical foreign language with concurrent teacher certification.

(b) APPLICATION.—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall—

(1) describe the program for which assistance is sought;

(2) describe how a department of science, technology, engineering, mathematics, or a critical foreign language participating in the partnership will ensure significant collaboration with a teacher preparation program in the development of undergraduate degrees in science, technology, engineering, mathematics, or a critical foreign language, with concurrent teacher certification, including providing student teaching and other clinical classroom experiences or how a department or school participating in the partnership with a competency-based degree program has ensured, in the development of a baccalaureate degree program in science, technology, engineering, mathematics, or a critical foreign language, the provision of concurrent teacher certification, including providing student teaching and other clinical classroom experiences;

(3) describe the high-quality research, laboratory, or internship experiences, integrated with coursework, that will be provided under the program;

(4) describe how members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages will be encouraged to participate in the program;

(5) describe how program participants will be encouraged to teach in schools determined by the partnership to be most

in need, and the assistance in finding employment in such schools that will be provided;

(6) describe the ongoing activities and services that will be provided to graduates of the program;

(7) describe how the activities of the partnership will be coordinated with any activities funded through other Federal grants, and how the partnership will continue the activities assisted under the program when the grant period ends;

(8) describe how the partnership will assess the content knowledge and teaching skills of the program participants; and

(9) provide any other information the Secretary may reasonably require.

(c) **PRIORITY.**—Priority shall be given to applications whose primary focus is on placing participants in high-need local educational agencies.

(d) **AUTHORIZED ACTIVITIES.**—

(1) **IN GENERAL.**—Each eligible recipient receiving a grant under this section shall use the grant funds to enable a partnership to develop and implement a program to provide courses of study in science, technology, engineering, mathematics, or a critical foreign language that—

(A) are integrated with teacher education programs that promote effective teaching skills; and

(B) lead to a baccalaureate degree in science, technology, engineering, mathematics, or a critical foreign language with concurrent teacher certification.

(2) **PROGRAM REQUIREMENTS.**—The program shall—

(A) provide high-quality research, laboratory, or internship experiences for program participants;

(B) provide student teaching or other clinical classroom experiences that—

(i) are integrated with coursework; and

(ii) lead to the participants' ability to demonstrate effective teaching skills;

(C) if implementing a program in which program participants are prepared to teach science, technology, engineering, mathematics, or critical foreign language courses, include strategies for improving student literacy;

(D) encourage the participation of individuals who are members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages;

(E) encourage participants to teach in schools determined by the partnership to be most in need, and actively assist the participants in finding employment in such schools;

(F) offer training in the use of and integration of educational technology;

(G) collect data regarding and evaluate, using measurable objectives and benchmarks, the extent to which the program succeeded in—

(i) increasing the percentage of highly qualified mathematics, science, or critical foreign language teachers, including increasing the percentage of such teachers teaching in those schools determined by the partnership to be most in need;

(ii) improving student academic achievement in mathematics, science, and where applicable, technology and engineering;

(iii) increasing the number of students in secondary schools enrolled in upper level mathematics, science, and, where available, technology and engineering courses; and

(iv) increasing the numbers of elementary school and secondary school students enrolled in and continuing in critical foreign language courses;

(H) collect data on the employment placement and retention of all graduates of the program, including information on how many graduates are teaching and in what kinds of schools;

(I) provide ongoing activities and services to graduates of the program who teach elementary school or secondary school, by—

(i) keeping the graduates informed of the latest developments in their respective academic fields; and

(ii) supporting the graduates of the program who are employed in schools in the local educational agency participating in the partnership during the initial years of teaching through—

(I) induction programs;

(II) promotion of effective teaching skills; and

(III) providing opportunities for regular professional development; and

(J) develop recommendations to improve the school, department, or program of education participating in the partnership.

(e) ANNUAL REPORT.—Each eligible recipient receiving a grant under this section shall collect and report to the Secretary annually such information as the Secretary may reasonably require, including—

(1) the number of participants in the program;

(2) information on the academic majors of participating students;

(3) the race, gender, income, and disability status of program participants;

(4) the placement of program participants as teachers in schools determined by the partnership to be most in need;

(5) the extent to which the program succeeded in meeting the objectives and benchmarks described in subsection (d)(2)(G); and

(6) the data collected under subparagraphs (G) and (H) of subsection (d)(2).

(f) TECHNICAL ASSISTANCE.—From the funds made available under section 6116(1), the Secretary may provide technical assistance to an eligible recipient developing a baccalaureate degree program with concurrent teacher certification, including technical assistance provided through a grant or contract awarded on a competitive basis to an institution of higher education or a technical assistance center.

(g) COMPLIANCE WITH FERPA.—Any activity under this section shall be carried out in compliance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (commonly known as the Family Educational Rights and Privacy Act of 1974).

(h) **INDUCTION PROGRAM DEFINED.**—In this section, the term “induction program” means a formalized program for new teachers during not less than the teachers’ first 2 years of teaching that is designed to provide support for, and improve the professional performance and advance the retention in the teaching field of, beginning teachers. Such program shall promote effective teaching skills and shall include the following components:

- (1) High-quality teacher mentoring.
- (2) Periodic, structured time for collaboration with teachers in the same department or field, as well as time for information-sharing among teachers, principals, administrators, and participating faculty in the partner institution.
- (3) The application of empirically based practice and scientifically valid research on instructional practices.
- (4) Opportunities for new teachers to draw directly upon the expertise of teacher mentors, faculty, and researchers to support the integration of empirically based practice and scientifically valid research with practice.
- (5) The development of skills in instructional and behavioral interventions derived from empirically based practice and, where applicable, scientifically valid research.
- (6) Faculty who—
 - (A) model the integration of research and practice in the classroom; and
 - (B) assist new teachers with the effective use and integration of technology in the classroom.
- (7) Interdisciplinary collaboration among exemplary teachers, faculty, researchers, and other staff who prepare new teachers on the learning process and the assessment of learning.
- (8) Assistance with the understanding of data, particularly student achievement data, and the data’s applicability in classroom instruction.
- (9) Regular evaluation of the new teacher.

SEC. 6114. PROGRAMS FOR MASTER’S DEGREES IN SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, OR CRITICAL FOREIGN LANGUAGE EDUCATION.

20 USC 9814.

(a) **PROGRAM AUTHORIZED.**—From the amounts made available to carry out this section under section 6116(2) and not reserved under section 6115(d) for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible recipients to enable the partnerships served by the eligible recipients to develop and implement—

- (1) 2- or 3-year part-time master’s degree programs in science, technology, engineering, mathematics, or critical foreign language education for teachers in order to enhance the teacher’s content knowledge and teaching skills; or
- (2) programs for professionals in science, technology, engineering, mathematics, or a critical foreign language that lead to a 1-year master’s degree in teaching that results in teacher certification.

(b) **APPLICATION.**—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall describe—

(1) how a department of science, technology, engineering, mathematics, or a critical foreign language will ensure significant collaboration with a school, department, or program of education in the development of the master's degree programs authorized under subsection (a), or how a department or school with a competency-based degree program has ensured, in the development of a master's degree program, the provision of rigorous studies in science, technology, engineering, mathematics, or a critical foreign language that enhance the teachers' content knowledge and teaching skills;

(2) the role of the local educational agency in the partnership in developing and administering the program and how feedback from the local educational agency, school, and participants will be used to improve the program;

(3) how the program will help increase the percentage of highly qualified mathematics, science, or critical foreign language teachers, including increasing the percentage of such teachers teaching in schools determined by the partnership to be most in need;

(4) how the program will—

(A) improve student academic achievement in mathematics, science, and, where applicable, technology and engineering and increase the number of students taking upper-level courses in such subjects; or

(B) increase the numbers of elementary school and secondary school students enrolled and continuing in critical foreign language courses;

(5) how the program will prepare participants to become more effective science, technology, engineering, mathematics, or critical foreign language teachers;

(6) how the program will prepare participants to assume leadership roles in their schools;

(7) how teachers (or science, technology, engineering, mathematics, or critical foreign language professionals) who are members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages and teachers from schools determined by the partnership to be most in need will be encouraged to apply for and participate in the program;

(8) the ongoing activities and services that will be provided to graduates of the program;

(9) how the partnership will continue the activities assisted under the grant when the grant period ends;

(10) how the partnership will assess, during the program, the content knowledge and teaching skills of the program participants; and

(11) methods to ensure applicants to the master's degree program for professionals in science, technology, engineering, mathematics, or a critical foreign language demonstrate advanced knowledge in the relevant subject.

(c) **AUTHORIZED ACTIVITIES.**—Each eligible recipient receiving a grant under this section shall use the grant funds to develop and implement a 2- or 3-year part-time master's degree program in science, technology, engineering, mathematics, or critical foreign language education for teachers in order to enhance the teachers' content knowledge and teaching skills, or programs for professionals

in science, technology, engineering, mathematics, or a critical foreign language that lead to a 1-year master's degree in teaching that results in teacher certification. The program shall—

(1) promote effective teaching skills so that program participants become more effective science, technology, engineering, mathematics, or critical foreign language teachers;

(2) prepare teachers to assume leadership roles in their schools by participating in activities such as teacher mentoring, development of curricula that integrate state of the art applications of science, technology, engineering, mathematics, or critical foreign language into the classroom, working with school administrators in establishing in-service professional development of teachers, and assisting in evaluating data and assessments to improve student academic achievement;

(3) use high-quality research, laboratory, or internship experiences for program participants that are integrated with coursework;

(4) provide student teaching or clinical classroom experience;

(5) if implementing a program in which participants are prepared to teach science, technology, engineering, mathematics, or critical foreign language courses, provide strategies for improving student literacy;

(6) align the content knowledge in the master's degree program with challenging student academic achievement standards and challenging academic content standards established by the State in which the program is conducted;

(7) encourage the participation of—

(A) individuals who are members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages;

(B) members of the Armed Forces who are transitioning to civilian life; and

(C) teachers teaching in schools determined by the partnership to be most in need;

(8) offer tuition assistance, based on need, as appropriate;

(9) create opportunities for enhanced and ongoing professional development for teachers that improves the science, technology, engineering, mathematics, and critical foreign language content knowledge and teaching skills of such teachers; and

(10) evaluate and report on the impact of the program, in accordance with subsection (d).

(d) **EVALUATION AND REPORT.**—Each eligible recipient receiving a grant under this section shall evaluate, using measurable objectives and benchmarks, and provide an annual report to the Secretary regarding, the extent to which the program assisted under this section succeeded in the following:

(1) Increasing the number and percentage of science, technology, engineering, mathematics, or critical foreign language teachers who have a master's degree and meet 1 or more of the following requirements:

(A) Are teaching in schools determined by the partnership to be most in need, and taught in such schools prior to participation in the program.

(B) Are teaching in schools determined by the partnership to be most in need, and did not teach in such schools prior to participation in the program.

(C) Are members of a group underrepresented in the teaching of science, technology, engineering, mathematics, or a critical foreign language.

(2) Bringing professionals in science, technology, engineering, mathematics, or a critical foreign language into the field of teaching.

(3) Retaining teachers who participate in the program.

20 USC 9815.

SEC. 6115. GENERAL PROVISIONS.

(a) DURATION OF GRANTS.—The Secretary shall award each grant under this part for a period of not more than 5 years.

(b) MATCHING REQUIREMENT.—Each eligible recipient that receives a grant under this part shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (which may be provided in cash or in kind) to carry out the activities supported by the grant.

(c) SUPPLEMENT, NOT SUPPLANT.—Grant funds provided under this part shall be used to supplement, and not supplant, other Federal or State funds.

(d) EVALUATION.—From amounts made available for any fiscal year under section 6116, the Secretary shall reserve such sums as may be necessary—

(1) to provide for the conduct of an annual independent evaluation, by grant or by contract, of the activities assisted under this part, which shall include an assessment of the impact of the activities on student academic achievement; and

(2) to prepare and submit an annual report on the results of the evaluation described in paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and Labor of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives.

20 USC 9816.

SEC. 6116. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this section \$276,200,000 for fiscal year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years, of which—

(1) \$151,200,000 shall be available to carry out section 6113 for fiscal year 2008 and each succeeding fiscal year; and

(2) \$125,000,000 shall be available to carry out section 6114 for fiscal year 2008 and each succeeding fiscal year.

PART II—ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS

20 USC 9831.

SEC. 6121. PURPOSE.

It is the purpose of this part—

(1) to raise academic achievement through Advanced Placement and International Baccalaureate programs by increasing, by 70,000, over a 4-year period beginning in 2008, the number of teachers serving high-need schools who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages;

(2) to increase, to 700,000 per year, the number of students attending high-need schools who—

(A) take and score a 3, 4, or 5 on an Advanced Placement examination in mathematics, science, or a critical foreign language administered by the College Board; or

(B) achieve a passing score on an examination administered by the International Baccalaureate Organization in such a subject;

(3) to increase the availability of, and enrollment in, Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools; and

(4) to support statewide efforts to increase the availability of, and enrollment in, Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools.

SEC. 6122. DEFINITIONS.

20 USC 9832.

In this part:

(1) **ADVANCED PLACEMENT OR INTERNATIONAL BACCALAUREATE COURSE.**—The term “Advanced Placement or International Baccalaureate course” means—

(A) a course of college-level instruction provided to secondary school students, terminating in an examination administered by the College Board or the International Baccalaureate Organization, or another such examination approved by the Secretary; or

(B) another highly rigorous, evidence-based, postsecondary preparatory program terminating in an examination administered by another nationally recognized educational organization that has a demonstrated record of effectiveness in assessing secondary school students, or another such examination approved by the Secretary.

(2) **ELIGIBLE ENTITY.**—The term “eligible entity” means—

(A) a State educational agency;

(B) a local educational agency; or

(C) a partnership consisting of—

(i) a national, regional, or statewide nonprofit organization, with expertise and experience in providing Advanced Placement or International Baccalaureate services; and

(ii) a State educational agency or local educational agency.

(3) **LOW-INCOME STUDENT.**—The term “low-income student” has the meaning given the term “low-income individual” in section 1707(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537(3)).

(4) **HIGH CONCENTRATION OF LOW-INCOME STUDENTS.**—The term “high concentration of low-income students” has the meaning given the term in section 1707(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537(2)).

(5) **HIGH-NEED LOCAL EDUCATIONAL AGENCY.**—The term “high-need local educational agency” means a local educational agency or educational service agency described in 6112(3)(A).

(6) **HIGH-NEED SCHOOL.**—The term “high-need school” means a secondary school—

(A) with a pervasive need for Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages, or for additional Advanced Placement or International Baccalaureate courses in such a subject; and

(B)(i) with a high concentration of low-income students; or

(ii) designated with a school locale code of 41, 42, or 43, as determined by the Secretary.

20 USC 9833.

SEC. 6123. ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS.

(a) **PROGRAM AUTHORIZED.**—From the amounts appropriated under subsection (l), the Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable the eligible entities to carry out the authorized activities described in subsection (g).

(b) **DURATION OF GRANTS.**—The Secretary may award grants under this section for a period of not more than 5 years.

(c) **COORDINATION.**—The Secretary shall coordinate the activities carried out under this section with the activities carried out under section 1705 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6535).

(d) **PRIORITY.**—In awarding grants under this section, the Secretary shall give priority to eligible entities that are part of a statewide strategy for increasing—

(1) the availability of Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools; and

(2) the number of students who participate in Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign language in high-need schools, and take and score a 3, 4, or 5 on an Advanced Placement examination in such a subject, or pass an examination administered by the International Baccalaureate Organization in such a subject in such schools.

(e) **EQUITABLE DISTRIBUTION.**—The Secretary, to the extent practicable, shall—

(1) ensure an equitable geographic distribution of grants under this section among the States; and

(2) promote an increase in participation in Advanced Placement or International Baccalaureate mathematics, science, and critical foreign language courses and examinations in all States.

(f) **APPLICATION.**—

(1) **IN GENERAL.**—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) **CONTENTS.**—The application shall, at a minimum, include a description of—

(A) the goals and objectives for the project, including—

(i) increasing the number of teachers serving high-need schools who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(ii) increasing the number of qualified teachers serving high-need schools who are teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages to students in the high-need schools;

(iii) increasing the number of Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages that are available to students attending high-need schools; and

(iv) increasing the number of students attending a high-need school, particularly low-income students, who enroll in and pass—

(I) Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages; and

(II) pre-Advanced Placement or pre-International Baccalaureate courses in such a subject (where provided in accordance with subparagraph (B));

(B) how the eligible entity will ensure that students have access to courses, including pre-Advanced Placement and pre-International Baccalaureate courses, that will prepare the students to enroll and succeed in Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(C) how the eligible entity will provide professional development for teachers assisted under this section;

(D) how the eligible entity will ensure that teachers serving high-need schools are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(E) how the eligible entity will provide for the involvement of business and community organizations and other entities, including institutions of higher education, in the activities to be assisted; and

(F) how the eligible entity will use funds received under this section, including how the eligible entity will evaluate the success of its project.

(g) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Each eligible entity that receives a grant under this section shall use the grant funds to carry out activities designed to increase—

(A) the number of qualified teachers serving high-need schools who are teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages; and

(B) the number of students attending high-need schools who enroll in, and pass, the examinations for such Advanced Placement or International Baccalaureate courses.

(2) PERMISSIVE ACTIVITIES.—The activities described in paragraph (1) may include—

(A) teacher professional development, in order to expand the pool of teachers in the participating State,

local educational agency, or high-need school who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(B) pre-Advanced Placement or pre-International Baccalaureate course development and professional development;

(C) coordination and articulation between grade levels to prepare students to enroll and succeed in Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(D) purchase of instructional materials;

(E) activities to increase the availability of, and participation in, online Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages;

(F) reimbursing low-income students attending high-need schools for part or all of the cost of Advanced Placement or International Baccalaureate examination fees;

(G) carrying out subsection (j), relating to collecting and reporting data;

(H) in the case of a State educational agency that receives a grant under this section, awarding subgrants to local educational agencies to enable the local educational agencies to carry out authorized activities described in subparagraphs (A) through (G); and

(I) providing salary increments or bonuses to teachers serving high-need schools who—

(i) become qualified to teach, and teach, Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language; or

(ii) increase the number of low-income students, who take Advanced Placement or International Baccalaureate examinations in mathematics, science, or a critical foreign language with the goal of successfully passing such examinations.

(h) MATCHING REQUIREMENT.—

(1) IN GENERAL.—Subject to paragraph (2), each eligible entity that receives a grant under this section shall provide, toward the cost of the activities assisted under the grant, from non-Federal sources, an amount equal to 200 percent of the amount of the grant, except that an eligible entity that is a high-need local educational agency shall provide an amount equal to not more than 100 percent of the amount of the grant.

(2) WAIVER.—The Secretary may waive all or part of the matching requirement described in paragraph (1) for any fiscal year for an eligible entity described in subparagraph (A) or (B) of section 6122(2), if the Secretary determines that applying the matching requirement to such eligible entity would result in serious hardship or an inability to carry out the authorized activities described in subsection (g).

(i) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this section shall be used to supplement, not supplant, other Federal and non-Federal funds available to carry out the activities described in subsection (g).

(j) COLLECTING AND REPORTING REQUIREMENTS.—

(1) REPORT.—Each eligible entity receiving a grant under this section shall collect and report to the Secretary annually such data on the results of the grant as the Secretary may reasonably require, including data regarding—

(A) the number of students enrolling in Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language, and pre-Advanced Placement or pre-International Baccalaureate courses in such a subject, by the grade the student is enrolled in, and the distribution of grades those students receive;

(B) the number of students taking Advanced Placement or International Baccalaureate examinations in mathematics, science, or a critical foreign language, and the distribution of scores on those examinations by the grade the student is enrolled in at the time of the examination;

(C) the number of teachers receiving training in teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language who will be teaching such courses in the next school year;

(D) the number of teachers becoming qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language; and

(E) the number of qualified teachers who are teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages to students in a high-need school.

(2) REPORTING OF DATA.—Each eligible entity receiving a grant under this section shall report data required under paragraph (1)—

(A) disaggregated by subject area;

(B) in the case of student data, disaggregated in the same manner as information is disaggregated under section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)(i)); and

(C) to the extent feasible, in a manner that allows comparison of conditions before, during, and after the project.

(k) EVALUATION AND REPORT.—From the amount made available for any fiscal year under subsection (l), the Secretary shall reserve such sums as may be necessary—

(1) to conduct an annual independent evaluation, by grant or by contract, of the program carried out under this section, which shall include an assessment of the impact of the program on student academic achievement; and

(2) to prepare and submit an annual report on the results of the evaluation described in paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and Labor of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$75,000,000 for fiscal

year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years.

PART III—PROMISING PRACTICES IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TEACHING

20 USC 9841.

SEC. 6131. PROMISING PRACTICES.

(a) **PURPOSE.**—The purpose of this section is to establish an expert panel to provide information on promising practices for strengthening teaching and learning in science, technology, engineering, and mathematics at the elementary school and secondary school levels. The panel shall build on prior Federal efforts, such as efforts by the National Mathematics Advisory Panel, and shall synthesize scientific evidence pertaining to the improvement of science, technology, engineering, and mathematics teaching and learning.

(b) **NATIONAL PANEL ON PROMISING PRACTICES IN K–12 STEM TEACHING AND LEARNING.**—

Contracts.
Deadline.

(1) **IN GENERAL.**—The Secretary shall enter into a contract with the Center for Education of the National Academy of Sciences to establish and convene, not later than 1 year after the date of enactment of this Act, an expert panel to—

(A) identify promising practices for improving teaching and student achievement in science, technology, engineering, and mathematics in kindergarten through grade 12; and

(B) examine and synthesize the scientific evidence pertaining to the improvement of science, technology, engineering, and mathematics teaching and learning.

(2) **COMPOSITION OF NATIONAL PANEL.**—The National Academy of Sciences shall ensure that the panel established under paragraph (1) represents scientists, engineers, mathematicians, technologists, computer and information technology experts, educators, principals, researchers with expertise in teaching and learning (including experts in cognitive science), and others with relevant expertise. The National Academy of Sciences shall ensure that the panel includes the following:

(A) Representation of teachers and principals directly involved in teaching science, technology, engineering, and mathematics in kindergarten through grade 12.

(B) Representation of teachers and principals from diverse demographic groups and geographic areas, including urban, suburban, and rural schools.

(C) Representation of teachers and principals from public and private schools.

(3) **QUALIFICATION OF MEMBERS.**—The members of the panel established under paragraph (1) shall be individuals who have expertise and experience relating to—

(A) existing science, technology, engineering, and mathematics education programs;

(B) developing and improving science, technology, engineering, and mathematics curricula content;

(C) improving the academic achievement of students who are below grade level in science, technology, engineering, and mathematics fields; and

(D) research on teaching or learning.

(c) AUTHORIZED ACTIVITIES OF NATIONAL PANEL.—The panel established under subsection (b) shall identify—

(1) promising practices in the effective teaching and learning of science, technology, engineering, and mathematics topics in kindergarten through grade 12;

(2) promising training and professional development techniques designed to help teachers increase their skills and expertise in improving student achievement in science, technology, engineering, and mathematics in kindergarten through grade 12;

(3) critical skills and skills progressions needed to enable students to acquire competence in science, technology, engineering, and mathematics and readiness for advanced secondary school and college level science, technology, engineering, and mathematics coursework;

(4) processes by which students with varying degrees of prior academic achievement and backgrounds learn effectively in the science, technology, engineering, and mathematics fields; and

(5) areas in which existing data about promising practices in science, technology, engineering, and mathematics education are insufficient.

(d) REPORT.—The panel established under subsection (b) shall prepare a written report for the Secretary that presents the findings of the panel pursuant to this section and includes recommendations, based on the findings of the panel, to strengthen science, technology, engineering, and mathematics teaching and learning in kindergarten through grade 12.

(e) DISSEMINATION.—The Secretary shall disseminate the report under subsection (d) to the public, State educational agencies, and local educational agencies, and shall make the information in such report available, in an easy to understand format, on the website of the Department.

Public
information.
Website.

(f) SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS PROMISING PRACTICES.—

(1) RELIABILITY AND MEASUREMENT.—The promising practices in the teaching of science, technology, engineering, and mathematics in elementary schools and secondary schools collected under this section shall be—

(A) reliable, valid, and grounded in scientifically valid research;

(B) inclusive of the critical skills and skill progressions needed for students to acquire competence in science, technology, engineering, and mathematics;

(C) reviewed regularly to assess effectiveness; and

(D) reviewed in the context of State academic assessments and student academic achievement standards.

(2) STUDENTS WITH DIVERSE LEARNING NEEDS.—In identifying promising practices under this section, the panel established under subsection (b) shall take into account the needs of students with diverse learning needs, particularly students with disabilities and students who are limited English proficient.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$1,200,000 for fiscal year 2008.

Subtitle B—Mathematics

20 USC 9851.

SEC. 6201. MATH NOW FOR ELEMENTARY SCHOOL AND MIDDLE SCHOOL STUDENTS PROGRAM.

(a) PURPOSE.—The purpose of this section is to enable all students to reach or exceed grade-level academic achievement standards and to prepare the students to enroll in and pass algebra courses by—

(1) improving instruction in mathematics for students in kindergarten through grade 9 through the implementation of mathematics programs and the support of comprehensive mathematics initiatives that are research-based and reflect a demonstrated record of effectiveness; and

(2) providing targeted help to low-income students who are struggling with mathematics and whose achievement is significantly below grade level.

(b) DEFINITION OF ELIGIBLE LOCAL EDUCATIONAL AGENCY.—In this section, the term “eligible local educational agency” means a high-need local educational agency (as defined in section 6112(3)) serving 1 or more schools—

(1) with significant numbers or percentages of students whose mathematics skills are below grade level;

(2) that are not making adequate yearly progress in mathematics under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)); or

(3) in which students are receiving instruction in mathematics from teachers who do not have mathematical content knowledge or expertise in the teaching of mathematics.

(c) PROGRAM AUTHORIZED.—

Grants.

(1) IN GENERAL.—From the amounts appropriated under subsection (k) for any fiscal year, the Secretary is authorized to award grants, on a competitive basis, for a period of 3 years, to State educational agencies to enable the State educational agencies to award grants to eligible local educational agencies to carry out the activities described in subsection (e) for students in any of the grades kindergarten through grade 9.

(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications for projects that will implement statewide strategies for improving mathematics instruction and raising the mathematics achievement of students, particularly students in grades 4 through 8.

(d) STATE USES OF FUNDS.—

(1) IN GENERAL.—Each State educational agency that receives a grant under this section for a fiscal year—

(A) shall expend not more than a total of 10 percent of the grant funds to carry out the activities described in paragraph (2) or (3) for the fiscal year; and

(B) shall use not less than 90 percent of the grant funds to award grants, on a competitive basis, to eligible local educational agencies to enable the eligible local educational agencies to carry out the activities described in subsection (e) for the fiscal year.

(2) MANDATORY USES OF FUNDS.—A State educational agency shall use the grant funds made available under paragraph (1)(A) to carry out each of the following activities:

(A) PLANNING AND ADMINISTRATION.—Planning and administration, including—

(i) evaluating applications from eligible local educational agencies using peer review teams described in subsection (f)(1)(D);

(ii) administering the distribution of grants to eligible local educational agencies; and

(iii) assessing and evaluating, on a regular basis, eligible local educational agency activities assisted under this section, with respect to whether the activities have been effective in increasing the number of students—

(I) making progress toward meeting grade-level mathematics achievement; and

(II) meeting or exceeding grade-level mathematics achievement.

(B) REPORTING.—Annually providing the Secretary with a report on the implementation of this section as described in subsection (i).

(3) PERMISSIVE USES OF FUNDS; TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—A State educational agency may use the grant funds made available under paragraph (1)(A) for 1 or more of the following technical assistance activities that assist an eligible local educational agency, upon request by the eligible local educational agency, in accomplishing the tasks required to design and implement a project under this section, including assistance in—

(i) implementing mathematics programs or comprehensive mathematics initiatives that are research-based and reflect a demonstrated record of effectiveness;

(ii) evaluating and selecting diagnostic and classroom based instructional mathematics assessments; and

(iii) identifying eligible professional development providers to conduct the professional development activities described in subsection (e)(1)(B).

(B) GUIDANCE.—The technical assistance described in subparagraph (A) shall be guided by researchers with expertise in the pedagogy of mathematics, mathematicians, and mathematics educators from high-risk, high-achievement schools and eligible local educational agencies.

(e) LOCAL USES OF FUNDS.—

(1) MANDATORY USES OF FUNDS.—Each eligible local educational agency receiving a grant under this section shall use the grant funds to carry out each of the following activities for students in any of the grades kindergarten through grade 9:

(A) To implement mathematics programs or comprehensive mathematics initiatives—

(i) for students in the grades of a participating school as identified in the application submitted under subsection (f)(2)(B); and

(ii) that are research-based and reflect a demonstrated record of effectiveness.

(B) To provide professional development and instructional leadership activities for teachers and, if appropriate,

for administrators and other school staff, on the implementation of comprehensive mathematics initiatives designed—

(i) to improve the achievement of students performing significantly below grade level;

(ii) to improve the mathematical content knowledge of the teachers, administrators, and other school staff;

(iii) to increase the use of effective instructional practices; and

(iv) to monitor student progress.

(C) To conduct continuous progress monitoring, which may include the adoption and use of assessments that—

(i) measure student progress and identify areas in which students need help in learning mathematics; and

(ii) reflect mathematics content that is consistent with State academic achievement standards in mathematics described in section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)).

(2) PERMISSIVE USES OF FUNDS.—An eligible local educational agency may use grant funds under this section to—

(A) adopt and use mathematics instructional materials and assessments;

(B) implement classroom-based assessments, including diagnostic or formative assessments;

(C) provide remedial coursework and interventions for students, which may be provided before or after school;

(D) provide small groups with individualized instruction in mathematics;

(E) conduct activities designed to improve the content knowledge and expertise of teachers, such as the use of a mathematics coach, enrichment activities, and interdisciplinary methods of mathematics instruction; and

(F) collect and report performance data.

(f) APPLICATIONS.—

(1) STATE EDUCATIONAL AGENCY.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall include—

(A) an assurance that the core mathematics instructional program, supplemental instructional materials, and intervention programs used by the eligible local educational agencies for the project, are research-based and reflect a demonstrated record of effectiveness and are aligned with State academic achievement standards;

(B) an assurance that eligible local educational agencies will meet the requirements described in paragraph (2);

(C) an assurance that local applications will be evaluated using a peer review process;

(D) a description of the qualifications of the peer review teams, which shall consist of—

(i) researchers with expertise in the pedagogy of mathematics;

(ii) mathematicians; and

(iii) mathematics educators serving high-risk, high-achievement schools and eligible local educational agencies; and

(E) an assurance that the State has a process to safeguard against conflicts of interest consistent with subsection (j)(2) and section 6204 for individuals providing technical assistance on behalf of the State educational agency or participating in the State peer review process under this subtitle.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—Each eligible local educational agency desiring a grant under this section shall submit an application to the State educational agency at such time and in such manner as the State educational agency may require. Each application shall include—

(A) an assurance that the eligible local educational agency will provide assistance to 1 or more schools that are—

(i) served by the eligible local educational agency; and

(ii) described in section 6201(b);

(B) a description of the grades, and of the schools, that will be served;

(C) information, on an aggregate basis, on each school to be served by the project, including such demographic, socioeconomic, and mathematics achievement data as the State educational agency may request;

(D) a description of the core mathematics instructional program, supplemental instructional materials, and intervention programs or strategies that will be used for the project, including an assurance that the programs or strategies are research-based and reflect a demonstrated record of effectiveness and are aligned with State academic achievement standards;

(E) a description of the activities that will be carried out under the grant, including a description of the professional development that will be provided to teachers, and, if appropriate, administrators and other school staff, and a description of how the activities will support achievement of the purpose of this section;

(F) an assurance that the eligible local educational agency will report to the State educational agency all data on student academic achievement that is necessary for the State educational agency's report under subsection (i);

(G) a description of the eligible entity's plans for evaluating the impact of professional development and leadership activities in mathematics on the content knowledge and expertise of teachers, administrators, or other school staff; and

(H) any other information the State educational agency may reasonably require.

(g) PROHIBITIONS.—

(1) IN GENERAL.—In implementing this section, the Secretary shall not—

(A) endorse, approve, or sanction any mathematics curriculum designed for use in any school; or

(B) engage in oversight, technical assistance, or activities that will require the adoption of a specific mathematics

program or instructional materials by a State, local educational agency, or school.

(2) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to authorize or permit the Department of Education, or a Department of Education contractor, to mandate, direct, control, or suggest the selection of a mathematics curriculum, supplemental instructional materials, or program of instruction by a State, local educational agency, or school.

(h) MATCHING REQUIREMENTS.—

(1) STATE EDUCATIONAL AGENCY.—A State educational agency that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant, in cash or in kind, to carry out the activities supported by the grant, of which not more than 20 percent of such 50 percent may be provided by local educational agencies within the State.

(2) WAIVER.—The Secretary may waive all of or a portion of the matching requirement described in paragraph (1) for any fiscal year, if the Secretary determines that—

(A) the application of the matching requirement will result in serious hardship for the State educational agency; or

(B) providing a waiver best serves the purpose of the program assisted under this section.

(i) PROGRAM PERFORMANCE AND ACCOUNTABILITY.—

(1) INFORMATION.—Each State educational agency receiving a grant under this section shall collect and report to the Secretary annually such information on the results of the grant as the Secretary may reasonably require, including information on—

(A) mathematics achievement data that show the progress of students participating in projects under this section (including, to the extent practicable, comparable data from students not participating in such projects), based primarily on the results of State, school district wide, or classroom-based, assessments, including—

(i) specific identification of those schools and eligible local educational agencies that report the largest gains in mathematics achievement; and

(ii) evidence on whether the State educational agency and eligible local educational agencies within the State have—

(I) significantly increased the number of students achieving at grade level or above in mathematics;

(II) significantly increased the percentages of students described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)) who are achieving at grade level or above in mathematics;

(III) significantly increased the number of students making significant progress toward meeting grade-level mathematics achievement standards; and

(IV) successfully implemented this section;

(B) the percentage of students in the schools served by the eligible local educational agency who enroll in

Reports.
Deadline.

algebra courses and the percentage of such students who pass algebra courses; and

(C) the progress made in increasing the quality and accessibility of professional development and leadership activities in mathematics, especially activities resulting in greater content knowledge and expertise of teachers, administrators, and other school staff, except that the Secretary shall not require such information until after the third year of a grant awarded under this section.

(2) REPORTING AND DISAGGREGATION.—The information required under paragraph (1) shall be—

(A) reported in a manner that allows for a comparison of aggregated score differentials of student academic achievement before (to the extent feasible) and after implementation of the project assisted under this section; and

(B) disaggregated in the same manner as information is disaggregated under section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)(i)).

(3) PRIVACY PROTECTION.—The data in the report shall be reported in a manner that—

(A) protects the privacy of individuals; and

(B) complies with the requirements of section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (commonly known as the Family Educational Rights and Privacy Act of 1974).

(j) EVALUATION AND TECHNICAL ASSISTANCE.—

(1) EVALUATION.—

(A) IN GENERAL.—The Secretary shall conduct an annual independent evaluation, by grant or by contract, of the program assisted under this section, which shall include an assessment of the impact of the program on student academic achievement and teacher performance, and may use funds available to carry out this section to conduct the evaluation.

(B) REPORT.—The Secretary shall annually submit, to the Committee on Education and Labor and the Committee on Appropriations of the House of Representatives, and to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, a report on the results of the evaluation.

(C) LIMITATIONS.—

(i) IN GENERAL.—The Secretary shall ensure that the organization selected to carry out the independent evaluation under subparagraph (A) does not hold a contract or subcontract to implement any aspect of the program under this section.

(ii) SUBCONTRACTORS.—Any contract entered into under subparagraph (A) shall prohibit the organization conducting the evaluation from subcontracting with any entity that holds a contract or subcontract for any aspect of the implementation of this section.

(iii) WAIVER.—Subject to clause (iv), the Secretary may waive the application of clause (i) or (ii), or both, in accordance with the requirements under section 9.503 of title 48, Code of Federal Regulations, if the

Grants.
Contracts.

Secretary determines that their application in a particular situation would not be in the Federal Government's interest.

(iv) SPECIAL RULE REGARDING WAIVERS.—No organization or subcontractor under this paragraph shall receive a waiver that allows the organization or subcontractor to evaluate any aspect of the program under this section that the organization or subcontractor was involved in implementing.

(2) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary may use funds made available under paragraph (3) to provide technical assistance to prospective applicants and to eligible local educational agencies receiving a grant under this section.

(B) CONFLICTS OF INTEREST.—If the Secretary carries out subparagraph (A) through any contracts, the Secretary, in consultation with the Office of the General Counsel of the Department, shall ensure that each contract requires the contractor to—

(i) screen for conflicts of interest when hiring individuals to carry out the responsibilities under the contract;

(ii) include the requirement of clause (i) in any subcontracts the contractor enters into under the contract; and

(iii) establish and follow a schedule for carrying out clause (i) and subparagraph (C) and reporting to the Secretary on the contractor's actions under those provisions.

(C) SCREENING PROCESS.—Subject to subparagraph (D), the screening process described in subparagraph (B)(i) shall—

(i) include, at a minimum, a review of—

(I) each individual performing duties under the contract or subcontract for connections to any State's program under this section;

(II) such individual's potential financial interests in, or other connection to, products, activities, or services that might be purchased by a State educational agency or local educational agency in the course of the agency's implementation of the program under this section; and

(III) such individual's connections to teaching methodologies that might require the use of specific products, activities, or services; and

(ii) ensure that individuals performing duties under the contract do not maintain significant financial interests in products, activities, or services supported under this section.

(D) WAIVER.—

(i) IN GENERAL.—The Secretary may, in consultation with the Office of the General Counsel of the Department, waive the requirements of subparagraph (C).

(ii) REPORT.—The Secretary shall—

(I) establish criteria for the waivers under clause (i); and

Criteria.

(II) report any waivers under clause (i), and the criteria under which such waivers are allowed, to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate. Waivers.

(E) INFORMATION DISSEMINATION.—

(i) IN GENERAL.—If the Secretary enters into contracts to provide technical assistance under subparagraph (A), and if a contractor enters into subcontracts for that purpose, each such contract and subcontract shall require the provider of technical assistance to clearly separate technical assistance provided under the contract or subcontract from information provided, or activities engaged in, as part of the normal operations of the contractor or subcontractor.

(ii) METHODS OF COMPLIANCE.—Efforts to comply with clause (i) may include the creation of separate webpages for the purpose of fulfilling a contract or subcontract entered into under subparagraph (A).

(3) RESERVATION OF FUNDS.—The Secretary may reserve not more than 2.5 percent of funds appropriated under subsection (k) for a fiscal year to carry out this subsection.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$95,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years.

SEC. 6202. SUMMER TERM EDUCATION PROGRAMS.

20 USC 9852.

(a) PURPOSE.—The purpose of this section is to create opportunities for summer learning by providing students with access to summer learning in mathematics, technology, and problem-solving to ensure that students do not experience learning losses over the summer and to remedy, reinforce, and accelerate the learning of mathematics and problem-solving.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means an entity that—

(A) desires to participate in a summer learning grant program under this section by providing summer learning opportunities described in subsection (d)(4)(A)(ii) to eligible students; and

(B) is—

(i) a high-need local educational agency; or

(ii) a consortium consisting of a high-need local educational agency and 1 or more of the following entities:

(I) Another local educational agency.

(II) A community-based youth development organization with a demonstrated record of effectiveness in helping students learn.

(III) An institution of higher education.

(IV) An educational service agency.

(V) A for-profit educational provider, nonprofit organization, science center, museum, or summer enrichment camp, that has been approved by the State educational agency to provide the summer

learning opportunity described in subsection (d)(4)(A)(ii).

(2) ELIGIBLE STUDENT.—The term “eligible student” means a student who—

(A) is eligible for a free lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(B) is served by a local educational agency identified by the State educational agency in the application described in subsection (c)(2).

(3) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term “high-need local educational agency” has the meaning given the term in section 6112.

(c) DEMONSTRATION GRANT PROGRAM.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—From the funds appropriated under subsection (f) for a fiscal year, the Secretary shall carry out a demonstration grant program in which the Secretary awards grants, on a competitive basis, to State educational agencies to enable the State educational agencies to pay the Federal share of summer learning grants for eligible students.

(B) NUMBER OF GRANTS.—For each fiscal year, the Secretary shall award not more than 5 grants under this section.

(2) APPLICATION.—A State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall identify the areas in the State where the summer learning grant program will be offered and the local educational agencies that serve such areas.

(3) AWARD BASIS.—

(A) SPECIAL CONSIDERATION.—In awarding grants under this section, the Secretary shall give special consideration to a State educational agency that agrees, to the extent possible, to enter into agreements with eligible entities that are consortia described in subsection (b)(1)(B)(ii) and that proposes to target services to children in grades kindergarten through grade 8.

(B) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this section, the Secretary shall take into consideration an equitable geographic distribution of the grants.

(d) SUMMER LEARNING GRANTS.—

(1) USE OF GRANTS FOR SUMMER LEARNING GRANTS.—

(A) IN GENERAL.—Each State educational agency that receives a grant under subsection (c) for a fiscal year shall use the grant funds to provide summer learning grants for the fiscal year to eligible students in the State who desire to attend a summer learning opportunity offered by an eligible entity that enters into an agreement with the State educational agency under paragraph (4)(A).

(B) AMOUNT; FEDERAL AND NON-FEDERAL SHARES.—

(i) AMOUNT.—The amount of a summer learning grant provided under this section shall be—

(I) for each of the fiscal years 2008 through 2011, \$1,600; and

(II) for fiscal year 2012, \$1,800.

(ii) **FEDERAL SHARE.**—The Federal share of each summer learning grant shall be not more than 50 percent of the amount of the summer learning grant determined under clause (i).

(iii) **NON-FEDERAL SHARE.**—The non-Federal share of each summer learning grant shall be not less than 50 percent of the amount of the summer learning grant determined under clause (i), and shall be provided from non-Federal sources.

(2) **DESIGNATION OF SUMMER SCHOLARS.**—Eligible students who receive summer learning grants under this section shall be known as “summer scholars”.

(3) **SELECTION OF SUMMER LEARNING OPPORTUNITY.**—

(A) **DISSEMINATION OF INFORMATION.**—A State educational agency that receives a grant under subsection (c) shall disseminate information about summer learning opportunities and summer learning grants to the families of eligible students in the State.

(B) **APPLICATION.**—The parents of an eligible student who are interested in having their child participate in a summer learning opportunity and receive a summer learning grant shall submit an application to the State educational agency that includes a ranked list of preferred summer learning opportunities.

(C) **PROCESS.**—A State educational agency that receives an application under subparagraph (B) shall—

(i) process such application;

(ii) determine whether the eligible student shall receive a summer learning grant;

(iii) coordinate the assignment of eligible students receiving summer learning grants with summer learning opportunities; and

(iv) if demand for a summer learning opportunity exceeds capacity, the State educational agency shall prioritize applications to low-achieving eligible students.

(D) **FLEXIBILITY.**—A State educational agency may assign a summer scholar to a summer learning opportunity program that is offered in an area served by a local educational agency that is not the local educational agency serving the area where such scholar resides.

(E) **REQUIREMENT OF ACCEPTANCE.**—An eligible entity shall accept, enroll, and provide the summer learning opportunity of such entity to, any summer scholar assigned to such summer learning opportunity by a State educational agency pursuant to this subsection.

(4) **AGREEMENT WITH ELIGIBLE ENTITY.**—

(A) **IN GENERAL.**—A State educational agency shall enter into an agreement with one or more eligible entities offering a summer learning opportunity, under which—

(i) the State educational agency shall agree to make payments to the eligible entity, in accordance with subparagraph (B), for a summer scholar; and

(ii) the eligible entity shall agree to provide the summer scholar with a summer learning opportunity that—

(I) provides a total of not less than the equivalent of 30 full days of instruction (or not less than the equivalent of 25 full days of instruction, if the equivalent of an additional 5 days is devoted to field trips or other enrichment opportunities) to the summer scholar;

(II) employs small-group, research-based educational programs, materials, curricula, and practices;

(III) provides a curriculum that—

(aa) emphasizes mathematics, technology, engineering, and problem-solving through experiential learning opportunities;

(bb) is primarily designed to increase the numeracy and problem-solving skills of the summer scholar; and

(cc) is aligned with State academic content standards and goals of the local educational agency serving the summer scholar;

(IV) measures student progress to determine the gains made by summer scholars in the summer learning opportunity, and disaggregates the results of such progress for summer scholars by race and ethnicity, economic status, limited English proficiency status, and disability status, in order to determine the opportunity's impact on each subgroup of summer scholars;

(V) collects daily attendance data on each summer scholar;

(VI) provides professional development opportunities for teachers to improve their practice in teaching numeracy, and in integrating problem-solving techniques into the curriculum; and

(VII) meets all applicable Federal, State, and local civil rights laws.

(B) AMOUNT OF PAYMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), a State educational agency shall make a payment to an eligible entity for a summer scholar in the amount determined under paragraph (1)(B)(i).

(ii) ADJUSTMENT.—In the case in which a summer scholar does not attend the full summer learning opportunity, the State educational agency shall reduce the amount provided to the eligible entity pursuant to clause (i) by a percentage that is equal to the percentage of the summer learning opportunity not attended by such scholar.

(5) ADMINISTRATIVE COSTS.—A State educational agency or eligible entity receiving funding under this section may use not more than 5 percent of such funding for administrative costs associated with carrying out this section.

(e) EVALUATIONS; REPORT; WEBSITE.—

(1) EVALUATION AND ASSESSMENT.—For each year that an eligible entity enters into an agreement under subsection (d)(4), the eligible entity shall prepare and submit to the Secretary a report on the activities and outcomes of each summer learning opportunity that enrolled a summer scholar, including—

(A) information on the design of the summer learning opportunity;

(B) the alignment of the summer learning opportunity with State standards; and

(C) data from assessments of student mathematics and problem-solving skills for the summer scholars and on the attendance of the scholars, disaggregated by the subgroups described in subsection (d)(4)(A)(ii)(IV).

(2) REPORT.—For each year funds are appropriated under subsection (f) for this section, the Secretary shall prepare and submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives on the summer learning grant programs, including the effectiveness of the summer learning opportunities in improving student achievement and learning.

(3) SUMMER LEARNING GRANTS WEBSITE.—The Secretary shall make accessible, on the Department of Education website, information for parents and school personnel on successful programs and curricula, and best practices, for summer learning opportunities.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2008 and each of the 2 succeeding fiscal years.

SEC. 6203. MATH SKILLS FOR SECONDARY SCHOOL STUDENTS.

20 USC 9853.

(a) PURPOSES.—The purposes of this section are—

(1) to provide assistance to State educational agencies and local educational agencies in implementing effective research-based mathematics programs for students in secondary schools, including students with disabilities and students with limited English proficiency;

(2) to improve instruction in mathematics for students in secondary school through the implementation of mathematics programs and the support of comprehensive mathematics initiatives that are based on the best available evidence of effectiveness;

(3) to provide targeted help to low-income students who are struggling with mathematics and whose achievement is significantly below grade level; and

(4) to provide in-service training for mathematics coaches who can assist secondary school teachers to utilize research-based mathematics instruction to develop and improve students' mathematical abilities and knowledge, and assist teachers in assessing and improving student academic achievement.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term “eligible local educational agency” means a local educational agency that is eligible to receive funds, and that is receiving funds, under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(2) MATHEMATICS COACH.—The term “mathematics coach” means a certified or licensed teacher, with a demonstrated effectiveness in teaching mathematics to students with specialized needs in mathematics and improving student academic

achievement in mathematics, a command of mathematical content knowledge, and the ability to work with classroom teachers to improve the teachers' instructional techniques to support mathematics improvement, who works on site at a school—

(A) to train teachers to better assess student learning in mathematics;

(B) to train teachers to assess students' mathematics skills and identify students who need remediation; and

(C) to provide or assess remedial mathematics instruction, including for—

(i) students in after-school and summer school programs;

(ii) students requiring additional instruction;

(iii) students with disabilities; and

(iv) students with limited English proficiency.

Grants.

(c) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—From funds appropriated under subsection (o) for a fiscal year, the Secretary shall establish a program, in accordance with the requirements of this section, that will provide grants on a competitive basis to State educational agencies to award grants and subgrants to eligible local educational agencies for the purpose of establishing mathematics programs to improve the overall mathematics performance of secondary school students in the State.

(2) LENGTH OF GRANT.—A grant to a State educational agency under this section shall be awarded for a period of 3 years.

(d) RESERVATION OF FUNDS BY THE SECRETARY.—From amounts appropriated under subsection (o) for a fiscal year, the Secretary may reserve—

(1) not more than 3 percent of such amounts to fund national activities in support of the programs assisted under this section, such as research and dissemination of best practices, except that the Secretary may not use the reserved funds to award grants directly to local educational agencies; and

(2) not more than $\frac{1}{2}$ of 1 percent of such amounts for the Bureau of Indian Education of the Department of the Interior to carry out the services and activities described in subsection (k)(3) for Indian children.

(e) GRANT FORMULAS.—

(1) COMPETITIVE GRANTS TO STATE EDUCATIONAL AGENCIES.—From amounts appropriated under subsection (o) and not reserved under subsection (d), the Secretary shall award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to provide subgrants to eligible local educational agencies to establish mathematics programs for the purpose of improving overall mathematics performance among students in secondary school in the State.

(2) MINIMUM GRANT.—The Secretary shall ensure that the minimum grant made to any State educational agency under this section shall be not less than \$500,000.

(f) APPLICATIONS.—In order to receive a grant under this section, a State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall meet the following conditions:

(1) A State educational agency shall not include the application for assistance under this section in a consolidated application submitted under section 9302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7842).

(2) The State educational agency's application shall include assurances that such application and any technical assistance provided by the State will be guided by a peer review team, which shall consist of—

(A) researchers with expertise in the pedagogy of mathematics;

(B) mathematicians; and

(C) mathematics educators serving high-risk, high-achievement schools and eligible local educational agencies.

(3) The State educational agency shall include an assurance that the State has a process to safeguard against conflicts of interest consistent with subsection (m)(2) and section 6204 for individuals providing technical assistance on behalf of the State educational agency or participating in the State peer review process under this subtitle.

(4) The State educational agency will participate, if requested, in any evaluation of the State educational agency's program under this section.

(5) The State educational agency's application shall include a program plan that contains a description of the following:

(A) How the State educational agency will assist eligible local educational agencies in implementing subgrants, including providing ongoing professional development for mathematics coaches, teachers, paraprofessionals, and administrators.

(B) How the State educational agency will help eligible local educational agencies identify high-quality screening, diagnostic, and classroom-based instructional mathematics assessments.

(C) How the State educational agency will help eligible local educational agencies identify high-quality research-based mathematics materials and programs.

(D) How the State educational agency will help eligible local educational agencies identify appropriate and effective materials, programs, and assessments for students with disabilities and students with limited English proficiency.

(E) How the State educational agency will ensure that professional development funded under this section—

(i) is based on mathematics research;

(ii) will effectively improve instructional practices for mathematics for secondary school students;

(iii) will improve student academic achievement in mathematics; and

(iv) is coordinated with professional development activities funded through other programs, including section 2113 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6613).

(F) How funded activities will help teachers and other instructional staff to implement research-based components of mathematics instruction and improve student academic achievement.

(G) The subgrant process the State educational agency will use to ensure that eligible local educational agencies

receiving subgrants implement programs and practices based on mathematics research.

(H) How the State educational agency will build on and promote coordination among mathematics programs in the State to increase overall effectiveness in improving mathematics instruction and student academic achievement, including for students with disabilities and students with limited English proficiency.

(I) How the State educational agency will regularly assess and evaluate the effectiveness of the eligible local educational agency activities funded under this section.

(g) STATE USE OF FUNDS.—Each State educational agency receiving a grant under this section shall—

(1) establish a peer review team comprised of researchers with expertise in the pedagogy of mathematics, mathematicians, and mathematics educators from high-risk, high-achievement schools, to provide guidance to eligible local educational agencies in selecting or developing and implementing appropriate, research-based mathematics programs for secondary school students;

(2) use 80 percent of the grant funds received under this section for a fiscal year to fund high-quality applications for subgrants to eligible local educational agencies having applications approved under subsection (k); and

(3) use 20 percent of the grant funds received under this section—

(A) to carry out State-level activities described in the application submitted under subsection (f);

(B) to provide—

(i) technical assistance to eligible local educational agencies; and

(ii) high-quality professional development to teachers and mathematics coaches in the State;

(C) to oversee and evaluate subgrant services and activities undertaken by the eligible local educational agencies as described in subsection (k)(3); and

(D) for administrative costs, of which not more than 5 percent of the grant funds may be used for planning, administration, and reporting.

(h) NOTICE TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this section shall provide notice to all eligible local educational agencies in the State about the availability of subgrants under this section.

(i) PROHIBITIONS.—

(1) IN GENERAL.—In implementing this section, the Secretary shall not—

(A) endorse, approve, or sanction any mathematics curriculum designed for use in any school; or

(B) engage in oversight, technical assistance, or activities that will require the adoption of a specific mathematics program or instructional materials by a State, local educational agency, or school.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize or permit the Secretary, Department of Education, or a Department of Education contractor, to mandate, direct, control, or suggest the selection of a mathematics

curriculum, supplemental instructional materials, or program of instruction by a State, local educational agency, or school.

(j) SUPPLEMENT NOT SUPPLANT.—Each State educational agency receiving a grant under this section shall use the grant funds to supplement, not supplant, State funding for activities authorized under this section or for other educational activities.

(k) SUBGRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—

(1) APPLICATION.—

(A) IN GENERAL.—Each eligible local educational agency desiring a subgrant under this subsection shall submit an application to the State educational agency in the form and according to the schedule established by the State educational agency.

(B) CONTENTS.—In addition to any information required by the State educational agency, each application under subparagraph (A) shall demonstrate how the eligible local educational agency will carry out the following required activities:

(i) Development or selection and implementation of research-based mathematics assessments.

(ii) Development or selection and implementation of research-based mathematics programs, including programs for students with disabilities and students with limited English proficiency.

(iii) Selection of instructional materials based on mathematics research.

(iv) High-quality professional development for mathematics coaches and teachers based on mathematics research.

(v) Evaluation and assessment strategies.

(vi) Reporting.

(vii) Providing access to research-based mathematics materials.

(C) CONSORTIA.—Consistent with State law, an eligible local educational agency may apply to the State educational agency for a subgrant as a member of a consortium of local educational agencies if each member of the consortium is an eligible local educational agency.

(2) AWARD BASIS.—

(A) PRIORITY.—A State educational agency awarding subgrants under this subsection shall give priority to eligible local educational agencies that—

(i) are among the local educational agencies in the State with the lowest graduation rates, as described in section 1111(b)(2)(C)(vi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(vi)); and

(ii) have the highest number or percentage of students who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)).

(B) AMOUNT OF GRANTS.—Subgrants under this subsection shall be of sufficient size and scope to enable eligible local educational agencies to fully implement activities assisted under this subsection.

(3) LOCAL USE OF FUNDS.—Each eligible local educational agency receiving a subgrant under this subsection shall use

the subgrant funds to carry out, at the secondary school level, the following services and activities:

(A) Hiring mathematics coaches and providing professional development for mathematics coaches—

(i) at a level to provide effective coaching to classroom teachers;

(ii) to work with classroom teachers to better assess student academic achievement in mathematics;

(iii) to work with classroom teachers to identify students with mathematics problems and, where appropriate, refer students to available programs for remediation and additional services;

(iv) to work with classroom teachers to diagnose and remediate mathematics difficulties of the lowest-performing students, so that those teachers can provide intensive, research-based instruction, including during after-school and summer sessions, geared toward ensuring that those students can access and be successful in rigorous academic coursework; and

(v) to assess and organize student data on mathematics and communicate that data to school administrators to inform school reform efforts.

(B) Reviewing, analyzing, developing, and, where possible, adapting curricula to make sure mathematics skills are taught within other core academic subjects.

(C) Providing mathematics professional development for all relevant teachers in secondary school, as necessary, that addresses both remedial and higher level mathematics skills for students in the applicable curriculum.

(D) Providing professional development for teachers, administrators, and paraprofessionals serving secondary schools to help the teachers, administrators, and paraprofessionals improve student academic achievement in mathematics.

(E) Procuring and implementing programs and instructional materials based on mathematics research, including software and other education technology related to mathematics instruction with demonstrated effectiveness in improving mathematics instruction and student academic achievement.

(F) Building on and promoting coordination among mathematics programs in the eligible local educational agency to increase overall effectiveness in—

(i) improving mathematics instruction; and

(ii) increasing student academic achievement, including for students with disabilities and students with limited English proficiency.

(G) Evaluating the effectiveness of the instructional strategies, teacher professional development programs, and other interventions that are implemented under the subgrant.

(H) Measuring improvement in student academic achievement, including through progress monitoring or other assessments.

(4) SUPPLEMENT NOT SUPPLANT.—Each eligible local educational agency receiving a subgrant under this subsection shall use the subgrant funds to supplement, not supplant, the eligible

local educational agency's funding for activities authorized under this section or for other educational activities.

(5) NEW SERVICES AND ACTIVITIES.—Subgrant funds provided under this subsection may be used only to provide services and activities authorized under this section that were not provided on the day before the date of enactment of this Act.

(6) EVALUATIONS.—Each eligible local educational agency receiving a grant under this subsection shall participate, as requested by the State educational agency or the Secretary, in reviews and evaluations of the programs of the eligible local educational agency and the effectiveness of such programs, and shall provide such reports as are requested by the State educational agency and the Secretary.

Reports.

(1) MATCHING REQUIREMENTS.—

(1) STATE EDUCATIONAL AGENCY REQUIREMENTS.—A State educational agency that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant, in cash or in-kind, to carry out the activities supported by the grant, of which not more than 20 percent of such 50 percent may be provided by local educational agencies within the State.

(2) WAIVER.—The Secretary may waive all or a portion of the matching requirements described in paragraph (1) for any fiscal year, if the Secretary determines that—

(A) the application of the matching requirement will result in serious hardship for the State educational agency; or

(B) providing a waiver best serves the purpose of the program assisted under this section.

(m) EVALUATION AND TECHNICAL ASSISTANCE.—

Grants.
Contracts.

(1) EVALUATION.—

(A) IN GENERAL.—The Secretary shall conduct an annual independent evaluation, by grant or by contract, of the program assisted under this section, which shall include an assessment of the impact of the program on student academic achievement and teacher performance, and may use funds available to carry out this section to conduct the evaluation.

(B) REPORT.—The Secretary shall annually submit to the Committee on Education and Labor and the Committee on Appropriations of the House of Representatives, and to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, a report on the results of the evaluation.

(C) LIMITATIONS.—

(i) IN GENERAL.—The Secretary shall ensure that the organization selected to carry out the independent evaluation under subparagraph (A) does not hold a contract or subcontract to implement any aspect of the program under this section.

(ii) SUBCONTRACTORS.—Any contract entered into under subparagraph (A) shall prohibit the organization conducting the evaluation from subcontracting with any entity that holds a contract or subcontract for any aspect of the implementation of this section.

(iii) WAIVER.—Subject to clause (iv), the Secretary may waive the application of clause (i) or (ii), or both,

in accordance with the requirements under section 9.503 of title 48, Code of Federal Regulations, if the Secretary determines that their application in a particular situation would not be in the Federal Government's interest.

(iv) SPECIAL RULE REGARDING WAIVERS.—No organization or subcontractor under this paragraph shall receive a waiver that allows the organization or subcontractor to evaluate any aspect of the program under this section that the organization or subcontractor was involved in implementing.

(2) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary may use funds made available under paragraph (3) to provide technical assistance to prospective applicants and to State educational agencies and eligible local educational agencies receiving grants or subgrants under this section.

(B) CONFLICTS OF INTEREST.—If the Secretary carries out subparagraph (A) through any contracts, the Secretary, in consultation with the Office of the General Counsel of the Department, shall ensure that each contract requires the contractor to—

(i) screen for conflicts of interest when hiring individuals to carry out the responsibilities under the contract;

(ii) include the requirement of clause (i) in any subcontracts the contractor enters into under the contract; and

(iii) establish and follow a schedule for carrying out clause (i) and subparagraph (C) and reporting to the Secretary on the contractor's actions under those provisions.

(C) SCREENING PROCESS.—Subject to subparagraph (D), the screening process described in subparagraph (B)(i) shall—

(i) include, at a minimum, a review of—

(I) each individual performing duties under the contract or subcontract for connections to any State's program under this section;

(II) such individual's potential financial interests in, or other connection to, products, activities, or services that might be purchased by a State educational agency or local educational agency in the course of the agency's implementation of the program under this section; and

(III) such individual's connections to teaching methodologies that might require the use of specific products, activities, or services; and

(ii) ensure that individuals performing duties under the contract do not maintain significant financial interests in products, activities, or services supported under this section.

(D) WAIVER.—

(i) IN GENERAL.—The Secretary may, in consultation with the Office of the General Counsel of the Department, waive the requirements of subparagraph (C).

(ii) REPORT.—The Secretary shall—

(I) establish criteria for the waivers under clause (i); and

Criteria.
Waivers.

(II) report any waivers under clause (i), and the criteria under which such waivers are allowed, to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(E) INFORMATION DISSEMINATION.—

(i) IN GENERAL.—If the Secretary enters into contracts to provide technical assistance under subparagraph (A), and if a contractor enters into subcontracts for that purpose, each such contract and subcontract shall require the provider of technical assistance to clearly separate technical assistance provided under the contract or subcontract from information provided, or activities engaged in, as part of the normal operations of the contractor or subcontractor.

(ii) METHODS OF COMPLIANCE.—Efforts to comply with clause (i) may include the creation of separate webpages for the purpose of fulfilling a contract or subcontract entered into under subparagraph (A).

(3) RESERVATION OF FUNDS.—The Secretary may reserve not more than 2.5 percent of funds appropriated under subsection (o) for a fiscal year to carry out this subsection.

(n) PROGRAM PERFORMANCE AND ACCOUNTABILITY.—

(1) INFORMATION.—Each State educational agency receiving a grant under this section shall collect and report to the Secretary annually such information on the results of the grant as the Secretary may reasonably require, including information on—

(A) mathematics achievement data that show the progress of students participating in projects under this section (including, to the extent practicable, comparable data from students not participating in such projects), based primarily on the results of State, school districtwide, or classroom-based monitoring reports or assessments, including—

(i) specific identification of those schools and eligible local educational agencies that report the largest gains in mathematics achievement; and

(ii) evidence on whether the State educational agency and eligible local educational agencies within the State have—

(I) significantly increased the number of students achieving at the proficient or advanced level on the State student academic achievement standards in mathematics under section 1111(b)(1)(D)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)(D)(ii));

(II) significantly increased the percentages of students described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)) who are achieving proficiency or advanced levels on such State academic content standards in mathematics;

(III) significantly increased the number of students making significant progress toward meeting such State academic content and achievement standards in mathematics; and

(IV) successfully implemented this section;

(B) the percentage of students in the schools served by the eligible local educational agency who enroll in advanced mathematics courses in grades 9 through 12, including the percentage of such students who pass such courses; and

(C) the progress made in increasing the quality and accessibility of professional development and leadership activities in mathematics, especially activities resulting in greater content knowledge and expertise of teachers, administrators, and other school staff, except that the Secretary shall not require such information until after the third year of a grant awarded under this section.

(2) REPORTING AND DISAGGREGATION.—The information required under paragraph (1) shall be—

(A) reported in a manner that allows for a comparison of aggregated score differentials of student academic achievement before (to the extent feasible) and after implementation of the project assisted under this section; and

(B) disaggregated in the same manner as information is disaggregated under section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)(i)).

(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$95,000,000 for fiscal year 2008 and each of the 2 succeeding fiscal years.

20 USC 9854.

SEC. 6204. PEER REVIEW OF STATE APPLICATIONS.

Establishment.

(a) PEER REVIEW OF STATE APPLICATIONS.—The Secretary shall establish peer review panels to review State educational agency applications submitted pursuant to sections 6201 and 6203 and shall consider the recommendation of the peer review panels in deciding whether to approve the applications.

(b) SCREENING.—

(1) IN GENERAL.—The Secretary shall establish a process through which individuals on the peer review panels who review State applications under sections 6201 and 6203 (referred to in this section as “reviewers”) are screened for potential conflicts of interest.

(2) SCREENING REQUIREMENTS.—The screening process described in paragraph (1) shall, subject to paragraph (3)—

(A) be reviewed and approved by the Office of the General Counsel of the Department;

(B) include, at a minimum, a review of each reviewer’s—

(i) professional connection to any State’s program under such sections, including a disclosure of any connection to publishers, entities, private individuals, or organizations related to such State’s program;

(ii) potential financial interest in products, activities, or services that might be purchased by a State educational agency or local educational agency in the

course of the agency's implementation of the programs under such sections; and

(iii) professional connections to teaching methodologies that might require the use of specific products, activities, or services; and

(C) ensure that reviewers do not maintain significant financial interests in products, activities, or services supported under such sections.

(3) WAIVER.—

(A) IN GENERAL.—The Secretary may, in consultation with the Office of the General Counsel of the Department, waive the requirements of paragraph (2)(C).

(B) REPORT OF WAIVERS.—The Secretary shall—

(i) establish criteria for the waivers permitted under subparagraph (A); and Criteria.

(ii) report any waivers allowed under subparagraph (A), and the criteria under which such waivers are allowed, to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(c) GUIDANCE.—

(1) IN GENERAL.—The Secretary shall develop procedures for, and issue guidance regarding, how reviewers will review applications submitted under sections 6201 and 6203 and provide feedback to State educational agencies and recommendations to the Secretary. The Secretary shall also develop guidance for how the Secretary will review those recommendations and make final determinations of approval or disapproval of those applications. Procedures.

(2) REQUIREMENTS.—Such procedures shall, at a minimum—

(A) create a transparent process through which review panels provide clear, consistent, and publicly available documentation and explanations in support of all recommendations, including the final reviews of the individual reviewers, except that a final review shall not reveal any personally identifiable information about the reviewer;

(B) ensure that a State educational agency has the opportunity for direct interaction with any review panel that reviewed the agency's application under section 6201 or 6203 when revising that application as a result of feedback from the panel, including the disclosure of the identities of the reviewers;

(C) require that any review panel and the Secretary clearly and consistently document that all required elements of an application under section 6201 or 6203 are included before the application is approved; and

(D) create a transparent process through which the Secretary clearly, consistently, and publicly documents decisions to approve or disapprove applications under such sections and the reasons for those decisions.

Subtitle C—Foreign Language Partnership Program

20 USC 9861.

SEC. 6301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States faces a shortage of skilled professionals with higher levels of proficiency in foreign languages and area knowledge critical to the Nation's security.

(2) Given the Nation's economic competitiveness interests, it is crucial that our Nation expand the number of Americans who are able to function effectively in the environments in which critical foreign languages are spoken.

(3) Students' ability to become proficient in foreign languages can be addressed by starting language learning at a younger age and expanding opportunities for continuous foreign language education from elementary school through postsecondary education.

(b) PURPOSE.—The purpose of this subtitle is to significantly increase—

(1) the opportunities to study critical foreign languages and the context in which the critical foreign languages are spoken; and

(2) the number of American students who achieve the highest level of proficiency in critical foreign languages.

20 USC 9862.

SEC. 6302. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE RECIPIENT.—The term “eligible recipient” means an entity mutually agreed upon by a partnership that shall receive grant funds under this subtitle on behalf of the partnership for use in carrying out the activities assisted under this subtitle.

(2) PARTNERSHIP.—The term “partnership” means a partnership that—

(A) shall include—

(i) an institution of higher education; and

(ii) 1 or more local educational agencies; and

(B) may include 1 or more entities that support the purposes of this subtitle.

(3) SUPERIOR LEVEL OF PROFICIENCY.—The term “superior level of proficiency” means level 3, the professional working level, as measured by the Federal Interagency Language Roundtable (ILR) or by other generally recognized measures of superior standards.

20 USC 9863.

SEC. 6303. PROGRAM AUTHORIZED.

(a) PROGRAM AUTHORIZED.—

Grants.

(1) IN GENERAL.—The Secretary is authorized to award grants to eligible recipients to enable partnerships served by the eligible recipients to establish articulated programs of study in critical foreign languages that will enable students to advance successfully from elementary school through postsecondary education and achieve higher levels of proficiency in a critical foreign language.

(2) DURATION.—A grant awarded under paragraph (1) shall be for a period of not more than 5 years, of which 2 years

may be for planning and development. A grant may be renewed for not more than 2 additional 5-year periods, if the Secretary determines that the partnership's program is effective and the renewal will best serve the purposes of this subtitle.

(b) APPLICATIONS.—

(1) IN GENERAL.—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) CONTENTS.—Each application shall—

(A) identify each local educational agency partner, including contact information and letters of commitment, and describe the responsibilities of each member of the partnership, including—

(i) how each of the partners will be involved in planning, developing, and implementing—

(I) program curriculum and materials; and

(II) teacher professional development;

(ii) what resources each of the partners will provide; and

(iii) how the partners will contribute to ensuring the continuity of student progress from elementary school through the postsecondary level;

(B) describe how an articulated curriculum for students will be developed and implemented, which may include the use and integration of technology into such curriculum;

(C) identify target proficiency levels for students at critical benchmarks (such as grades 4, 8, and 12), and describe how progress toward those proficiency levels will be assessed at the benchmarks, and how the program will use the results of the assessments to ensure continuous progress toward achieving a superior level of proficiency at the postsecondary level;

(D) describe how the partnership will—

(i) ensure that students from a program assisted under this subtitle who are beginning postsecondary education will be assessed and enabled to progress to a superior level of proficiency;

(ii) address the needs of students already at, or near, the superior level of proficiency, which may include diagnostic assessments for placement purposes, customized and individualized language learning opportunities, and experimental and interdisciplinary language learning; and

(iii) identify and describe how the partnership will work with institutions of higher education outside the partnership to provide participating students with multiple options for postsecondary education consistent with the purposes of this subtitle;

(E) describe how the partnership will support and continue the program after the grant has expired, including how the partnership will seek support from other sources, such as State and local governments, foundations, and the private sector; and

(F) describe what assessments will be used or, if assessments not available, how assessments will be developed.

(c) USES OF FUNDS.—Grant funds awarded under this subtitle—

(1) shall be used to plan, develop, and implement programs at the elementary school level through postsecondary education, consistent with the purpose of this subtitle, including—

(A) the development of curriculum and instructional materials; and

(B) recruitment of students; and

(2) may be used for—

(A) teacher recruitment (including recruitment from other professions and recruitment of native-language speakers in the community) and professional development directly related to the purposes of this subtitle at the elementary school through secondary school levels;

(B) development of appropriate assessments;

(C) opportunities for maximum language exposure for students in the program, such as the creation of immersion environments (such as language houses, language tables, immersion classrooms, and weekend and summer experiences) and special tutoring and academic support;

(D) dual language immersion programs;

(E) scholarships and study-abroad opportunities, related to the program, for postsecondary students and newly recruited teachers who have advanced levels of proficiency in a critical foreign language, except that not more than 20 percent of the grant funds provided to an eligible recipient under this section for a fiscal year may be used to carry out this subparagraph;

(F) activities to encourage community involvement to assist in meeting the purposes of this subtitle;

(G) summer institutes for students and teachers;

(H) bridge programs that allow dual enrollment for secondary school students in institutions of higher education;

(I) programs that expand the understanding and knowledge of historic, geographic, and contextual factors within countries with populations who speak critical foreign languages, if such programs are carried out in conjunction with language instruction;

(J) research on, and evaluation of, the teaching of critical foreign languages;

(K) data collection and analysis regarding the results of—

(i) various student recruitment strategies;

(ii) program design; and

(iii) curricular approaches;

(L) the impact of the strategies, program design, and curricular approaches described in subparagraph (K) on increasing—

(i) the number of students studying critical foreign languages; and

(ii) the proficiency of the students in the critical foreign languages; and

(M) distance learning projects for critical foreign language learning.

(d) MATCHING REQUIREMENT.—

(1) IN GENERAL.—An eligible recipient that receives a grant under this subtitle shall provide, toward the cost of carrying

out the activities supported by the grant, from non-Federal sources, an amount equal to—

(A) 20 percent of the amount of the grant payment for the first fiscal year for which a grant payment is made;

(B) 30 percent of the amount of the grant payment for the second such fiscal year;

(C) 40 percent of the amount of the grant payment for the third such fiscal year; and

(D) 50 percent of the amount of the grant payment for each of the fourth and fifth such fiscal years.

(2) NON-FEDERAL SHARE.—The non-Federal share required under paragraph (1) may be provided in cash or in-kind.

(3) WAIVER.—The Secretary may waive all or part of the matching requirement of paragraph (1), for any fiscal year, if the Secretary determines that—

(A) the application of the matching requirement will result in serious hardship for the partnership; or

(B) the waiver will best serve the purposes of this subtitle.

(e) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this subtitle shall be used to supplement, not supplant, other Federal and non-Federal funds available to carry out the activities described in subsection (c).

(f) TECHNICAL ASSISTANCE.—The Secretary shall enter into a contract to establish a technical assistance center to provide technical assistance to partnerships developing critical foreign language programs assisted under this subtitle. The center shall—

Contracts.

(1) assist the partnerships in the development of critical foreign language instructional materials and assessments; and

(2) disseminate promising foreign language instructional practices.

(g) PROGRAM EVALUATION.—

(1) IN GENERAL.—The Secretary may reserve not more than 5 percent of the total amount appropriated for this subtitle for any fiscal year to annually evaluate the programs under this subtitle.

(2) REPORT.—The Secretary shall prepare and annually submit, to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and Labor of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, a report—

(A) on the results of any program evaluation conducted under this subsection; and

(B) that includes best practices on the teaching and learning of foreign languages based on the findings from the evaluation.

SEC. 6304. AUTHORIZATION OF APPROPRIATIONS.

20 USC 9864.

For the purpose of carrying out this subtitle, there are authorized to be appropriated \$28,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years.

Subtitle D—Alignment of Education Programs

20 USC 9871.

SEC. 6401. ALIGNMENT OF SECONDARY SCHOOL GRADUATION REQUIREMENTS WITH THE DEMANDS OF 21ST CENTURY POSTSECONDARY ENDEAVORS AND SUPPORT FOR P-16 EDUCATION DATA SYSTEMS.

(a) PURPOSE.—It is the purpose of this section—

(1) to promote more accountability with respect to preparation for higher education, the 21st century workforce, and the Armed Forces, by aligning—

(A) student knowledge, student skills, State academic content standards and assessments, and curricula, in elementary and secondary education, especially with respect to mathematics, science, reading, and, where applicable, engineering and technology; with

(B) the demands of higher education, the 21st century workforce, and the Armed Forces;

(2) to support the establishment or improvement of statewide P–16 education data systems that—

(A) assist States in improving the rigor and quality of State academic content standards and assessments;

(B) ensure students are prepared to succeed in—

(i) academic credit-bearing coursework in higher education without the need for remediation;

(ii) the 21st century workforce; or

(iii) the Armed Forces; and

(3) enable States to have valid and reliable information to inform education policy and practice.

(b) DEFINITIONS.—In this section:

(1) P–16 EDUCATION.—The term “P–16 education” means the educational system from preschool through the conferring of a baccalaureate degree.

(2) STATEWIDE PARTNERSHIP.—The term “statewide partnership” means a partnership that—

(A) shall include—

(i) the Governor of the State or the designee of the Governor;

(ii) the heads of the State systems for public higher education, or, if such a position does not exist, not less than 1 representative of a public degree-granting institution of higher education;

(iii) a representative of the agencies in the State that administer Federal or State-funded early childhood education programs;

(iv) not less than 1 representative of a public community college;

(v) not less than 1 representative of a technical school;

(vi) not less than 1 representative of a public secondary school;

(vii) the chief State school officer;

(viii) the chief executive officer of the State higher education coordinating board;

(ix) not less than 1 public elementary school teacher employed in the State;

(x) not less than 1 early childhood educator in the State;

(xi) not less than 1 public secondary school teacher employed in the State;

(xii) not less than 1 representative of the business community in the State; and

(xiii) not less than 1 member of the Armed Forces; and

(B) may include other individuals or representatives of other organizations, such as a school administrator, a faculty member at an institution of higher education, a member of a civic or community organization, a representative from a private institution of higher education, a dean or similar representative of a school of education at an institution of higher education or a similar teacher certification or licensure program, or the State official responsible for economic development.

(c) GRANTS AUTHORIZED.—The Secretary is authorized to award grants, on a competitive basis, to States to enable each such State to work with a statewide partnership—

(1) to promote better alignment of content knowledge requirements for secondary school graduation with the knowledge and skills needed to succeed in postsecondary education, the 21st century workforce, or the Armed Forces; or

(2) to establish or improve a statewide P-16 education data system.

(d) PERIOD OF GRANTS; NON-RENEWABILITY.—

(1) GRANT PERIOD.—The Secretary shall award a grant under this section for a period of not more than 3 years.

(2) NON-RENEWABILITY.—The Secretary shall not award a State more than 1 grant under this section.

(e) AUTHORIZED ACTIVITIES.—

(1) GRANTS FOR P-16 ALIGNMENT.—Each State receiving a grant under subsection (c)(1)—

(A) shall use the grant funds for—

(i) identifying and describing the content knowledge and skills students who enter institutions of higher education, the workforce, and the Armed Forces need to have in order to succeed without any remediation based on detailed requirements obtained from institutions of higher education, employers, and the Armed Forces;

(ii) identifying and making changes that need to be made to a State's secondary school graduation requirements, academic content standards, academic achievement standards, and assessments preceding graduation from secondary school in order to align the requirements, standards, and assessments with the knowledge and skills necessary for success in academic credit-bearing coursework in postsecondary education, in the 21st century workforce, and in the Armed Forces without the need for remediation;

(iii) convening stakeholders within the State and creating a forum for identifying and deliberating on education issues that—

(I) involve preschool through grade 12 education, postsecondary education, the 21st century workforce, and the Armed Forces; and

(II) transcend any single system of education's ability to address; and

(iv) implementing activities designed to ensure the enrollment of all elementary school and secondary school students in rigorous coursework, which may include—

(I) specifying the courses and performance levels necessary for acceptance into institutions of higher education; and

(II) developing or providing guidance to local educational agencies within the State on the adoption of curricula and assessments aligned with State academic content standards, which assessments may be used as measures of student academic achievement in secondary school as well as for entrance or placement at institutions of higher education, including through collaboration with institutions of higher education in, or State educational agencies serving, other States; and

(B) may use the grant funds for—

(i) developing and making available specific opportunities for extensive professional development for teachers, paraprofessionals, principals, and school administrators, including collection and dissemination of effective teaching practices to improve instruction and instructional support mechanisms;

(ii) identifying changes in State academic content standards, academic achievement standards, and assessments for students in grades preceding secondary school in order to ensure such standards and assessments are appropriately aligned and adequately reflect the content needed to prepare students to enter secondary school;

(iii) developing a plan to provide remediation and additional learning opportunities for students who are performing below grade level to ensure that all students will have the opportunity to meet secondary school graduation requirements;

(iv) identifying and addressing teacher certification needs; or

(v) incorporating 21st century learning skills into the State plan, which skills shall include critical thinking, problem solving, communication, collaboration, global awareness, and business and financial literacy.

(2) GRANTS FOR STATEWIDE P-16 EDUCATION DATA SYSTEMS.—

(A) ESTABLISHMENT OF SYSTEM.—Each State that receives a grant under subsection (c)(2) shall establish a statewide P-16 education longitudinal data system that—

(i) provides each student, upon enrollment in a public elementary school or secondary school in the State, with a unique identifier, such as a bar code, that—

(I) does not permit a student to be individually identified by users of the system; and

(II) is retained throughout the student's enrollment in P-16 education in the State; and

(ii) meets the requirements of subparagraphs (B) through (E).

(B) IMPROVEMENT OF EXISTING SYSTEM.—Each State that receives a grant under subsection (c)(2) for the improvement of a statewide P-16 education data system may employ, coordinate, or revise an existing statewide data system to establish a statewide longitudinal P-16 education data system that meets the requirements of subparagraph (A), if the statewide longitudinal P-16 education data system produces valid and reliable data.

(C) PRIVACY AND ACCESS TO DATA.—

(i) IN GENERAL.—Each State that receives a grant under subsection (c)(2) shall implement measures to—

(I) ensure that the statewide P-16 education data system meets the requirements of section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (commonly known as the Family Educational Rights and Privacy Act of 1974);

(II) limit the use of information in the statewide P-16 education data system by institutions of higher education and State or local educational agencies or institutions to the activities set forth in paragraph (1) or State law regarding education, consistent with the purposes of this subtitle;

(III) prohibit the disclosure of personally identifiable information except as permitted under section 444 of the General Education Provisions Act and any additional limitations set forth in State law;

(IV) keep an accurate accounting of the date, nature, and purpose of each disclosure of personally identifiable information in the statewide P-16 education data system, a description of the information disclosed, and the name and address of the person, agency, institution, or entity to whom the disclosure is made, which accounting shall be made available on request to parents of any student whose information has been disclosed;

(V) notwithstanding section 444 of the General Education Provisions Act, require any non-governmental party obtaining personally identifiable information to sign a data use agreement prior to disclosure that—

(aa) prohibits the party from further disclosing the information;

(bb) prohibits the party from using the information for any purpose other than the purpose specified in the agreement; and

(cc) requires the party to destroy the information when the purpose for which the disclosure was made is accomplished;

(VI) maintain adequate security measures to ensure the confidentiality and integrity of the

statewide P-16 education data system, such as protecting a student record from identification by a unique identifier;

(VII) where rights are provided to parents under this clause, provide those rights to the student instead of the parent if the student has reached the age of 18 or is enrolled in a postsecondary educational institution; and

(VIII) ensure adequate enforcement of the requirements of this clause.

(ii) USE OF UNIQUE IDENTIFIERS.—

(I) GOVERNMENTAL USE OF UNIQUE IDENTIFIERS.—It shall be unlawful for any Federal, State, or local governmental agency to use the unique identifiers employed in the statewide P-16 education data systems for any purpose other than as authorized by Federal or State law regarding education, or to deny any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose the individual's unique identifier.

(II) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations governing the use by governmental and non-governmental entities of the unique identifiers employed in statewide P-16 education data systems, including, where necessary, regulations requiring States desiring grants for statewide P-16 education data systems under this section to implement specified measures, with the goal of safeguarding individual privacy to the maximum extent practicable consistent with the uses of the information authorized in this Act or other Federal or State law regarding education.

(D) REQUIRED ELEMENTS OF A STATEWIDE P-16 EDUCATION DATA SYSTEM.—The State shall ensure that the statewide P-16 education data system includes the following elements:

(i) PRESCHOOL THROUGH GRADE 12 EDUCATION AND POSTSECONDARY EDUCATION.—With respect to preschool through grade 12 education and postsecondary education—

(I) a unique statewide student identifier that does not permit a student to be individually identified by users of the system;

(II) student-level enrollment, demographic, and program participation information;

(III) student-level information about the points at which students exit, transfer in, transfer out, drop out, or complete P-16 education programs;

(IV) the capacity to communicate with higher education data systems; and

(V) a State data audit system assessing data quality, validity, and reliability.

(ii) PRESCHOOL THROUGH GRADE 12 EDUCATION.—With respect to preschool through grade 12 education—

Deadline.

(I) yearly test records of individual students with respect to assessments under section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b));

(II) information on students not tested by grade and subject;

(III) a teacher identifier system with the ability to match teachers to students;

(IV) student-level transcript information, including information on courses completed and grades earned; and

(V) student-level college readiness test scores.

(iii) POSTSECONDARY EDUCATION.—With respect to postsecondary education, data that provide—

(I) information regarding the extent to which students transition successfully from secondary school to postsecondary education, including whether students enroll in remedial coursework; and

(II) other information determined necessary to address alignment and adequate preparation for success in postsecondary education.

(E) FUNCTIONS OF THE STATEWIDE P-16 EDUCATION DATA SYSTEM.—In implementing the statewide P-16 education data system, the State shall—

(i) identify factors that correlate to students' ability to successfully engage in and complete postsecondary-level general education coursework without the need for prior developmental coursework;

(ii) identify factors to increase the percentage of low-income and minority students who are academically prepared to enter and successfully complete postsecondary-level general education coursework; and

(iii) use the data in the system to otherwise inform education policy and practice in order to better align State academic content standards, and curricula, with the demands of postsecondary education, the 21st century workforce, and the Armed Forces.

(f) APPLICATION.—

(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) APPLICATION CONTENTS.—Each application submitted under this section shall specify whether the State application is for the conduct of P-16 education alignment activities, or the establishment or improvement of a statewide P-16 education data system. The application shall include, at a minimum, the following:

(A) A description of the activities and programs to be carried out with the grant funds and a comprehensive plan for carrying out the activities.

(B) A description of how the concerns and interests of the larger education community, including parents, students, teachers, teacher educators, principals, and preschool administrators will be represented in carrying out the authorized activities described in subsection (e).

(C) In the case of a State applying for funding for P–16 education alignment, a description of how the State will provide assistance to local educational agencies in implementing rigorous State academic content standards, substantive curricula, remediation, and acceleration opportunities for students, as well as other changes determined necessary by the State.

(D) In the case of a State applying for funding to establish or improve a statewide P–16 education data system—

(i) a description of the privacy protection and enforcement measures that the State has implemented or will implement pursuant to subsection (e)(2)(C), and assurances that these measures will be in place prior to the establishment or improvement of the statewide P–16 education data system; and

(ii) an assurance that the State will continue to fund the statewide P–16 education data system after the end of the grant period.

(g) **SUPPLEMENT NOT SUPPLANT.**—Grant funds provided under this section shall be used to supplement, not supplant, other Federal, State, and local funds available to carry out the authorized activities described in subsection (e).

(h) **MATCHING REQUIREMENT.**—Each State that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 100 percent of the amount of the grant, in cash or in kind, to carry out the activities supported by the grant.

(i) **RULE OF CONSTRUCTION.**—

(1) **NO RAW DATA REQUIREMENT.**—Nothing in this section shall be construed to require States to provide raw data to the Secretary.

(2) **PRIVATE OR HOME SCHOOLS.**—Nothing in this section shall be construed to affect any private school that does not receive funds or services under this Act or any home school, whether or not the home school is treated as a home school or a private school under State law, including imposing new requirements for students educated through a home school seeking admission to institutions of higher education.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$120,000,000 for fiscal year 2008 and such sums as may be necessary for fiscal year 2009.

Subtitle E—Mathematics and Science Partnership Bonus Grants

20 USC 9881.

SEC. 6501. MATHEMATICS AND SCIENCE PARTNERSHIP BONUS GRANTS.

(a) **IN GENERAL.**—From amounts appropriated under section 6502, the Secretary shall award a grant—

(1) for each of the school years 2007–2008 through 2010–2011, to each of the 3 elementary schools, and each of the 3 secondary schools, each of which has a high concentration of low income students as defined in section 1707(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537(2)), in each State whose students demonstrate the most

improvement in mathematics, as measured by the improvement in the students' average score on the State's assessments in mathematics for the school year for which the grant is awarded, as compared to the school year preceding the school year for which the grant is awarded; and

(2) for each of the school years 2008–2009 through 2010–2011, to each of the 3 elementary schools, and each of the 3 secondary schools, each of which has a high concentration of low income students as defined in section 1707(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537(2)), in each State whose students demonstrate the most improvement in science, as measured by the improvement in the students' average score on the State's assessments in science for the school year for which the grant is awarded, as compared to the school year preceding the school year for which the grant is awarded.

(b) GRANT AMOUNT.—The amount of each grant awarded under this section shall be \$50,000.

SEC. 6502. AUTHORIZATION OF APPROPRIATIONS.

20 USC 9882.

There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for fiscal years 2008 and each of the 2 succeeding fiscal years.

TITLE VII—NATIONAL SCIENCE FOUNDATION

SEC. 7001. DEFINITIONS.

42 USC 1862o
note.

In this title:

(1) BASIC RESEARCH.—The term “basic research” has the meaning given such term in the Office of Management and Budget circular No. A–11.

(2) BOARD.—The term “Board” means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) DIRECTOR.—The term “Director” means the Director of the Foundation.

(4) ELEMENTARY SCHOOL.—The term “elementary school” has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(5) FOUNDATION.—The term “Foundation” means the National Science Foundation.

(6) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(7) SECONDARY SCHOOL.—The term “secondary school” has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

SEC. 7002. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2008.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$6,600,000,000 for fiscal year 2008.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$5,156,000,000 shall be made available for research and related activities, of which—

(i) \$115,000,000 shall be made available for the Major Research Instrumentation program;

(ii) \$165,400,000 shall be made available for the Faculty Early Career Development (CAREER) Program;

(iii) \$61,600,000 shall be made available for the Research Experiences for Undergraduates program;

(iv) \$120,000,000 shall be made available for the Experimental Program to Stimulate Competitive Research;

(v) \$47,300,000 shall be made available for the Integrative Graduate Education and Research Traineeship program;

(vi) \$9,000,000 shall be made available for the Graduate Research Fellowship program; and

(vii) \$10,000,000 shall be made available for the professional science master's degree program under section 7034;

(B) \$896,000,000 shall be made available for education and human resources, of which—

(i) \$100,000,000 shall be for Mathematics and Science Education Partnerships established under section 9 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n);

(ii) \$89,800,000 shall be for the Robert Noyce Scholarship Program established under section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1);

(iii) \$40,000,000 shall be for the Science, Mathematics, Engineering, and Technology Talent Expansion Program established under section 8(7) of the National Science Foundation Authorization Act of 2002 (Public Law 107-368);

(iv) \$52,000,000 shall be for the Advanced Technological Education program established by section 3(a) of the Scientific and Advanced-Technology Act of 1992 (Public Law 102-476);

(v) \$27,100,000 shall be made available for the Integrative Graduate Education and Research Traineeship program; and

(vi) \$96,600,000 shall be made available for the Graduate Research Fellowship program;

(C) \$245,000,000 shall be made available for major research equipment and facilities construction;

(D) \$285,600,000 shall be made available for agency operations and award management;

(E) \$4,050,000 shall be made available for the Office of the National Science Board; and

(F) \$12,350,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 2009.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$7,326,000,000 for fiscal year 2009.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$5,742,300,000 shall be made available for research and related activities, of which—

(i) \$123,100,000 shall be made available for the Major Research Instrumentation program;

(ii) \$183,600,000 shall be made available for the Faculty Early Career Development (CAREER) Program;

(iii) \$68,400,000 shall be made available for the Research Experiences for Undergraduates program;

(iv) \$133,200,000 shall be made available for the Experimental Program to Stimulate Competitive Research;

(v) \$52,500,000 shall be made available for the Integrative Graduate Education and Research Traineeship program;

(vi) \$10,000,000 shall be made available for the Graduate Research Fellowship program; and

(vii) \$12,000,000 shall be made available for the professional science master's degree program under section 7034;

(B) \$995,000,000 shall be made available for education and human resources, of which—

(i) \$111,000,000 shall be for Mathematics and Science Education Partnerships established under section 9 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n);

(ii) \$115,000,000 shall be for the Robert Noyce Scholarship Program established under section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1);

(iii) \$50,000,000 shall be for the Science, Mathematics, Engineering, and Technology Talent Expansion Program established under section 8(7) of the National Science Foundation Authorization Act of 2002 (Public Law 107-368);

(iv) \$57,700,000 shall be for the Advanced Technological Education program as established by section 3(a) of the Scientific and Advanced-Technology Act of 1992 (Public Law 102-476);

(v) \$30,100,000 shall be made available for the Integrative Graduate Education and Research Traineeship program; and

(vi) \$107,200,000 shall be made available for the Graduate Research Fellowship program;

(C) \$262,000,000 shall be made available for major research equipment and facilities construction;

(D) \$309,760,000 shall be made available for agency operations and award management;

(E) \$4,190,000 shall be made available for the Office of the National Science Board; and

(F) \$12,750,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2010.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$8,132,000,000 for fiscal year 2010.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$6,401,000,000 shall be made available for research and related activities, of which—

(i) \$131,700,000 shall be made available for the Major Research Instrumentation program;

(ii) \$203,800,000 shall be made available for the Faculty Early Career Development (CAREER) Program;

(iii) \$75,900,000 shall be made available for the Research Experiences for Undergraduates program;

(iv) \$147,800,000 shall be made available for the Experimental Program to Stimulate Competitive Research;

(v) \$58,300,000 shall be made available for the Integrative Graduate Education and Research Traineeship program;

(vi) \$11,100,000 shall be made available for the Graduate Research Fellowship program; and

(vii) \$15,000,000 shall be made available for the professional science master's degree program under section 7034;

(B) \$1,104,000,000 shall be made available for education and human resources, of which—

(i) \$123,200,000 shall be for Mathematics and Science Education Partnerships established under section 9 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n);

(ii) \$140,500,000 shall be for the Robert Noyce Scholarship Program established under section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–1);

(iii) \$55,000,000 shall be for the Science, Mathematics, Engineering, and Technology Talent Expansion Program established under section 8(7) of the National Science Foundation Authorization Act of 2002 (Public Law 107–368);

(iv) \$64,000,000 shall be for the Advanced Technological Education program as established by section 3(a) of the Scientific and Advanced-Technology Act of 1992 (Public Law 102–476);

(v) \$33,400,000 shall be made available for the Integrative Graduate Education and Research Traineeship program; and

(vi) \$119,000,000 shall be made available for the Graduate Research Fellowship program;

(C) \$280,000,000 shall be made available for major research equipment and facilities construction;

(D) \$329,450,000 shall be made available for agency operations and award management;

(E) \$4,340,000 shall be made available for the Office of the National Science Board; and

(F) \$13,210,000 shall be made available for the Office of Inspector General.

SEC. 7003. REAFFIRMATION OF THE MERIT-REVIEW PROCESS OF THE NATIONAL SCIENCE FOUNDATION. 42 USC 1862o note.

Nothing in this title or title I, or the amendments made by this title or title I, shall be interpreted to require or recommend that the Foundation—

- (1) alter or modify its merit-review system or peer-review process; or
- (2) exclude the awarding of any proposal by means of the merit-review or peer-review process.

SEC. 7004. SENSE OF THE CONGRESS REGARDING THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAMS OF THE DEPARTMENT OF EDUCATION AND THE NATIONAL SCIENCE FOUNDATION.

It is the sense of the Congress that—

(1) although the mathematics and science education partnership program at the Foundation and the mathematics and science partnership program at the Department of Education practically share the same name, the 2 programs are intended to be complementary, not duplicative;

(2) the Foundation partnership programs are innovative, model reform initiatives that move promising ideas in education from research into practice to improve teacher quality, develop challenging curricula, and increase student achievement in mathematics and science, and Congress intends that the Foundation peer-reviewed partnership programs found to be effective should be put into wider practice by dissemination through the Department of Education partnership programs; and

(3) the Director and the Secretary of Education should have ongoing collaboration to ensure that the 2 components of this priority effort for mathematics and science education continue to work in concert for the benefit of States and local practitioners nationwide.

SEC. 7005. CURRICULA.

42 USC 1862o note.

Nothing in this title, or the amendments made by this title, shall be construed to limit the authority of State governments or local school boards to determine the curricula of their students.

SEC. 7006. CENTERS FOR RESEARCH ON LEARNING AND EDUCATION IMPROVEMENT.

(a) **FUNDING FOR CENTERS.**—The Director shall continue to carry out the program of Centers for Research on Learning and Education Improvement as established in section 11 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–2). 42 USC 1862n–2 note.

(b) **ELIGIBILITY FOR CENTERS.**—Section 11 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–2) is amended—

(1) in subsection (a)(1), by inserting “or eligible nonprofit organizations” after “institutions of higher education”;

(2) in subsection (b)(1), by inserting “or an eligible nonprofit organization” after “institution of higher education”; and

(3) in subsection (b)(1), by striking “of such institutions” and inserting “thereof”.

SEC. 7007. INTERDISCIPLINARY RESEARCH.

(a) **IN GENERAL.**—The Board shall evaluate the role of the Foundation in supporting interdisciplinary research, including through the Major Research Instrumentation program, the effectiveness of the Foundation’s efforts in providing information to the scientific community about opportunities for funding of interdisciplinary research proposals, and the process through which interdisciplinary proposals are selected for support. The Board shall also evaluate the effectiveness of the Foundation’s efforts to engage undergraduate students in research experiences in interdisciplinary settings, including through the Research in Undergraduate Institutions program and the Research Experiences for Undergraduates program.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Board shall provide the results of its evaluation under subsection (a), including a recommendation for the proportion of the Foundation’s research and related activities funding that should be allocated for interdisciplinary research, to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate.

42 USC 1862o.

SEC. 7008. POSTDOCTORAL RESEARCH FELLOWS.

(a) **MENTORING.**—The Director shall require that all grant applications that include funding to support postdoctoral researchers include a description of the mentoring activities that will be provided for such individuals, and shall ensure that this part of the application is evaluated under the Foundation’s broader impacts merit review criterion. Mentoring activities may include career counseling, training in preparing grant applications, guidance on ways to improve teaching skills, and training in research ethics.

(b) **REPORTS.**—The Director shall require that annual reports and the final report for research grants that include funding to support postdoctoral researchers include a description of the mentoring activities provided to such researchers.

42 USC 1862o–1.

SEC. 7009. RESPONSIBLE CONDUCT OF RESEARCH.

The Director shall require that each institution that applies for financial assistance from the Foundation for science and engineering research or education describe in its grant proposal a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduate students, graduate students, and postdoctoral researchers participating in the proposed research project.

42 USC 1862o–2.

SEC. 7010. REPORTING OF RESEARCH RESULTS.

The Director shall ensure that all final project reports and citations of published research documents resulting from research funded, in whole or in part, by the Foundation, are made available to the public in a timely manner and in electronic form through the Foundation’s Web site.

42 USC 1862o–3.

SEC. 7011. SHARING RESEARCH RESULTS.

An investigator supported under a Foundation award, whom the Director determines has failed to comply with the provisions of section 734 of the Foundation Grant Policy Manual, shall be

ineligible for a future award under any Foundation supported program or activity. The Director may restore the eligibility of such an investigator on the basis of the investigator's subsequent compliance with the provisions of section 734 of the Foundation Grant Policy Manual and with such other terms and conditions as the Director may impose.

SEC. 7012. FUNDING FOR SUCCESSFUL SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS. 42 USC 1862o-4.

(a) **EVALUATION OF PROGRAMS.**—The Director shall, on an annual basis, evaluate all of the Foundation's grants that are scheduled to expire within 1 year and—

(1) that have the primary purpose of meeting the objectives of the Science and Engineering Equal Opportunity Act (42 U.S.C. 1885 et seq.); or

(2) that have the primary purpose of providing teacher professional development.

(b) **CONTINUATION OF FUNDING.**—For grants that are identified under subsection (a) and that are determined by the Director to be successful in meeting the objectives of the initial grant solicitation, the Director may extend the duration of those grants for not more than 3 additional years beyond their scheduled expiration without the requirement for a recompetition.

(c) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate that—

(1) lists the grants that have been extended in duration by the authority provided under this section; and

(2) provides any recommendations the Director may have regarding the extension of the authority provided under this section to programs other than those specified in subsection (a).

SEC. 7013. COST SHARING.

(a) **IN GENERAL.**—The Board shall evaluate the impact of its policy to eliminate cost sharing for research grants and cooperative agreements for existing programs that were developed around industry partnerships and historically required industry cost sharing, such as the Engineering Research Centers and Industry/University Cooperative Research Centers. The Board shall also consider the impact that the cost sharing policy has on initiating new programs for which industry interest and participation are sought.

(b) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Board shall report to the Committee on Science and Technology and the Committee on Appropriations of the House of Representatives, and the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, on the results of the evaluation under subsection (a).

SEC. 7014. ADDITIONAL REPORTS.

(a) **REPORT ON FUNDING FOR MAJOR FACILITIES.**—

(1) PRECONSTRUCTION FUNDING.—The Board shall evaluate the appropriateness of the requirement that funding for detailed design work and other preconstruction activities for major research equipment and facilities come exclusively from the sponsoring research division rather than being available, at least in part, from the Major Research Equipment and Facilities Construction account.

(2) MAINTENANCE AND OPERATION COSTS.—The Board shall evaluate the appropriateness of the Foundation's policies for allocation of costs for, and oversight of, maintenance and operation of major research equipment and facilities.

(3) REPORT.—Not later than 6 months after the date of enactment of this Act, the Board shall report on the results of the evaluations under paragraphs (1) and (2) and on any recommendations for modifying the current policies related to allocation of funding for major research equipment and facilities to the Committee on Science and Technology and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

(b) INCLUSION OF POLAR FACILITIES UPGRADES IN MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION PLAN.—Section 201(a)(2)(D) of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862l(a)(2)(D)) is amended by inserting “and for major upgrades of facilities in support of Antarctic research programs” after “facilities construction account”.

(c) REPORT ON EDUCATION PROGRAMS WITHIN THE RESEARCH DIRECTORATES.—Not later than 6 months after the date of enactment of this Act, the Director shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate a report cataloging all elementary school and secondary school, informal, and undergraduate educational programs and activities supported through appropriations for Research and Related Activities. The report shall display the programs and activities by directorate, along with estimated funding levels for the fiscal years 2006, 2007, and 2008, and shall provide a description of the goals of each program and activity. The report shall also describe how the programs and activities relate to or are coordinated with the programs supported by the Education and Human Resources Directorate.

(d) REPORT ON RESEARCH IN UNDERGRADUATE INSTITUTIONS PROGRAM.—The Director shall transmit to Congress, as part of the President's fiscal year 2011 budget submission under section 1105 of title 31, United States Code, a report listing the funding success rates and distribution of awards for the Research in Undergraduate Institutions program, by type of institution based on the highest academic degree conferred by the institution, for fiscal years 2008, 2009, and 2010.

(e) ANNUAL PLAN FOR ALLOCATION OF EDUCATION AND HUMAN RESOURCES FUNDING.—

Deadline.

(1) IN GENERAL.—Not later than 60 days after the date of enactment of legislation providing for the annual appropriation of funds for the Foundation, the Director shall submit to the Committee on Science and Technology and the Committee

on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, a plan for the allocation of education and human resources funds authorized by this title for the corresponding fiscal year, including any funds from within the research and related activities account used to support activities that have the primary purpose of improving education or broadening participation.

(2) SPECIFIC REQUIREMENTS.—The plan shall include a description of how the allocation of funding—

(A) will affect the average size and duration of education and human resources grants supported by the Foundation;

(B) will affect trends in research support for the effective instruction of science, technology, engineering, and mathematics;

(C) will affect the kindergarten through grade 20 pipeline for the study of science, technology, engineering, and mathematics; and

(D) will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in science, technology, engineering, and mathematics, and help prepare such individuals to pursue postsecondary studies in these fields.

SEC. 7015. ADMINISTRATIVE AMENDMENTS.

(a) TRIANNUAL AUDIT OF THE OFFICE OF THE NATIONAL SCIENCE BOARD.—Section 15(a) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-5) is amended—

(1) in paragraph (3), by striking “an annual audit” and inserting “an audit every three years”;

(2) in paragraph (4), by striking “each year” and inserting “every third year”; and

(3) by inserting after paragraph (4) the following:

“(5) MATERIALS RELATING TO CLOSED PORTIONS OF MEETINGS.—To facilitate the audit required under paragraph (3) of this subsection, the Office of the National Science Board shall maintain the General Counsel’s certificate, the presiding officer’s statement, and a transcript or recording of any closed meeting, for at least 3 years after such meeting.”.

Records.

(b) LIMITED TERM PERSONNEL FOR THE NATIONAL SCIENCE BOARD.—Subsection (g) of section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended to read as follows:

“(g) The Board may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than 5 professional staff members, technical and professional personnel on leave of absence from academic, industrial, or research institutions for a limited term, and such operations and support staff members as may be necessary. Such staff shall be appointed by the Chairman and assigned at the direction of the Board. The professional members and limited term technical and professional personnel of such staff may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 of such title relating to classification, and shall be compensated at

a rate not exceeding the maximum rate payable under section 5376 of such title, as may be necessary to provide for the performance of such duties as may be prescribed by the Board in connection with the exercise of its powers and functions under this Act. Section 14(a)(3) shall apply to each limited term appointment of technical and professional personnel under this subsection. Each appointment under this subsection shall be subject to the same security requirements as those required for personnel of the Foundation appointed under section 14(a).”

(c) INCREASE IN NUMBER OF WATERMAN AWARDS TO THREE.—Section 6(c) of the National Science Foundation Authorization Act, 1976 (42 U.S.C. 1881a) is amended to read as follows:

“(c) Not more than three awards may be made under this section in any one fiscal year.”

SEC. 7016. NATIONAL SCIENCE BOARD REPORTS.

Paragraphs (1) and (2) of section 4(j) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1) and (2)) are amended by striking “, for submission to” and “for submission to”, respectively, and inserting “and”.

SEC. 7017. PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986 AMENDMENT.

Section 3801(a)(1) of title 31, United States Code (commonly known as the “Program Fraud Civil Remedies Act of 1986”) is amended—

(1) in subparagraph (C), by striking “and” after the semicolon;

(2) in subparagraph (D), by inserting “and” after the semicolon; and

(3) by adding at the end the following:

“(E) the National Science Foundation.”

42 USC 1862o-5.

SEC. 7018. MEETING CRITICAL NATIONAL SCIENCE NEEDS.

(a) IN GENERAL.—In addition to any other criteria, the Director shall include consideration of the degree to which awards and research activities that otherwise qualify for support by the Foundation may assist in meeting critical national needs in innovation, competitiveness, safety and security, the physical and natural sciences, technology, engineering, social sciences, and mathematics.

(b) PRIORITY TREATMENT.—The Director shall give priority in the selection of awards and the allocation of Foundation resources to proposed research activities, and grants funded under the Foundation’s Research and Related Activities Account, that can be expected to make contributions in physical or natural science, technology, engineering, social sciences, or mathematics, or that enhance competitiveness, innovation, or safety and security in the United States.

(c) LIMITATION.—Nothing in this section shall be construed to restrict or bias the grant selection process against funding other areas of research deemed by the Foundation to be consistent with its mandate nor to change the core mission of the Foundation.

42 USC 1862o-6.

SEC. 7019. RESEARCH ON INNOVATION AND INVENTIVENESS.

In carrying out its research programs on science policy and on the science of learning, the Foundation may support research on the process of innovation and the teaching of inventiveness.

SEC. 7020. CYBERINFRASTRUCTURE.

In order to continue and expand efforts to ensure that research institutions throughout the Nation can fully participate in research programs of the Foundation and collaborate with colleagues throughout the Nation, the Director, not later than 180 days after the date of enactment of this Act, shall develop and publish a plan that—

(1) describes the current status of broadband access for scientific research purposes at institutions in EPSCoR-eligible States, at institutions in rural areas, and at minority serving institutions; and

(2) outlines actions that can be taken to ensure that such connections are available to enable participation in those Foundation programs that rely heavily on high-speed networking and collaborations across institutions and regions.

Deadline.
Publication.
Plan.
42 USC 1862o–7.

SEC. 7021. PILOT PROGRAM OF GRANTS FOR NEW INVESTIGATORS. 42 USC 1862o–8.

(a) **IN GENERAL.**—The Director shall carry out a pilot program to award 1-year grants to individuals to assist them in improving research proposals that were previously submitted to the Foundation but not selected for funding.

(b) **ELIGIBILITY.**—To be eligible to receive a grant under this section, an individual—

(1) may not have previously received funding as the principal investigator of a research grant from the Foundation; and

(2) shall have submitted a proposal to the Foundation, which may include a proposal submitted to the Research in Undergraduate Institutions program, that was rated excellent under the Foundation’s competitive merit review process.

(c) **SELECTION PROCESS.**—The Director shall make awards under this section based on the advice of the program officers of the Foundation.

(d) **USE OF FUNDS.**—Grants awarded under this section shall be used to enable an individual to resubmit an updated research proposal for review by the Foundation through the agency’s competitive merit review process. Uses of funds made available under this section may include the generation of new data and the performance of additional analysis.

(e) **PROGRAM ADMINISTRATION.**—The Director shall carry out this section through the Small Grants for Exploratory Research program.

(f) **NATIONAL SCIENCE BOARD REVIEW.**—The Board shall conduct a review and assessment of the pilot program under this section, including the number of new investigators funded, the distribution of awards by type of institution of higher education, and the success rate upon resubmittal of proposals by new investigators funded through such pilot program. Not later than 3 years after the date of enactment of this Act, the Board shall summarize its findings and any recommendations regarding changes to, the termination of, or the continuation of the pilot program in a report to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate.

Deadline.
Reports.

42 USC 1862o–9. **SEC. 7022. BROADER IMPACTS MERIT REVIEW CRITERION.**

(a) **IN GENERAL.**—Among the types of activities that the Foundation shall consider as appropriate for meeting the requirements of its broader impacts criterion for the evaluation of research proposals are partnerships between academic researchers and industrial scientists and engineers that address research areas identified as having high importance for future national economic competitiveness, such as nanotechnology.

(b) **REPORT ON BROADER IMPACTS CRITERION.**—Not later than 1 year after the date of enactment of this Act, the Director shall transmit to Congress a report on the impact of the broader impacts grant criterion used by the Foundation. The report shall—

(1) identify the criteria that each division and directorate of the Foundation uses to evaluate the broader impacts aspects of research proposals;

(2) provide a breakdown of the types of activities by division that awardees have proposed to carry out to meet the broader impacts criterion;

(3) provide any evaluations performed by the Foundation to assess the degree to which the broader impacts aspects of research proposals were carried out and how effective they have been at meeting the goals described in the research proposals;

(4) describe what national goals, such as improving undergraduate science, technology, engineering, and mathematics education, improving kindergarten through grade 12 science and mathematics education, promoting university-industry collaboration, and broadening participation of underrepresented groups, the broader impacts criterion is best suited to promote; and

(5) describe what steps the Foundation is taking and should take to use the broader impacts criterion to improve undergraduate science, technology, engineering, and mathematics education.

SEC. 7023. DONATIONS.

Section 11(f) of the National Science Foundation Act of 1950 (42 U.S.C. 1870(f)) is amended by inserting before the semicolon “, except that funds may be donated for specific prize competitions for ‘basic research’ as defined in the Office of Management and Budget Circular No. A–11”.

SEC. 7024. HIGH-PERFORMANCE COMPUTING AND NETWORKING.

(a) **HIGH-PERFORMANCE COMPUTING ACT OF 1991.**—

(1) **AMENDMENTS.**—Title I of the High-Performance Computing Act of 1991 (15 U.S.C. 5511 et seq.) is amended—

(A) in the title heading, by striking “**AND THE NATIONAL RESEARCH AND EDUCATION NETWORK**” and inserting “**RESEARCH AND DEVELOPMENT**”;

(B) in section 101(a) (15 U.S.C. 5511(a))—

(i) by striking subparagraphs (A) and (B) of paragraph (1) and inserting the following:

“(A) provide for long-term basic and applied research on high-performance computing, including networking;

“(B) provide for research and development on, and demonstration of, technologies to advance the capacity and capabilities of high-performance computing and networking systems, and related software;

“(C) provide for sustained access by the research community throughout the United States to high-performance computing and networking systems that are among the most advanced in the world in terms of performance in solving scientific and engineering problems, including provision for technical support for users of such systems;

“(D) provide for widely dispersed efforts to increase software availability, productivity, capability, security, portability, and reliability;

“(E) provide for high-performance networks, including experimental testbed networks, to enable research and development on, and demonstration of, advanced applications enabled by such networks;

“(F) provide for computational science and engineering research on mathematical modeling and algorithms for applications in all fields of science and engineering;

“(G) provide for the technical support of, and research and development on, high-performance computing systems and software required to address Grand Challenges;

“(H) provide for educating and training additional undergraduate and graduate students in software engineering, computer science, computer and network security, applied mathematics, library and information science, and computational science; and

“(I) provide for improving the security of computing and networking systems, including Federal systems, including providing for research required to establish security standards and practices for these systems.”;

(ii) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(iii) in paragraph (2), as redesignated by clause (ii)—

(I) by striking subparagraph (B);

(II) by redesignating subparagraphs (A) and (C) as subparagraphs (D) and (F), respectively;

(III) by inserting before subparagraph (D), as redesignated by subclause (II), the following:

“(A) establish the goals and priorities for Federal high-performance computing research, development, networking, and other activities;

“(B) establish Program Component Areas that implement the goals established under subparagraph (A), and identify the Grand Challenges that the Program should address;

“(C) provide for interagency coordination of Federal high-performance computing research, development, networking, and other activities undertaken pursuant to the Program;”;

(IV) by inserting after subparagraph (D), as redesignated by subclause (II) of this clause, the following:

“(E) develop and maintain a research, development, and deployment roadmap covering all States and regions for the

provision of high-performance computing and networking systems under paragraph (1)(C); and”; and

(iv) in paragraph (3), as so redesignated by clause (ii) of this subparagraph—

(I) by striking “paragraph (3)(A)” and inserting “paragraph (2)(D)”;

(II) by amending subparagraph (A) to read as follows:

“(A) provide a detailed description of the Program Component Areas, including a description of any changes in the definition of or activities under the Program Component Areas from the preceding report, and the reasons for such changes, and a description of Grand Challenges addressed under the Program;”;

(III) in subparagraph (C), by striking “specific activities” and all that follows through “the Network” and inserting “each Program Component Area”;

(IV) in subparagraph (D), by inserting “, and for each Program Component Area,” after “participating in the Program”;

(V) in subparagraph (D), by striking “applies;” and inserting “applies; and”;

(VI) by striking subparagraph (E) and redesignating subparagraph (F) as subparagraph (E); and

(VII) in subparagraph (E), as redesignated by subclause (VI), by inserting “and the extent to which the Program incorporates the recommendations of the advisory committee established under subsection (b)” after “for the Program”;

(C) by striking subsection (b) of section 101 (15 U.S.C. 5511) and inserting the following:

President.
Establishment.

“(b) ADVISORY COMMITTEE.—(1) The President shall establish an advisory committee on high-performance computing, consisting of geographically dispersed non-Federal members, including representatives of the research, education, and library communities, network and related software providers, and industry representatives in the Program Component Areas, who are specially qualified to provide the Director with advice and information on high-performance computing. The recommendations of the advisory committee shall be considered in reviewing and revising the Program. The advisory committee shall provide the Director with an independent assessment of—

“(A) progress made in implementing the Program;

“(B) the need to revise the Program;

“(C) the balance between the components of the Program, including funding levels for the Program Component Areas;

“(D) whether the research and development undertaken pursuant to the Program is helping to maintain United States leadership in high-performance computing, networking technology, and related software; and

“(E) other issues identified by the Director.

Evaluations.

“(2) In addition to the duties outlined in paragraph (1), the advisory committee shall conduct periodic evaluations of the funding, management, coordination, implementation, and activities of the Program. The advisory committee shall report not less frequently than once every 2 fiscal years to the Committee on Science

Reports.
Deadline.

and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on its findings and recommendations. The first report shall be due within 1 year after the date of enactment of the America COMPETES Act.

Deadline.

“(3) Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.”; and

(D) in section 101(c) (15 U.S.C. 5511(c))—

(i) in paragraph (1)(A), by striking “Program or” and inserting “Program Component Areas or”; and

(ii) in paragraph (2), by striking “subsection (a)(3)(A)” and inserting “subsection (a)(2)(D)”.

(2) DEFINITIONS.—Section 4 of the High-Performance Computing Act of 1991 (15 U.S.C. 5503) is amended—

(A) in paragraph (2), by inserting “and multidisciplinary teams of researchers” after “high-performance computing resources”;

(B) in paragraph (3)—

(i) by striking “scientific workstations.”;

(ii) by striking “(including vector supercomputers and large scale parallel systems)”;

(iii) by striking “and applications” and inserting “applications”; and

(iv) by inserting “, and the management of large data sets” after “systems software”;

(C) in paragraph (4), by striking “packet switched”;

(D) by striking “and” at the end of paragraph (5);

(E) by striking the period at the end of paragraph

(6) and inserting “; and”;

(F) by adding at the end the following:

“(7) ‘Program Component Areas’ means the major subject areas under which related individual projects and activities carried out under the Program are grouped.”.

(3) CONFORMING AMENDMENT.—Section 1(26) of the Act entitled “An Act to prevent the elimination of certain reports”, approved November 28, 2001 (31 U.S.C. 3113 note) is amended—

31 USC 1113
note.

(A) by striking “101(a)(3)” and inserting “101(a)(2)”;

and

(B) by striking “(15 U.S.C. 5511(a)(3))” and inserting “(15 U.S.C. 5511(a)(2))”.

(b) ADVANCED INFORMATION AND COMMUNICATIONS TECHNOLOGY RESEARCH.—

42 USC
1862o–10.

(1) IN GENERAL.—As part of the Program described in title I of the High-Performance Computing Act of 1991 (15 U.S.C. 5511 et seq.), the Foundation shall support basic research related to advanced information and communications technologies that will contribute to enhancing or facilitating the availability and affordability of advanced communications services for all people of the United States. Areas of research to be supported may include research on—

(A) affordable broadband access, including wireless technologies;

(B) network security and reliability;

(C) communications interoperability;

(D) networking protocols and architectures, including resilience to outages or attacks;
 (E) trusted software;
 (F) privacy;
 (G) nanoelectronics for communications applications;
 (H) low-power communications electronics;
 (I) implementation of equitable access to national advanced fiber optic research and educational networks in noncontiguous States; and
 (J) such other related areas as the Director finds appropriate.

Grants.
 Establishment.

(2) CENTERS.—The Director shall award multiyear grants, subject to the availability of appropriations and on a merit-reviewed competitive basis, to institutions of higher education, nonprofit research institutions affiliated with institutions of higher education, or consortia of either type of institution to establish multidisciplinary Centers for Communications Research. The purpose of the Centers shall be to generate innovative approaches to problems in information and communications technology research, including the research areas described in paragraph (1). Institutions of higher education, nonprofit research institutions affiliated with institutions of higher education, or consortia receiving such grants may partner with 1 or more government laboratories, for-profit entities, or other institutions of higher education or nonprofit research institutions.

(3) FUNDING ALLOCATION.—The Director shall increase funding for the basic research activities described in paragraph (1), which shall include support for the Centers described in paragraph (2), in proportion to the increase in the total amount appropriated to the Foundation for research and related activities for the fiscal years 2008 through 2010.

(4) REPORT TO CONGRESS.—The Director shall transmit to Congress, as part of the President’s annual budget submission under section 1105 of title 31, United States Code, a report on the amounts allocated for support of research under this subsection for the fiscal year during which such report is submitted and the levels proposed for the fiscal year with respect to which the budget submission applies.

SEC. 7025. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TALENT EXPANSION PROGRAM.

(a) AMENDMENTS.—Section 8(7) of the National Science Foundation Authorization Act of 2002 is amended—

116 Stat. 3040.

(1) in subparagraph (A), by striking “competitive, merit-based” and all that follows through “in recent years.” and inserting “competitive, merit-based multiyear grants for eligible applicants to improve undergraduate education in science, technology, engineering, and mathematics through—

“(i) the creation of programs to increase the number of students studying toward and completing associate’s or bachelor’s degrees in science, technology, engineering, and mathematics, particularly in fields that have faced declining enrollment in recent years; and

“(ii) the creation of not more than 5 centers (in this paragraph referred to as ‘Centers’) to increase the number of students completing undergraduate courses in science,

technology, engineering, and mathematics, including the number of nonmajors, and to improve student academic achievement in those courses, by developing—

“(I) undergraduate educational material, including curricula and courses of study;

“(II) teaching methods for undergraduate courses; and

“(III) methods to improve the professional development of professors and teaching assistants who teach undergraduate courses.

Grants made under clause (ii) shall be awarded jointly through the Education and Human Resources Directorate and at least 1 research directorate of the Foundation.”;

(2) by amending subparagraph (B) to read as follows:

“(B) In selecting projects under subparagraph (A)(i), the Director shall strive to increase the number of students studying toward and completing associate’s or bachelor’s degrees, concentrations, or certificates in science, technology, engineering, or mathematics by giving priority to programs that heavily recruit individuals who are—

“(i) individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b); or

“(ii) graduates of a public secondary school that—

“(I) is among the highest 25 percent of schools served by the local educational agency that serves the school, in terms of the percentage of students from families with incomes below the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), applicable to a family of the size involved; or

“(II) is designated with a school locale code of 41, 42, or 43, as determined by the Secretary of Education.”;

(3) by striking subparagraph (C) and inserting the following:

“(C)(i) The types of projects the Foundation may support under subparagraph (A)(i) include those programs that—

“(I) promote high quality—

“(aa) interdisciplinary teaching;

“(bb) undergraduate-conducted research;

“(cc) mentor relationships for students, especially underrepresented minority and female science, technology, engineering, and mathematics students;

“(dd) bridge programs that enable students at community colleges to matriculate directly into baccalaureate science, technology, engineering, or mathematics programs;

“(ee) internships carried out in partnership with industry;

“(ff) innovative uses of digital technologies, particularly at institutions of higher education that serve high numbers or percentages of economically disadvantaged students; and

“(gg) bridge programs that enable underrepresented minority and female secondary school students to obtain extra science, technology, engineering,

and mathematics instruction prior to entering an institution of higher education;

“(II) finance summer internships for science, technology, engineering, and mathematics undergraduate students; and

“(III) conduct outreach programs that provide secondary school students and their science, technology, engineering, and mathematics teachers opportunities to increase the students’ and teachers’ exposure to engineering and technology.

“(ii) The types of activities the Foundation may support under subparagraph (A)(ii) include—

“(I) creating model curricula and laboratory programs;

“(II) developing and demonstrating research-based instructional methods and technologies;

“(III) developing methods to train graduate students and faculty to be more effective teachers of undergraduates;

“(IV) conducting programs to disseminate curricula, instructional methods, or training methods to faculty at the grantee institutions and at other institutions;

“(V) conducting assessments of the effectiveness of the Center at accomplishing the goals described in subparagraph (A)(ii); and

“(VI) conducting any other activities the Director determines will accomplish the goals described in subparagraph (A)(ii).”;

(4) in subparagraph (D)(i), by striking “under this paragraph” and inserting “under subparagraph (A)(i)”;

(5) in subparagraph (D)(ii), by striking “under this paragraph” and inserting “under subparagraph (A)(i)”;

(6) after subparagraph (D)(iii), by adding at the end the following:

“(iv) A grant under subparagraph (A)(ii) shall be awarded for up to 5 years.”;

(7) in subparagraph (E), by striking “under this paragraph” both places it appears and inserting “under subparagraph (A)(i)”;

(8) by redesignating subparagraph (F) as subparagraph (J); and

(9) by inserting after subparagraph (E) the following:

“(F) Grants awarded under subparagraph (A)(ii) shall be carried out by a department or departments of science, technology, engineering, or mathematics at institutions of higher education (or a consortia thereof), which may partner with the department, college, or school of education at the institution. Applications for awards under subparagraph (A)(ii) shall be submitted to the Director at such time, in such manner, and containing such information as the Director may require. At a minimum, the application shall include—

“(i) a description of the activities to be carried out by the Center;

“(ii) a plan for disseminating programs related to the activities carried out by the Center to faculty at the grantee institution and at other institutions;

“(iii) an estimate of the number of faculty, graduate students (if any), and undergraduate students who will

be affected by the activities carried out by the Center; and

“(iv) a plan for assessing the effectiveness of the Center at accomplishing the goals described in subparagraph (A)(ii).

“(G) In evaluating the applications submitted under subparagraph (F), the Director shall consider, at a minimum—

“(i) the ability of the applicant to effectively carry out the proposed activities, including the dissemination activities described in subparagraph (C)(ii)(IV); and

“(ii) the extent to which the faculty, staff, and administrators of the applicant institution are committed to improving undergraduate science, technology, engineering, and mathematics education.

“(H) In awarding grants under subparagraph (A)(ii), the Director shall ensure that a wide variety of science, technology, engineering, and mathematics fields and types of institutions of higher education, including 2-year colleges and minority-serving institutions, are covered, and that—

“(i) at least 1 Center is housed at a Doctoral/Research University as defined by the Carnegie Foundation for the Advancement of Teaching; and

“(ii) at least 1 Center is focused on improving undergraduate education in an interdisciplinary area.

“(I) The Director shall convene an annual meeting of the awardees under this paragraph to foster collaboration and to disseminate the results of the Centers and the other activities funded under this paragraph.”.

Meeting.

(b) REPORT ON DATA COLLECTION.—Not later than 180 days after the date of enactment of this Act, the Director shall transmit to Congress a report on how the Director is determining whether current grant recipients in the Science, Technology, Engineering, and Mathematics Talent Expansion Program are making satisfactory progress as required by section 8(7)(D)(ii) of the National Science Foundation Authorization Act of 2002 and what funding actions have been taken as a result of the Director’s determinations.

SEC. 7026. LABORATORY SCIENCE PILOT PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) To remain competitive in science and technology in the global economy, the United States must increase the number of students graduating from high school prepared to pursue postsecondary education in science, technology, engineering, and mathematics.

(2) There is broad agreement in the scientific community that learning science requires direct involvement by students in scientific inquiry and that laboratory experience is so integral to the nature of science that it must be included in every science program for every science student.

(3) In America’s Lab Report, the National Research Council concluded that the current quality of laboratory experiences is poor for most students and that educators and researchers do not agree on how to define high school science laboratories or on their purpose, hampering the accumulation of research on how to improve laboratories.

(4) The National Research Council found that schools with higher concentrations of non-Asian minorities and schools with

higher concentrations of poor students are less likely to have adequate laboratory facilities than other schools.

(5) The Government Accountability Office reported that 49.1 percent of schools where the minority student population is greater than 50.5 percent reported not meeting functional requirements for laboratory science well or at all.

(6) 40 percent of those college students who left the science fields reported some problems related to high school science preparation, including lack of laboratory experience and no introduction to theoretical or to analytical modes of thought.

(7) It is in the national interest for the Federal Government to invest in research and demonstration projects to improve the teaching of laboratory science in the Nation's high schools.

116 Stat. 3040. (b) GRANT PROGRAM.—Section 8(8) of the National Science Foundation Authorization Act of 2002 is amended—

(1) by redesignating subparagraphs (A) through (F) as clauses (i) through (vi), respectively;

(2) by inserting “(A)” before “A program of competitive”; and

(3) by adding at the end the following:

“(B) In accordance with subparagraph (A)(v), the Director shall establish a research pilot program designated as ‘Partnerships for Access to Laboratory Science’ to award grants to partnerships to improve laboratories and provide instrumentation as part of a comprehensive program to enhance the quality of science, technology, engineering, and mathematics instruction at the secondary school level. Grants under this subparagraph may be used for—

“(i) professional development and training for teachers aligned with activities supported under section 2123 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6623);

“(ii) purchase, rental, or leasing of equipment, instrumentation, and other scientific educational materials;

“(iii) development of instructional programs designed to integrate the laboratory experience with classroom instruction and to be consistent with State mathematics and science and, to the extent applicable, technology and engineering, academic achievement standards;

“(iv) training in laboratory safety for school personnel;

“(v) design and implementation of hands-on laboratory experiences to encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in science, technology, engineering, and mathematics and help prepare such individuals to pursue postsecondary studies in these fields; and

“(vi) assessment of the activities funded under this subparagraph.

“(C) Grants may be made under subparagraph (B) only to a partnership—

“(i) for a project that includes significant teacher preparation and professional development components; or

“(ii) that establishes that appropriate teacher preparation and professional development is being addressed, or has been addressed, through other means.

“(D) Grants awarded under subparagraph (B) shall be to a partnership that—

“(i) includes a 2-year or 4-year degree granting institution of higher education;

“(ii) includes a high need local educational agency (as defined in section 201 of the Higher Education Act of 1965);

“(iii) includes a business or eligible nonprofit organization; and

“(iv) may include a State educational agency, other public agency, National Laboratory, or community-based organization.

“(E) The Federal share of the cost of activities carried out using amounts from a grant under subparagraph (B) shall not exceed 40 percent.

“(F) The Director shall require grant recipients under subparagraph (B) to submit a report to the Director on the results of the project supported by the grant.”. Reports.

(c) REPORT.—The Director shall evaluate the effectiveness of activities carried out under the research pilot projects funded by the grant program established pursuant to the amendment made by subsection (b) in improving student achievement in science, technology, engineering, and mathematics. A report documenting the results of that evaluation shall be submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate not later than 5 years after the date of enactment of this Act. The report shall identify best practices and materials developed and demonstrated by grant awardees.

(d) SUNSET.—The provisions of this section shall cease to have force or effect on the last day of fiscal year 2010.

(e) AUTHORIZATION OF APPROPRIATIONS.—From the amounts authorized under subsections (a)(2)(B), (b)(2)(B), and (c)(2)(B) of section 7002, there are authorized to be appropriated to carry out this section and the amendments made by this section \$5,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years.

SEC. 7027. STUDY ON LABORATORY EQUIPMENT DONATIONS FOR SCHOOLS.

Not later than 2 years after the date of enactment of this Act, the Director shall transmit a report to Congress examining the extent to which institutions of higher education and entities in the private sector are donating used laboratory equipment to elementary schools and secondary schools. The Director, in consultation with the Secretary of Education, shall survey institutions of higher education and entities in the private sector to determine— Deadline.
Reports.

(1) how often, how much, and what type of equipment is donated;

(2) what criteria or guidelines the institutions and entities are using to determine what types of equipment can be donated, what condition the equipment should be in, and which schools receive the equipment;

(3) whether the institutions and entities provide any support to, or follow-up with the schools; and

(4) how appropriate donations can be encouraged.

SEC. 7028. MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS AMENDMENTS.

Section 9 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n) is amended—

(1) in subsection (a)(2)(A), by striking “a State educational agency” and inserting “the department, college, or program of education at an institution of higher education, a State educational agency,”;

(2) by striking subparagraph (B) of subsection (a)(3) and inserting the following:

“(B) offering professional development programs, including—

“(i) teacher institutes for the 21st century, as described in paragraph (10); and

“(ii) academic year institutes or workshops that—
“(I) are designed to strengthen the capabilities of mathematics and science teachers; and

“(II) may include professional development activities to prepare mathematics and science teachers to teach challenging mathematics, science, and technology college-preparatory courses;”;

(3) in subsection (a)(3)(C)—

(A) by inserting “and laboratory experiences” after “technology”; and

(B) by inserting “and laboratory” after “provide technical”;

(4) in subsection (a)(3)(I), by inserting “including the use of induction programs, as defined in section 6113(h) of the America COMPETES Act, for teachers in their first 2 years of teaching,” after “and science,”;

(5) by striking subparagraph (K) of section (a)(3) and inserting the following:

“(K) developing science, technology, engineering, and mathematics educational programs and materials and conducting science, technology, engineering, and mathematics enrichment programs for students, including after-school programs and summer programs, with an emphasis on including and serving students described in subsection (b)(2)(G);”;

(6) in subsection (a), by adding at the end the following:

“(8) MENTORS FOR TEACHERS AND STUDENTS OF CHALLENGING COURSES.—Partnerships carrying out activities to prepare mathematics and science teachers to teach challenging mathematics, science, and technology college-preparatory courses in accordance with paragraph (3)(B) shall encourage companies employing scientists, technologists, engineers, or mathematicians to provide mentors to teachers and students and provide for the coordination of such mentoring activities.

“(9) INNOVATION.—Activities carried out in accordance with paragraph (3)(H) may include the development and dissemination of curriculum tools that will help foster inventiveness and innovation.”;

(7) in subsection (b)(2)—

(A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(B) by inserting after subparagraph (D) the following:

“(E) the extent to which the evaluation described in paragraph (1)(E) will be independent and based on objective measures;”;

(8) by striking paragraph (2) of subsection (c) and inserting the following:

“(2) REPORT ON EVALUATIONS.—Not later than 4 years after the date of enactment of the America COMPETES Act, the Director shall transmit a report summarizing the evaluations required under subsection (b)(1)(E) of grants received under this program and describing any changes to the program recommended as a result of these evaluations to the Committee on Science and Technology and the Committee on Education and Labor of the House of Representatives and to the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate. Such report shall be made widely available to the public.”; and

(9) by adding at the end the following:

“(d) DEFINITIONS.—In this section—

“(1) the term ‘mathematics and science teacher’ means a science, technology, engineering, or mathematics teacher at the elementary school or secondary school level; and

“(2) the term ‘science’, in the context of elementary and secondary education, includes technology and pre-engineering.”.

SEC. 7029. NATIONAL SCIENCE FOUNDATION TEACHER INSTITUTES FOR THE 21ST CENTURY.

Section 9(a) of the National Science Foundation Authorization Act of 2002 (as amended by section 7028) (42 U.S.C. 1862n(a)) is further amended by adding at the end the following:

“(10) TEACHER INSTITUTES FOR THE 21ST CENTURY.—

“(A) IN GENERAL.—Teacher institutes for the 21st century carried out in accordance with paragraph (3)(B) shall—

“(i) be carried out in conjunction with a school served by the local educational agency in the partnership;

“(ii) be science, technology, engineering, and mathematics focused institutes that provide professional development to elementary school and secondary school teachers;

“(iii) serve teachers who—

“(I) are considered highly qualified (as defined in section 9101 of the Elementary and Secondary Education Act of 1965);

“(II) teach high-need subjects in science, technology, engineering, or mathematics; and

“(III) teach in high-need schools (as described in section 1114(a)(1) of the Elementary and Secondary Education Act of 1965);

“(iv) focus on the priorities developed by the Director in consultation with a broad group of relevant educational organizations;

“(v) be content-based and build on school year curricula that are experiment-oriented, content-based, and grounded in current research;

“(vi) ensure that the pedagogy component is designed around specific strategies that are relevant

to teaching the subject and content on which teachers are being trained, which may include training teachers in the essential components of reading instruction for adolescents in order to improve student reading skills within the subject areas of science, technology, engineering, and mathematics;

“(vii) be a multiyear program that is conducted for a period of not less than 2 weeks per year;

“(viii) provide for direct interaction between participants in and faculty of the teacher institute;

“(ix) have a component that includes the use of the Internet;

“(x) provide for followup training in the classroom during the academic year for a period of not less than 3 days, which may or may not be consecutive, for participants in the teacher institute, except that for teachers in rural local educational agencies, the followup training may be provided through the Internet;

“(xi) provide teachers participating in the teacher institute with travel expense reimbursement and classroom materials related to the teacher institute, and may include providing stipends as necessary; and

“(xii) establish a mechanism to provide supplemental support during the academic year for teacher institute participants to apply the knowledge and skills gained at the teacher institute.

“(B) OPTIONAL MEMBERS OF THE PARTNERSHIP.—In addition to the partnership requirement under paragraph (2), an institution of higher education or eligible nonprofit organization (or consortium) desiring a grant for a teacher institute for the 21st century may also partner with a teacher organization, museum, or educational partnership organization.”.

SEC. 7030. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.

Section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1) is amended to read as follows:

“SEC. 10. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.

“(a) SCHOLARSHIP PROGRAM.—

“(1) IN GENERAL.—The Director shall carry out a program to award grants to eligible entities to recruit and train mathematics and science teachers and to provide scholarships and stipends to individuals participating in the program. Such program shall be known as the ‘Robert Noyce Teacher Scholarship Program’.

“(2) MERIT REVIEW.—Grants shall be provided under this section on a competitive, merit-reviewed basis.

“(3) USE OF GRANTS.—A grant provided under this section shall be used by the eligible entity—

“(A) to develop and implement a program to recruit and prepare undergraduate students majoring in science, technology, engineering, and mathematics at the eligible entity (and participating institutions of higher education of the consortium, if applicable) to become qualified as mathematics and science teachers, through—

Grants.

“(i) administering scholarships in accordance with subsection (c);

“(ii) offering academic courses and early clinical teaching experiences designed to prepare students participating in the program to teach in elementary schools and secondary schools, including such preparation as is necessary to meet requirements for teacher certification or licensing;

“(iii) offering programs to students participating in the program, both before and after the students receive their baccalaureate degree, to enable the students to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in the students’ fields; and

“(iv) providing summer internships for freshman and sophomore students participating in the program; or

“(B) to develop and implement a program to recruit and prepare science, technology, engineering, or mathematics professionals to become qualified as mathematics and science teachers, through—

“(i) administering stipends in accordance with subsection (d);

“(ii) offering academic courses and clinical teaching experiences designed to prepare stipend recipients to teach in elementary schools and secondary schools served by a high need local educational agency, including such preparation as is necessary to meet requirements for teacher certification or licensing; and

“(iii) offering programs to stipend recipients, both during and after matriculation in the program for which the stipend is received, to enable recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in the students’ fields.

“(4) ELIGIBILITY REQUIREMENT.—

“(A) IN GENERAL.—To be eligible to receive a grant under this section, an eligible entity shall ensure that specific faculty members and staff from the science, technology, engineering, and mathematics departments and specific education faculty of the eligible entity (and participating institutions of higher education of the consortium, if applicable) are designated to carry out the development and implementation of the program.

“(B) INCLUSION OF MASTER TEACHERS.—An eligible entity (and participating institutions of higher education of the consortium, if applicable) receiving a grant under this section may also include master teachers in the development of the pedagogical content of the program and in the supervision of students participating in the program in their clinical teaching experiences.

“(C) ACTIVE PARTICIPANTS.—No eligible entity (or participating institution of higher education of the consortium, if applicable) shall be eligible for a grant under this section unless faculty from the science, technology, engineering, and mathematics departments of the eligible

entity (and participating institutions of higher education of the consortium, if applicable) are active participants in the program.

Minorities.

“(5) AWARDS.—In awarding grants under this section, the Director shall ensure that the eligible entities (and participating institutions of higher education of the consortia, if applicable) represent a variety of types of institutions of higher education. In support of this goal, the Director shall broadly disseminate information about when and how to apply for grants under this section, including by conducting outreach to—

“(A) historically Black colleges and universities that are part B institutions, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)); and

“(B) minority institutions, as defined in section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k(3)).

“(6) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this section shall be used to supplement, and not supplant, other Federal or State funds available for the type of activities supported by the grant.

“(b) SELECTION PROCESS.—

“(1) APPLICATION.—An eligible entity seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

“(A) in the case of an applicant that is submitting an application on behalf of a consortium of institutions of higher education, a description of the participating institutions of higher education and the roles and responsibilities of each such institution;

“(B) a description of the program that the applicant intends to operate, including the number of scholarships and summer internships or the size and number of stipends the applicant intends to award, the type of activities proposed for the recruitment of students to the program, and the selection process that will be used in awarding the scholarships or stipends;

“(C) evidence that the applicant has the capability to administer the program in accordance with the provisions of this section, which may include a description of any existing programs at the applicant eligible entity (and participating institutions of higher education of the consortium, if applicable) that are targeted to the education of mathematics and science teachers and the number of teachers graduated annually from such programs;

“(D) a description of the academic courses and clinical teaching experiences required under subparagraphs (A)(ii) and (B)(ii) of subsection (a)(3), as applicable, including—

“(i) a description of the undergraduate program that will enable a student to graduate within 5 years with a major in science, technology, engineering, or mathematics and to obtain teacher certification or licensing;

“(ii) a description of the clinical teaching experiences proposed; and

“(iii) evidence of agreements between the applicant and the schools or local educational agencies that are identified as the locations at which clinical teaching experiences will occur;

“(E) a description of the programs required under subparagraphs (A)(iii) and (B)(iii) of subsection (a)(3), including activities to assist new teachers in fulfilling the teachers’ service requirements under this section;

“(F) an identification of the applicant eligible entity’s science, technology, engineering, and mathematics faculty and its education faculty (and such faculty of participating institutions of higher education of the consortium, if applicable) who will carry out the development and implementation of the program as required under subsection (a)(4); and

“(G) a description of the process the applicant will use to fulfill the requirements of subsection (f).

“(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

“(A) the ability of the applicant (and the participating institutions of higher education of the consortium, if applicable) to effectively carry out the program;

“(B) the extent to which the applicant’s science, technology, engineering, and mathematics faculty and its education faculty (and such faculty of participating institutions of higher education of the consortium, if applicable) have worked or will work collaboratively to design new or revised curricula that recognize the specialized pedagogy required to teach science, technology, engineering, and mathematics effectively in elementary schools and secondary schools;

“(C) the extent to which the applicant (and the participating institutions of higher education of the consortium, if applicable) is committed to making the program a central organizational focus;

“(D) the degree to which the proposed programming will enable scholarship or stipend recipients to become successful mathematics and science teachers;

“(E) the number and academic qualifications of the students who will be served by the program; and

“(F) the ability of the applicant (and the participating institutions of higher education of the consortium, if applicable) to recruit students who would otherwise not pursue a career in teaching in elementary schools or secondary schools and students who are individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

“(c) SCHOLARSHIP REQUIREMENTS.—

“(1) IN GENERAL.—Scholarships under this section shall be available only to students who—

“(A) are majoring in science, technology, engineering, or mathematics; and

“(B) have attained at least junior status in a baccalaureate degree program.

“(2) SELECTION.—Individuals shall be selected to receive scholarships primarily on the basis of academic merit, with

consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

“(3) AMOUNT.—The Director shall establish for each year the amount to be awarded for scholarships under this section for that year, which shall be not less than \$10,000 per year, except that no individual shall receive for any year more than the cost of attendance at that individual’s institution. Full-time students may receive annual scholarships through the completion of a baccalaureate degree program, not to exceed a maximum of 3 years. Part-time students may receive scholarships that are prorated according to such students’ enrollment status, not to exceed 6 years of scholarship support.

“(4) SERVICE OBLIGATION.—If an individual receives a scholarship under this section, such individual shall be required to complete, within 8 years after graduation from the baccalaureate degree program for which the scholarship was awarded, 2 years of service as a mathematics or science teacher for each full scholarship award received, with a maximum service requirement of 6 years. Service required under this paragraph shall be performed in a high need local educational agency.

“(d) STIPENDS.—

“(1) IN GENERAL.—Stipends under this section shall be available only to science, technology, engineering, or mathematics professionals who, while receiving the stipend, are enrolled in a program established under subsection (a)(3)(B).

“(2) SELECTION.—Individuals shall be selected to receive stipends under this section primarily on the basis of academic merit and professional achievement, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

“(3) AMOUNT AND DURATION.—Stipends under this section shall be not less than \$10,000 per year, except that no individual shall receive for any year more than the cost of attendance at such individual’s institution. Individuals may receive a maximum of 1 year of stipend support, except that if an individual is enrolled in a part-time program, such amount shall be prorated according to the length of the program.

“(4) SERVICE OBLIGATION.—If an individual receives a stipend under this section, such individual shall be required to complete, within 4 years after graduation from the program for which the stipend was awarded, 2 years of service as a mathematics or science teacher. Service required under this paragraph shall be performed in a high need local educational agency.

“(e) CONDITIONS OF SUPPORT.—As a condition of acceptance of a scholarship or stipend under this section, a recipient of a scholarship or stipend shall enter into an agreement with the eligible entity—

“(1) accepting the terms of the scholarship or stipend pursuant to subsection (c) or subsection (d);

“(2) agreeing to provide the eligible entity with annual certification of employment and up-to-date contact information

and to participate in surveys conducted by the eligible entity as part of an ongoing assessment program; and

“(3) establishing that if the service obligation required under this section is not completed, all or a portion of the scholarship or stipend received under this section shall be repaid in accordance with subsection (g).

“(f) COLLECTION FOR NONCOMPLIANCE.—

“(1) MONITORING COMPLIANCE.—An eligible entity receiving a grant under this section shall, as a condition of participating in the program, enter into an agreement with the Director to monitor the compliance of scholarship or stipend recipients with their respective service requirements.

“(2) COLLECTION OF REPAYMENT.—

“(A) IN GENERAL.—In the event that a scholarship or stipend recipient is required to repay the scholarship or stipend under subsection (g), the eligible entity shall—

“(i) be responsible for determining the repayment amounts and for notifying the recipient and the Director of the amount owed; and

“(ii) collect such repayment amount within a period of time as determined under the agreement described in paragraph (1), or the repayment amount shall be treated as a loan in accordance with subparagraph (C).

“(B) RETURNED TO TREASURY.—Except as provided in subparagraph (C), any such repayment shall be returned to the Treasury of the United States.

“(C) RETAIN PERCENTAGE.—An eligible entity may retain a percentage of any repayment the eligible entity collects to defray administrative costs associated with the collection. The Director shall establish a single, fixed percentage that will apply to all eligible entities.

“(g) FAILURE TO COMPLETE SERVICE OBLIGATION.—

“(1) GENERAL RULE.—If an individual who has received a scholarship or stipend under this section—

“(A) fails to maintain an acceptable level of academic standing in the educational institution in which the individual is enrolled, as determined by the Director;

“(B) is dismissed from such educational institution for disciplinary reasons;

“(C) withdraws from the program for which the award was made before the completion of such program;

“(D) declares that the individual does not intend to fulfill the service obligation under this section; or

“(E) fails to fulfill the service obligation of the individual under this section,

such individual shall be liable to the United States as provided in paragraph (2).

“(2) AMOUNT OF REPAYMENT.—

“(A) LESS THAN ONE YEAR OF SERVICE.—If a circumstance described in paragraph (1) occurs before the completion of 1 year of a service obligation under this section, the total amount of awards received by the individual under this section shall be repaid or such amount shall be treated as a loan to be repaid in accordance with subparagraph (C).

“(B) MORE THAN ONE YEAR OF SERVICE.—If a circumstance described in subparagraph (D) or (E) of paragraph (1) occurs after the completion of 1 year of a service obligation under this section—

“(i) for a scholarship recipient, the total amount of scholarship awards received by the individual under this section, reduced by the ratio of the number of years of service completed divided by the number of years of service required, shall be repaid or such amount shall be treated as a loan to be repaid in accordance with subparagraph (C); and

“(ii) for a stipend recipient, one-half of the total amount of stipends received by the individual under this section shall be repaid or such amount shall be treated as a loan to be repaid in accordance with subparagraph (C).

“(C) REPAYMENTS.—The loans described under subparagraphs (A) and (B) shall be payable to the Federal Government, consistent with the provisions of part B or D of title IV of the Higher Education Act of 1965, and shall be subject to repayment in accordance with terms and conditions specified by the Director (in consultation with the Secretary of Education) in regulations promulgated to carry out this paragraph.

“(3) EXCEPTIONS.—The Director may provide for the partial or total waiver or suspension of any service or payment obligation by an individual under this section whenever compliance by the individual with the obligation is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be unconscionable.

“(h) DATA COLLECTION.—An eligible entity receiving a grant under this section shall supply to the Director any relevant statistical and demographic data on scholarship and stipend recipients the Director may request, including information on employment required under this section.

“(i) DEFINITIONS.—In this section—

“(1) the term ‘cost of attendance’ has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 10871l);

“(2) the term ‘eligible entity’ means—

“(A) an institution of higher education; or

“(B) an institution of higher education that receives grant funds on behalf of a consortium of institutions of higher education;

“(3) the term ‘fellowship’ means an award to an individual under section 10A;

“(4) the term ‘high need local educational agency’ has the meaning given such term in section 201 of the Higher Education Act of 1965 (20 U.S.C. 1021);

“(5) the term ‘mathematics and science teacher’ means a science, technology, engineering, or mathematics teacher at the elementary school or secondary school level;

“(6) the term ‘scholarship’ means an award under subsection (c);

“(7) the term ‘science, technology, engineering, or mathematics professional’ means a person who holds a baccalaureate,

master's, or doctoral degree in science, technology, engineering, or mathematics, and is working in or had a career in such field or a related area; and

“(8) the term ‘stipend’ means an award under subsection (d).

“(j) MATHEMATICS AND SCIENCE SCHOLARSHIP GIFT FUND.—

In accordance with section 11(f) of the National Science Foundation Act of 1950 (42 U.S.C. 1870(f)), the Director is authorized to accept donations from the private sector to supplement but not supplant scholarships, stipends, internships, or fellowships associated with programs under this section or section 10A.

“(k) ASSESSMENT OF TEACHER SERVICE AND RETENTION.—Not later than 4 years after the date of enactment of the America COMPETES Act, the Director shall transmit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Science and Technology of the House of Representatives a report on the effectiveness of the programs carried out under this section and section 10A. The report shall include the proportion of individuals receiving scholarships, stipends, or fellowships under the program who—

Deadline.
Reports.

“(1) fulfill the individuals’ service obligation required under this section or section 10A;

“(2) remain in the teaching profession beyond the individuals’ service obligation; and

“(3) remain in the teaching profession in a high need local educational agency beyond the individuals’ service obligation.

“(l) EVALUATION.—Not less than 2 years after the date of enactment of the America COMPETES Act, the Director, in consultation with the Secretary of Education, shall conduct an evaluation to determine whether the scholarships, stipends, and fellowships authorized under this section and section 10A have been effective in increasing the numbers of high-quality mathematics and science teachers teaching in high need local educational agencies and whether there continue to exist significant shortages of such teachers in high need local educational agencies.

Deadline.

“SEC. 10A. NATIONAL SCIENCE FOUNDATION TEACHING FELLOWSHIPS AND MASTER TEACHING FELLOWSHIPS.

42 USC
1862n–1a.

“(a) IN GENERAL.—

“(1) GRANTS.—

“(A) IN GENERAL.—As part of the Robert Noyce Teacher Scholarship Program established under section 10, the Director shall establish a separate program to award grants to eligible entities to enable such entities to administer fellowships in accordance with this section.

“(B) DEFINITIONS.—The terms used in this section have the meanings given the terms in section 10.

“(2) FELLOWSHIPS.—Fellowships under this section shall be available only to—

“(A) science, technology, engineering, or mathematics professionals, who shall be referred to as ‘National Science Foundation Teaching Fellows’ and who, in the first year of the fellowship, are enrolled in a master’s degree program leading to teacher certification or licensing; and

“(B) mathematics and science teachers, who shall be referred to as ‘National Science Foundation Master

Teaching Fellows' and who possess a master's degree in their field.

“(b) ELIGIBILITY.—In order to be eligible to receive a grant under this section, an eligible entity shall enter into a partnership that shall include—

“(1) a department within an institution of higher education participating in the partnership that provides an advanced program of study in mathematics and science;

“(2)(A) a school or department within an institution of higher education participating in the partnership that provides a teacher preparation program; or

“(B) a 2-year institution of higher education that has a teacher preparation offering or a dual enrollment program with an institution of higher education participating in the partnership;

“(3) not less than 1 high need local educational agency and a public school or a consortium of public schools served by the agency; and

“(4) 1 or more nonprofit organizations that have a demonstrated record of capacity to provide expertise or support to meet the purposes of this section.

“(c) USE OF GRANTS.—Grants awarded under this section shall be used by the eligible entity (and participating institutions of higher education of the consortium, if applicable) to develop and implement a program for National Science Foundation Teaching Fellows or National Science Foundation Master Teaching Fellows, through—

“(1) administering fellowships in accordance with this section, including providing the teaching fellowship salary supplements described in subsection (f);

“(2) in the case of National Science Foundation Teaching Fellowships—

“(A) offering academic courses and clinical teaching experiences leading to a master's degree and designed to prepare individuals to teach in elementary schools and secondary schools, including such preparation as is necessary to meet the requirements for certification or licensing; and

“(B) offering programs both during and after matriculation in the program for which the fellowship is received to enable fellows to become highly effective mathematics and science teachers, including mentoring, training, induction, and professional development activities, to fulfill the service requirements of this section, including the requirements of subsection (e), and to exchange ideas with others in their fields; and

“(3) in the case of National Science Foundation Master Teaching Fellowships—

“(A) offering academic courses and leadership training to prepare individuals to become master teachers in elementary schools and secondary schools; and

“(B) offering programs both during and after matriculation in the program for which the fellowship is received to enable fellows to become highly effective mathematics and science teachers, including mentoring, training, induction, and professional development activities, to fulfill the

service requirements of this section, including the requirements of subsection (e), and to exchange ideas with others in their fields.

“(d) SELECTION PROCESS.—

“(1) MERIT REVIEW.—Grants shall be awarded under this section on a competitive, merit-reviewed basis.

“(2) APPLICATIONS.—An eligible entity desiring a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

“(A) in the case of an applicant that is submitting an application on behalf of a consortium of institutions of higher education, a description of the participating institutions of higher education and the roles and responsibilities of each such institution;

“(B) a description of the program that the applicant intends to operate, including the number of fellowships the applicant intends to award, the type of activities proposed for the recruitment of students to the program, and the amount of the teaching fellowship salary supplements to be provided in accordance with subsection (f);

“(C) evidence that the applicant has the capability to administer the program in accordance with the provisions of this section, which may include a description of any existing programs at the applicant eligible entity (and participating institutions of higher education of the consortium, if applicable) that are targeted to the education of mathematics and science teachers and the number of teachers graduated annually from such programs;

“(D) in the case of National Science Foundation Teaching Fellowships, a description of—

“(i) the selection process that will be used in awarding fellowships, including a description of the rigorous measures to be used, including the rigorous, nationally recognized assessments to be used, in order to determine whether individuals applying for fellowships have advanced content knowledge of science, technology, engineering, or mathematics;

“(ii) the academic courses and clinical teaching experiences described in subsection (c)(2)(A), including—

“(I) a description of an educational program that will enable a student to obtain a master’s degree and teacher certification or licensing within 1 year; and

“(II) evidence of agreements between the applicant and the schools or local educational agencies that are identified as the locations at which clinical teaching experiences will occur;

“(iii) a description of the programs described in subsection (c)(2)(B), including activities to assist individuals in fulfilling their service requirements under this section;

“(E) evidence that the eligible entity will provide the teaching supplements required under subsection (f); and

“(F) a description of the process the applicant will use to fulfill the requirements of section 10(f).

“(3) CRITERIA.—In evaluating the applications submitted under paragraph (2), the Director shall consider, at a minimum—

“(A) the ability of the applicant (and participating institutions of higher education of the consortium, if applicable) to effectively carry out the program and to meet the requirements of subsection (f);

“(B) the extent to which the mathematics, science, or engineering faculty and the education faculty at the eligible entity (and participating institutions of higher education of the consortium, if applicable) have worked or will work collaboratively to design new or revised curricula that recognizes the specialized pedagogy required to teach science, technology, engineering, and mathematics effectively in elementary schools and secondary schools;

“(C) the extent to which the applicant (and participating institutions of higher education of the consortium, if applicable) is committed to making the program a central organizational focus;

“(D) the degree to which the proposed programming will enable participants to become highly effective mathematics and science teachers and prepare such participants to assume leadership roles in their schools, in addition to their regular classroom duties, including serving as mentor or master teachers, developing curriculum, and assisting in the development and implementation of professional development activities;

“(E) the number and quality of the individuals that will be served by the program; and

“(F) in the case of the National Science Foundation Teaching Fellowship, the ability of the applicant (and participating institutions of higher education of the consortium, if applicable) to recruit individuals who would otherwise not pursue a career in teaching and individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1855a or 1855b).

“(4) SELECTION OF FELLOWS.—

“(A) IN GENERAL.—Individuals shall be selected to receive fellowships under this section primarily on the basis of—

“(i) professional achievement;

“(ii) academic merit;

“(iii) content knowledge of science, technology, engineering, or mathematics, as demonstrated by their performance on an assessment in accordance with paragraph (2)(D)(i); and

“(iv) in the case of National Science Foundation Master Teaching Fellows, demonstrated success in improving student academic achievement in science, technology, engineering, or mathematics.

“(B) PROMOTING PARTICIPATION OF CERTAIN INDIVIDUALS.—Among individuals demonstrating equivalent qualifications, consideration may be given to the goal of promoting the participation of individuals identified in section

33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

“(e) DUTIES OF NATIONAL SCIENCE FOUNDATION TEACHING FELLOWS AND MASTER TEACHING FELLOWS.—A National Science Foundation Teaching Fellow or a National Science Foundation Master Teaching Fellow, while fulfilling the service obligation under subsection (g) and in addition to regular classroom activities, shall take on a leadership role within the school or local educational agency in which the fellow is employed, as defined by the partnership according to such fellow’s expertise, including serving as a mentor or master teacher, developing curricula, and assisting in the development and implementation of professional development activities.

“(f) TEACHING FELLOWSHIP SALARY SUPPLEMENTS.—

“(1) IN GENERAL.—An eligible entity receiving a grant under this section shall provide salary supplements to individuals who participate in the program under this section during the period of their service obligation under subsection (g). A local educational agency through which the service obligation is fulfilled shall agree not to reduce the base salary normally paid to an individual solely because such individual receives a salary supplement under this subsection.

“(2) AMOUNT AND DURATION.—

“(A) AMOUNT.—Salary supplements provided under paragraph (1) shall be not less than \$10,000 per year, except that, in the case of a National Science Foundation Teaching Fellow, while enrolled in the master’s degree program as described in subsection (c)(2)(A), such fellow shall receive not more than the cost of attendance at such fellow’s institution.

“(B) SUPPORT WHILE ENROLLED IN MASTER’S DEGREE PROGRAM.—A National Science Foundation Teaching Fellow may receive a maximum of 1 year of fellowship support while enrolled in a master’s degree program as described in subsection (c)(2)(A), except that if such fellow is enrolled in a part-time program, such amount shall be prorated according to the length of the program.

“(C) DURATION OF SUPPORT.—An eligible entity receiving a grant under this section shall provide teaching fellowship salary supplements through the period of the fellow’s service obligation under subsection (g).

“(g) SERVICE OBLIGATION.—An individual awarded a fellowship under this section shall serve as a mathematics or science teacher in an elementary school or secondary school served by a high need local educational agency for—

“(1) in the case of a National Science Foundation Teaching Fellow, 4 years, to be fulfilled within 6 years of completing the master’s program described in subsection (c)(2)(A); and

“(2) in the case of a National Science Foundation Master Teaching Fellow, 5 years, to be fulfilled within 7 years of the start of participation in the program under subsection (c)(3).

“(h) MATCHING REQUIREMENT.—

“(1) IN GENERAL.—An eligible entity receiving a grant under this section shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (which may be provided in cash or in-kind) to carry out the activities supported by the grant.

“(2) WAIVER.—The Director may waive all or part of the matching requirement described in paragraph (1) for any fiscal year for an eligible entity receiving a grant under this section, if the Director determines that applying the matching requirement would result in serious hardship or inability to carry out the authorized activities described in this section.

“(i) CONDITIONS OF SUPPORT; COLLECTION FOR NONCOMPLIANCE; FAILURE TO COMPLETE SERVICE OBLIGATION; DATA COLLECTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), subsections (e), (f), (g), and (h) of section 10 shall apply to eligible entities and recipients of fellowships under this section, as applicable, in the same manner as such subsections apply to eligible entities and recipients of scholarships and stipends under section 10, as applicable.

“(2) AMOUNT OF REPAYMENT.—If a circumstance described in subparagraph (D) or (E) of section 10(g)(1) occurs after the completion of 1 year of a service obligation under this section—

“(A) for a National Science Foundation Teaching Fellow, the total amount of fellowship award received by the individual under this section while enrolled in the master’s degree program, reduced by one-fourth of the total amount for each year of service completed, plus one-half of the total teaching fellowship salary supplements received by such individual under this section, shall be repaid or such amount shall be treated as a loan to be repaid in accordance with section 10(g)(1)(C); and

“(B) for a National Science Foundation Master Teaching Fellow, the total amount of teaching fellowship salary supplements received by the individual under this section, reduced by one-half, shall be repaid or such amount shall be treated as a loan to be repaid in accordance with section 10(g)(1)(C).”.

SEC. 7031. ENCOURAGING PARTICIPATION.

(a) COMMUNITY COLLEGE PROGRAM.—Section 3 of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i) is amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), by striking “and” after the semicolon;

(B) in subparagraph (B), by striking the semicolon and inserting “; and”; and

(C) by adding at the end the following:

“(C) encourage participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b);”;

(2) in subsection (c), by adding at the end the following:

“(3) MENTOR TRAINING GRANTS.—The Director shall—

“(A) establish a program to encourage and make grants available to institutions of higher education that award associate degrees to recruit and train individuals from the fields of science, technology, engineering, and mathematics to mentor students who are described in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in order to assist those

students in identifying, qualifying for, and entering higher-paying technical jobs in those fields; and

“(B) make grants available to associate-degree-granting colleges to carry out the program identified in subsection (A).”.

(b) **EVALUATION AND REPORT.**—The Director shall establish metrics to evaluate the success of the programs established by the Foundation for encouraging individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) to study and prepare for careers in science, technology, engineering, and mathematics, including programs that provide for mentoring for such individuals. The Director shall carry out evaluations based on the metrics developed and report to Congress annually on the findings and conclusions of the evaluations. 42 USC 1862o–11.

SEC. 7032. NATIONAL ACADEMY OF SCIENCES REPORT ON DIVERSITY IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS FIELDS.

(a) **IN GENERAL.**—The Director shall enter into an arrangement with the National Academy of Sciences for a report, to be transmitted to the Congress not later than 1 year after the date of enactment of this Act, about barriers to increasing the number of underrepresented minorities in science, technology, engineering, and mathematics fields and to identify strategies for bringing more underrepresented minorities into the science, technology, engineering, and mathematics workforce. Contracts.

(b) **SPECIFIC REQUIREMENTS.**—The Director shall ensure that the report described in subsection (a) addresses—

(1) social and institutional factors that shape the decisions of minority students to commit to education and careers in the science, technology, engineering, and mathematics fields;

(2) specific barriers preventing greater minority student participation in the science, technology, engineering, and mathematics fields;

(3) primary focus points for policy intervention to increase the recruitment and retention of underrepresented minorities in the future workforce of the United States;

(4) programs already underway to increase diversity in the science, technology, engineering, and mathematics fields, and their level of effectiveness;

(5) factors that make such programs effective, and how to expand and improve upon existing programs;

(6) the role of minority-serving institutions in the diversification of the workforce of the United States in these fields and how that role can be supported and strengthened; and

(7) how the public and private sectors can better assist minority students in their efforts to join the workforce of the United States in these fields.

SEC. 7033. HISPANIC-SERVING INSTITUTIONS UNDERGRADUATE PROGRAM. 42 USC 1862o–12.

(a) **IN GENERAL.**—The Director is authorized to establish a new program to award grants on a competitive, merit-reviewed basis to Hispanic-serving institutions (as defined in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a)) to enhance the quality of undergraduate science, technology, engineering, and mathematics education at such institutions and to increase the Grants.

retention and graduation rates of students pursuing associate's or baccalaureate degrees in science, technology, engineering, and mathematics.

(b) PROGRAM COMPONENTS.—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in science, technology, engineering, and mathematics;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) INSTRUMENTATION.—Funding for instrumentation is an allowed use of grants awarded under this section.

42 USC
1862o-13.

Establishment.

SEC. 7034. PROFESSIONAL SCIENCE MASTER'S DEGREE PROGRAMS.

(a) CLEARINGHOUSE.—

(1) DEVELOPMENT.—The Director shall establish a clearinghouse, in collaboration with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, to share program elements used in successful professional science master's degree programs and other advanced degree programs related to science, technology, engineering, and mathematics.

(2) AVAILABILITY.—The Director shall make the clearinghouse of program elements developed under paragraph (1) available to institutions of higher education that are developing professional science master's degree programs.

(b) PROGRAMS.—

Grants.

(1) PROGRAMS AUTHORIZED.—The Director shall award grants to 4-year institutions of higher education to facilitate the institutions' creation or improvement of professional science master's degree programs that may include linkages between institutions of higher education and industries that employ science-trained personnel, with an emphasis on practical training and preparation for the workforce in high-need fields.

(2) APPLICATION.—A 4-year institution of higher education desiring a grant under this section shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may require. The application shall include—

(A) a description of the professional science master's degree program that the institution of higher education will implement;

(B) a description of how the professional science master's degree program at the institution of higher education will produce individuals for the workforce in high-need fields;

(C) the amount of funding from non-Federal sources, including from private industries, that the institution of higher education shall use to support the professional science master's degree program; and

(D) an assurance that the institution of higher education shall encourage students in the professional science master's degree program to apply for all forms of Federal assistance available to such students, including applicable

graduate fellowships and student financial assistance under titles IV and VII of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 1133 et seq.).

(3) PREFERENCES.—The Director shall give preference in making awards to 4-year institutions of higher education seeking Federal funding to create or improve professional science master's degree programs, to those applicants—

(A) located in States with low percentages of citizens with graduate or professional degrees, as determined by the Bureau of the Census, that demonstrate success in meeting the unique needs of the corporate, non-profit, and government communities in the State, as evidenced by providing internships for professional science master's degree students or similar partnership arrangements; or

(B) that secure more than two-thirds of the funding for such professional science master's degree programs from sources other than the Federal Government.

(4) NUMBER OF GRANTS; TIME PERIOD OF GRANTS.—

(A) NUMBER OF GRANTS.—Subject to the availability of appropriated funds, the Director shall award grants under paragraph (1) to a maximum of 200 4-year institutions of higher education.

(B) TIME PERIOD OF GRANTS.—Grants awarded under this section shall be for one 3-year term. Grants may be renewed only once for a maximum of 2 additional years.

(5) EVALUATION AND REPORTS.—

(A) DEVELOPMENT OF PERFORMANCE BENCHMARKS.—Prior to the start of the grant program, the Director, in collaboration with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, shall develop performance benchmarks to evaluate the pilot programs assisted by grants under this section.

(B) EVALUATION.—For each year of the grant period, the Director, in consultation with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, shall complete an evaluation of each program assisted by grants under this section. Any program that fails to satisfy the performance benchmarks developed under subparagraph (A) shall not be eligible for further funding.

(C) REPORT.—Not later than 180 days after the completion of an evaluation described in subparagraph (B), the Director shall submit a report to Congress that includes—

(i) the results of the evaluation; and

(ii) recommendations for administrative and legislative action that could optimize the effectiveness of the pilot programs, as the Director determines to be appropriate.

SEC. 7035. SENSE OF CONGRESS ON COMMUNICATIONS TRAINING FOR SCIENTISTS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that institutions of higher education receiving awards under the Integrative Graduate Education and Research Traineeship program of

the Foundation should, among the activities supported under these awards, train graduate students in the communication of the substance and importance of their research to nonscientist audiences.

(b) **REPORT TO CONGRESS.**—Not later than 3 years after the date of enactment of this Act, the Director shall transmit a report to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate, describing the training programs described in subsection (a) provided to graduate students who participated in the Integrative Graduate Education and Research Traineeship program. The report shall include data on the number of graduate students trained and a description of the types of activities funded.

42 USC
1862o-14.

SEC. 7036. MAJOR RESEARCH INSTRUMENTATION.

(a) **AWARD AMOUNT.**—The minimum amount of an award under the Major Research Instrumentation program shall be \$100,000. The maximum amount of an award under the program shall be \$4,000,000 except if the total amount appropriated for the program for a fiscal year exceeds \$125,000,000, in which case the maximum amount of an award shall be \$6,000,000.

(b) **USE OF FUNDS.**—In addition to the acquisition of instrumentation and equipment, funds made available by awards under the Major Research Instrumentation program may be used to support the operations and maintenance of such instrumentation and equipment.

(c) **COST SHARING.**—

(1) **IN GENERAL.**—An institution of higher education receiving an award under the Major Research Instrumentation program shall provide at least 30 percent of the cost from private or non-Federal sources.

(2) **EXCEPTIONS.**—Institutions of higher education that are not Ph.D.-granting institutions are exempt from the cost sharing requirement in paragraph (1), and the Director may reduce or waive the cost sharing requirement for—

(A) institutions—

(i) that are not ranked among the top 100 institutions receiving Federal research and development funding, as documented by the statistical data published by the Foundation; and

(ii) for which the proposed project will make a substantial improvement in the institution's capabilities to conduct leading edge research, to provide research experiences for undergraduate students using leading edge facilities, and to broaden the participation in science and engineering research by individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b); and

(B) consortia of institutions of higher education that include at least one institution that is not a Ph.D.-granting institution.

42 USC
1862o-15.

SEC. 7037. LIMIT ON PROPOSALS.

(a) **POLICY.**—For programs supported by the Foundation that require as part of the selection process for awards the submission of preproposals and that also limit the number of preproposals

that may be submitted by an institution, the Director shall allow the subsequent submission of a full proposal based on each preproposal that is determined to have merit following the Foundation's merit review process.

(b) **REVIEW AND ASSESSMENT OF POLICIES.**—The Board shall review and assess the effects on institutions of higher education of the policies of the Foundation regarding the imposition of limitations on the number of proposals that may be submitted by a single institution for programs supported by the Foundation. The Board shall determine whether current policies are well justified and appropriate for the types of programs that limit the number of proposal submissions. Not later than 1 year after the date of enactment of this Act, the Board shall summarize the Board's findings and any recommendations regarding changes to the current policy on the restriction of proposal submissions in a report to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate.

Deadline.
Reports.

TITLE VIII—GENERAL PROVISIONS

SEC. 8001. COLLECTION OF DATA RELATING TO TRADE IN SERVICES.

(a) **REPORT.**—Not later than January 31, 2008, the Secretary of Commerce, acting through the Director of the Bureau of Economic Analysis, shall report to Congress on the feasibility, annual cost, and potential benefits of a program to collect and study data relating to export and import of services.

(b) **PROGRAM.**—The proposed program to be studied under subsection (a) shall include requirements that the Secretary annually—

- (1) provide data collection and analysis relating to export and import of services;
- (2) collect and analyze data for service imports and exports in not less than 40 service industry categories, on a State-by-State basis;
- (3) collect data on, and analyze, the employment effects of exports and imports on the service industry; and
- (4) integrate ongoing and planned data collection and analysis initiatives in research and development and innovation.

SEC. 8002. SENSE OF THE SENATE REGARDING SMALL BUSINESS GROWTH AND CAPITAL MARKETS.

(a) **FINDINGS.**—Congress finds that—

- (1) the United States has the most fair, most transparent, and most efficient capital markets in the world, in part due to its strong securities statutory and regulatory scheme;
- (2) it is of paramount importance for the continued growth of the economy of the Nation, that our capital markets retain their leading position in the world;
- (3) small businesses are vital participants in United States capital markets, and play a critical role in future economic growth and high-wage job creation;
- (4) section 404 of the Sarbanes-Oxley Act of 2002 has greatly enhanced the quality of corporate governance and financial reporting for public companies and increased investor confidence;

(5) the Securities and Exchange Commission (referred to in this section as the “Commission”) and the Public Company Accounting Oversight Board (referred to in this section as the “PCAOB”) have both determined that the current auditing standard implementing section 404 of the Sarbanes-Oxley Act of 2002 has imposed unnecessary and unintended cost burdens on small and mid-sized public companies;

(6) the Commission and the PCAOB are now near completion of a 2-year process intended to revise the auditing standard in order to provide more efficient and effective regulation; and

(7) the Chairman of the Commission recently has said, with respect to section 404 of the Sarbanes-Oxley Act of 2002, that, “We don’t need to change the law, we need to change the way the law is implemented. It is the implementation of the law that has caused the excessive burden, not the law itself. That’s an important distinction. I don’t believe these important investor protections, which are even now only a few years old, should be opened up for amendment, or that they need to be.”

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Commission and the PCAOB should complete promulgation of the final rules implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262).

Deadline.
Reports.

SEC. 8003. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW OF ACTIVITIES, GRANTS, AND PROGRAMS.

Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress that—

(1) assesses and evaluates the effectiveness of a representative sample of the new or expanded programs and activities (including programs and activities carried out under grants) required to be carried out under this Act; and

(2) includes such recommendations as the Comptroller General determines are appropriate to ensure effectiveness of, or improvements to, the programs and activities, including termination of programs or activities.

SEC. 8004. SENSE OF THE SENATE REGARDING ANTI-COMPETITIVE TAX POLICY.

It is the sense of the Senate that Federal funds should not be provided to any organization or entity that advocates against a United States tax policy that is internationally competitive.

SEC. 8005. STUDY OF THE PROVISION OF ONLINE DEGREE PROGRAMS.

Deadline.
Contracts.
Reports.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Education shall enter into an arrangement with the National Academy of Sciences to conduct a study and provide a report to the Secretary, the Secretary of Commerce, and Congress. The study shall consider the mechanisms and supports needed for an institution of higher education (as defined in section 7001) or nonprofit organization to develop and maintain a program to provide free access to online educational content as part of a degree program, especially in science, technology, engineering, mathematics, or foreign languages, without using Federal funds, including funds provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) The study shall consider whether such a program could be developed

and managed by such institution of higher education or nonprofit organization and sustained through private funding. The study shall examine how such program can—

- (1) build on existing online programs, including making use of existing online courses;
- (2) modify or expand traditional course content for online educational content;
- (3) develop original course content for online courses and degree programs;
- (4) provide necessary laboratory experience for science, technology, and engineering courses;
- (5) be accepted for full credit by other institutions of higher education; and
- (6) provide credentials that would be recognized by employers, enabling program participants to attain employment.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2008.

SEC. 8006. SENSE OF THE SENATE REGARDING DEEMED EXPORTS.

It is the sense of the Senate that—

- (1) the policies of the United States Government relating to deemed exports should safeguard the national security of the United States and protect fundamental research;
- (2) the Department of Commerce has established the Deemed Export Advisory Committee to develop recommendations for improving current controls on deemed exports; and
- (3) the President and Congress should consider the recommendations of the Deemed Export Advisory Committee in the development and implementation of export control policies.

SEC. 8007. SENSE OF THE SENATE REGARDING CAPITAL MARKETS.

It is the sense of the Senate that—

- (1) Congress, the President, regulators, industry leaders, and other stakeholders should take the necessary steps to reclaim the preeminent position of the United States in the global financial services marketplace;
- (2) the Federal and State financial regulatory agencies should, to the maximum extent possible—
 - (A) coordinate activities on significant policy matters, so as not to impose regulations that may have adverse unintended consequences on innovativeness with respect to financial products, instruments, and services, or that impose regulatory costs that are disproportionate to their benefits; and
 - (B) at the same time, ensure that the regulatory framework overseeing the United States capital markets continues to promote and protect the interests of investors in those markets; and
- (3) given the complexity of the financial services marketplace, Congress should exercise vigorous oversight over Federal regulatory and statutory requirements affecting the financial services industry and consumers, with the goal of eliminating excessive regulation and problematic implementation of existing laws and regulations, while ensuring that necessary investor protections are not compromised.

20 USC 9801
note.

**SEC. 8008. ACCOUNTABILITY AND TRANSPARENCY OF ACTIVITIES
AUTHORIZED BY THIS ACT.**

Records.

Deadline.
Public
information.

Certification.

Deadline.
Public
information.

Effective date.

(a) **PROHIBITED USE OF FUNDS.**—A grant or contract funded by amounts authorized by this Act may not be used for the purpose of defraying the costs of a banquet or conference that is not directly and programmatically related to the purpose for which the grant or contract was awarded. A directly and programmatically related banquet or conference includes a banquet or conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract. Records of the total costs related to, and justifications for, all banquets and conferences shall be reported to the appropriate Department, Administration, or Foundation. Not later than 60 days after receipt of such records, the appropriate Department, Administration, or Foundation shall make the records available to the public.

(b) **CONFLICT OF INTEREST STATEMENT.**—Any person awarded a grant or contract funded by amounts authorized by this Act shall submit a statement to the Secretary of Commerce, the Secretary of Energy, the Secretary of Education, the Administrator, or the Director, as appropriate, certifying that no funds derived from the grant or contract will be made available through a sub-contract or in any other manner to another person who has a financial interest or other conflict of interest in the person awarded the grant or contract, unless such conflict is previously disclosed and approved in the process of entering into a contract or awarding a grant. Not later than 60 days after receipt of the certification, the appropriate Secretary, Administrator, or Director shall make all documents received that relate to the certification available to the public.

(c) **APPLICATION TO FEDERAL GRANTS AND CONTRACTS.**—Subsections (a) and (b) shall take effect 360 days after the date of enactment of this Act.

(d) **EXCEPTION.**—Subsections (a) and (b) shall not apply to grants or contracts authorized under sections 6201 and 6203.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 2272 (S. 761):

HOUSE REPORTS: No. 110–289 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 21, considered and passed House.

July 19, considered and passed Senate, amended.

Aug. 2, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Aug. 9, Presidential statement.



Public Law 110–70
110th Congress

An Act

To designate the facility of the United States Postal Service located at 3916 Milgen Road in Columbus, Georgia, as the “Frank G. Lumpkin, Jr. Post Office Building”.

Aug. 9, 2007
[H.R. 2309]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FRANK G. LUMPKIN, JR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 3916 Milgen Road in Columbus, Georgia, shall be known and designated as the “Frank G. Lumpkin, Jr. Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Frank G. Lumpkin, Jr. Post Office Building”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 2309:

CONGRESSIONAL RECORD, Vol. 153 (2007):
July 30, considered and passed House.
Aug. 3, considered and passed Senate.



Public Law 110–71
110th Congress

An Act

Aug. 9, 2007
[H.R. 2563]

To designate the facility of the United States Postal Service located at 309 East Linn Street in Marshalltown, Iowa, as the “Major Scott Nisely Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAJOR SCOTT NISELY POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 309 East Linn Street in Marshalltown, Iowa, shall be known and designated as the “Major Scott Nisely Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Major Scott Nisely Post Office”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 2563:

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 18, considered and passed House.

Aug. 3, considered and passed Senate.



Public Law 110–72
110th Congress

An Act

To designate the facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado, as the “Dr. Karl E. Carson Post Office Building”.

Aug. 9, 2007
[H.R. 2570]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DR. KARL E. CARSON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado, shall be known and designated as the “Dr. Karl E. Carson Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Dr. Karl E. Carson Post Office Building”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 2570 (S. 1732):

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 16, considered and passed House.

Aug. 3, considered and passed Senate.



Public Law 110–73
110th Congress

An Act

Aug. 9, 2007
[H.R. 2688]

To designate the facility of the United States Postal Service located at 103 South Getty Street in Uvalde, Texas, as the “Dolph Briscoe, Jr. Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DOLPH BRISCOE, JR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 103 South Getty Street in Uvalde, Texas, shall be known and designated as the “Dolph Briscoe, Jr. Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Dolph Briscoe, Jr. Post Office Building”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—H.R. 2688 (S. 1596):
CONGRESSIONAL RECORD, Vol. 153 (2007):
July 30, considered and passed House.
Aug. 3, considered and passed Senate.



Public Law 110–74
110th Congress

An Act

To amend chapter 89 of title 5, United States Code, to make individuals employed by the Roosevelt Campobello International Park Commission eligible to obtain Federal health insurance.

Aug. 9, 2007

[S. 1099]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HEALTH INSURANCE.

Section 8901(1) of title 5, United States Code, is amended—

(1) in subparagraph (H), by striking “and” at the end;
(2) in subparagraph (I), by inserting “and” after the semicolon; and

(3) by inserting before the matter following subparagraph (I) the following:

“(J) an individual who is employed by the Roosevelt Campobello International Park Commission and is a citizen of the United States.”.

Approved August 9, 2007.

LEGISLATIVE HISTORY—S. 1099:

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 22, considered and passed Senate.

July 30, considered and passed House.



Public Law 110–75
110th Congress

An Act

Aug. 13, 2007
[H.R. 2863]

To authorize the Coquille Indian Tribe of the State of Oregon to convey land and interests in land owned by the Tribe.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

25 USC 715h.

SECTION 1. LAND AND INTERESTS OF COQUILLE INDIAN TRIBE, OREGON.

(a) **IN GENERAL.**—Subject to subsections (b), (c), and (d) notwithstanding any other provision of law (including regulations), the Coquille Indian Tribe of the State of Oregon (including any agent or instrumentality of the Tribe) (referred to in this section as the “Tribe”), may transfer, lease, encumber, or otherwise convey, without further authorization or approval, all or any part of the Tribe’s interest in any real property that is not held in trust by the United States for the benefit of the Tribe.

(b) **NONAPPLICABILITY TO CERTAIN CONVEYANCES.**—Subsection (a) shall not apply with respect to any transfer, encumbrance, lease, or other conveyance of any land or interest in land of the Tribe that occurred before January 1, 2007.

(c) **EFFECT OF SECTION.**—Nothing in this section is intended to authorize the Tribe to transfer, lease, encumber, or otherwise convey, any lands, or any interest in any lands, that are held in trust by the United States for the benefit of the Tribe.

(d) **LIABILITY.**—The United States shall not be held liable to any party (including the Tribe or any agent or instrumentality of the Tribe) for any term of, or any loss resulting from the term of any transfer, lease, encumbrance, or conveyance of land made pursuant to this Act unless the United States or an agent or instrumentality of the United States is a party to the transaction or the United States would be liable pursuant to any other provision of law. This subsection shall not apply to land transferred or conveyed by the Tribe to the United States to be held in trust for the benefit of the Tribe.

Approved August 13, 2007.

LEGISLATIVE HISTORY—H.R. 2863:

HOUSE REPORTS: No. 110–274 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 30, considered and passed House.

Aug. 2, considered and passed Senate.



Public Law 110–76
110th Congress

An Act

To authorize the Saginaw Chippewa Tribe of Indians of the State of Michigan
to convey land and interests in land owned by the Tribe.

Aug. 13, 2007
[H.R. 2952]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. LAND AND INTERESTS OF THE SAGINAW CHIPPEWA INDIAN
TRIBE OF MICHIGAN.**

(a) IN GENERAL.—Subject to subsections (b) and (c), notwithstanding any other provision of law (including regulations), the Saginaw Chippewa Indian Tribe of Michigan (including any agent or instrumentality of the Tribe) (referred to in this section as the “Tribe”), may transfer, lease, encumber, or otherwise convey, without further authorization or approval, all or any part of the Tribe’s interest in any real property that is not held in trust by the United States for the benefit of the Tribe.

(b) EFFECT OF SECTION.—Nothing in this section is intended to authorize the Tribe to transfer, lease, encumber, or otherwise convey, any lands, or any interest in any lands, that are held in trust by the United States for the benefit of the Tribe.

(c) LIABILITY.—The United States shall not be held liable to any party (including the Tribe or any agent or instrumentality of the Tribe) for any term of, or any loss resulting from the term of any transfer, lease, encumbrance, or conveyance of land made pursuant to this Act unless the United States or an agent or instrumentality of the United States is a party to the transaction or the United States would be liable pursuant to any other provision of law. This subsection shall not apply to land transferred or conveyed by the Tribe to the United States to be held in trust for the benefit of the Tribe.

Approved August 13, 2007.

LEGISLATIVE HISTORY—H.R. 2952:

HOUSE REPORTS: No. 110–275 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 30, considered and passed House.

Aug. 2, considered and passed Senate.



Public Law 110–77
110th Congress

An Act

Aug. 13, 2007
[H.R. 3006]

To improve the use of a grant of a parcel of land to the State of Idaho for use as an agricultural college, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AGRICULTURAL COLLEGE LAND GRANT.

(a) IN GENERAL.—Section 10 of the Act of July 3, 1890 (26 Stat. 215, chapter 656) is amended—

(1) by inserting “(a)” after “SEC. 10.”; and

(2) by adding at the end the following:

“(b) Notwithstanding sections 3 through 5 of the Act of July 2, 1862 (commonly known as the ‘First Morrill Act’) (7 U.S.C. 303 et seq.), the State of Idaho may—

“(1) invest and manage earnings and proceeds derived from land granted to the State of Idaho pursuant to subsection (a), in accordance with the standards applicable to a trustee under Idaho law;

“(2) deduct from earnings and proceeds generated from granted land any expenses that a trustee is authorized to deduct pursuant to Idaho law; and

“(3) use earnings and proceeds generated by the granted land for any uses and purposes described in that Act (7 U.S.C. 301 et seq.) without regard to the limitations set out in section 5 of that Act (7 U.S.C. 305) that prohibit the State from exceeding 10 per centum on the purchase of land and prohibit the State from purchasing, erecting, preserving, or repairing of any building or buildings.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 27, 1998.

Approved August 13, 2007.

LEGISLATIVE HISTORY—H.R. 3006:

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 30, considered and passed House.

Aug. 3, considered and passed Senate.



Public Law 110–78
110th Congress

An Act

To waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United States to 2 Indian tribes in the State of Oregon, and for other purposes.

Aug. 13, 2007
[S. 375]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

With respect to the parcel of real property in Marion County, Oregon, deeded by the United States to the Confederated Tribes of Siletz Indians of Oregon and the Confederated Tribes of the Grand Ronde Community of Oregon by quitclaim deed dated June 18, 2002, and recorded in the public records of Marion County on June 19, 2002, Congress finds that—

(1) the parcel of land described in the quitclaim deed, comprising approximately 19.86 acres of land originally used as part of the Chemawa Indian School, was transferred by the United States in 1973 and 1974 to the State of Oregon for use for highway and associated road projects;

(2) Interstate Route 5 and the Salem Parkway were completed, and in 1988 the Oregon Department of Transportation deeded the remaining acreage of the parcel back to the United States;

(3) the United States could no longer use the returned acreage for the administration of Indian affairs, and determined it would be most appropriate to transfer the property to the Confederated Tribes of Siletz Indians of Oregon and the Confederated Tribes of the Grand Ronde Community of Oregon;

(4) on request of the Confederated Tribes of Siletz Indians of Oregon and the Confederated Tribes of the Grand Ronde Community of Oregon, the United States transferred the parcel jointly to the Tribes for economic development and other purposes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

(5) the transfer of the parcel was memorialized by the United States in 2 documents, including—

(A) an agreement titled “Agreement for Transfer of Federally Owned Buildings, Improvements, Facilities and/or Land from the United States of America the [sic] Confederated Tribes of the Grand Ronde Community of Oregon and the Confederated Tribes of Siletz Tribe [sic] of Oregon”, dated June 21, 2001; and

(B) a quitclaim deed dated June 18, 2002, and recorded in the public records of Marion County, Oregon, on June 19, 2002 (reel 1959, page 84);

(6) use of the parcel by Tribes for economic development purposes is consistent with the intent and language of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and other Federal Indian law—

(A) to encourage tribal economic development; and

(B) to promote economic self-sufficiency for Indian tribes;

(7) the United States does not desire the return of the parcel and does not intend under any circumstances to take action under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or any other legal authority to seek the return of the parcel; and

(8) in reliance on this intent, the Tribes have committed over \$2,500,000 to infrastructure improvements to the parcel, including roads and sewer and water systems, and have approved plans to further develop the parcel for economic purposes, the realization of which is dependent on the ability of the Tribes to secure conventional financing.

SEC. 2. WAIVER OF APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

(a) **NONAPPLICATION OF LAW.**—Notwithstanding any other provision of law, the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not apply to the transfer of the parcel of real property in Marion County, Oregon, deeded by the United States to the Confederated Tribes of Siletz Indians of Oregon and the Confederated Tribes of the Grand Ronde Community of Oregon by quitclaim deed dated June 18, 2002, and recorded in the public records of Marion County on June 19, 2002.

(b) **NEW DEED.**—The Secretary of the Interior shall issue a new deed to the Tribes to the parcel described in subsection (a) that shall not include—

(1) any restriction on the right to alienate the parcel;

or

(2) any reference to any provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(c) **PROHIBITION ON GAMING.**—Class II gaming and class III gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701

et seq.) shall not be conducted on the parcel described in subsection (a).

Approved August 13, 2007.

LEGISLATIVE HISTORY—S. 375:

HOUSE REPORTS: No. 110–276 (Comm. on Natural Resources).

SENATE REPORTS: No. 110–44 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 22, considered and passed Senate.

July 30, considered and passed House.



Public Law 110–79
110th Congress

An Act

Aug. 13, 2007
[S. 975]

Granting the consent and approval of Congress to an interstate forest fire protection compact.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS.

(a) **IN GENERAL.**—The consent and approval of Congress is given to an interstate forest fire protection compact, as set out in subsection (b).

(b) **COMPACT.**—The compact reads substantially as follows:

“THE GREAT PLAINS WILDLAND FIRE PROTECTION AGREEMENT

“THIS AGREEMENT is entered into by and between the State, Provincial and Territorial wildland fire protection agencies signatory hereto, hereinafter referred to as ‘Members’.

“FOR, AND IN CONSIDERATION OF the following terms and conditions, the Members agree:

“ARTICLE I

State listing.

“The purpose of this compact is to promote effective prevention and control of forest fires in the Great Plains region of the United States by the maintenance of adequate forest fire fighting services by the member states, and by providing for reciprocal aid in fighting forest fires among the compacting states of the region, including South Dakota, North Dakota, Wyoming, Colorado, and any adjoining state of a current member state.

“ARTICLE II

“This compact is operative immediately as to those states ratifying it if any two or more of the member states have ratified it.

“ARTICLE III

“In each state, the state forester or officer holding the equivalent position who is responsible for forest fire control may act as compact administrator for that state and may consult with like officials of the other member states and may implement cooperation between the states in forest fire prevention and control. The compact administrators of the member states may organize

to coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact. Each member state may formulate and put in effect a forest fire plan for that state.

“ARTICLE IV

“If the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling, or preventing forest fires, the state forest fire control agency of that state may render all possible aid to the requesting agency, consonant with the maintenance of protection at home.

“ARTICLE V

“If the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of the state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges, and immunities as comparable employees of the state to which they are rendering aid.

“No member state or its officers or employees rendering outside aid pursuant to this compact is liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection with rendering the outside aid.

“All liability, except as otherwise provided in this compact, that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

“Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving the aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and maintenance of employees and equipment incurred in connection with such request. However, nothing in this compact prevents any assisting member state from assuming such loss, damage, expense, or other cost or from loaning such equipment or from donating such services to the receiving member state without charge or cost.

“Each member state shall assure that workers compensation benefits in conformity with the minimum legal requirements of the state are available to all employees and contract firefighters sent to a requesting state pursuant to this compact.

“For the purposes of this compact the term, employee, includes any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding state under the laws of the aiding state.

“The compact administrators may formulate procedures for claims and reimbursement under the provisions of this article, in accordance with the laws of the member states.

“ARTICLE VI

“Ratification of this compact does not affect any existing statute so as to authorize or permit curtailment or diminution of the forest fighting forces, equipment, services, or facilities of any member state.

“Nothing in this compact authorizes or permits any member state to curtail or diminish its forest fire fighting forces, equipment, services, or facilities. Each member state shall maintain adequate forest fighting forces and equipment to meet demands for forest fire protection within its borders in the same manner and to the same extent as if this compact were not operative.

“Nothing in this compact limits or restricts the powers of any state ratifying the compact to provide for the prevention, control, and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules, or regulations intended to aid in the prevention, control, and extinguishment in the state.

“Nothing in this compact affects any existing or future cooperative relationship or arrangement between the United States Forest Service and a member state or states.

“ARTICLE VII

“Representatives of the United States Forest Service may attend meetings of the compact administrators.

“ARTICLE VIII

“The provisions of Articles IV and V of this compact that relate to reciprocal aid in combating, controlling, or preventing forest fires are operative as between any state party to this compact and any other state which is party to this compact and any other state that is party to a regional forest fire protection compact in another region if the Legislature of the other state has given its assent to the mutual aid provisions of this compact.

“ARTICLE IX

“This compact shall continue in force and remain binding on each state ratifying it until the Legislature or the Governor of the state takes action to withdraw from the compact. Such action is not effective until six months after notice of the withdrawal

Effective date.
Notification.

has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.”.

Approved August 13, 2007.

LEGISLATIVE HISTORY—S. 975:

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 13, considered and passed Senate.

July 30, considered and passed House.



Public Law 110–80
110th Congress

An Act

Aug. 13, 2007
[S. 1716]

To amend the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, to strike a requirement relating to forage producers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTRACT WAIVER.

Ante, p. 218.

The U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 112) is amended by striking section 9012.

Approved August 13, 2007.

LEGISLATIVE HISTORY—S. 1716:

CONGRESSIONAL RECORD, Vol. 153 (2007):
July 25, considered and passed Senate.
July 30, considered and passed House.



Public Law 110–81
110th Congress

An Act

To provide greater transparency in the legislative process.

Sept. 14, 2007

[S. 1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Honest Leadership and Open Government Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Honest
Leadership
and Open
Government
Act of 2007.
2 USC 1601 note.

Sec. 1. Short title and table of contents.

TITLE I—CLOSING THE REVOLVING DOOR

- Sec. 101. Amendments to restrictions on former officers, employees, and elected officials of the executive and legislative branches.
- Sec. 102. Wrongfully influencing a private entity’s employment decisions or practices.
- Sec. 103. Notification of post-employment restrictions.
- Sec. 104. Exception to restrictions on former officers, employees, and elected officials of the executive and legislative branch.
- Sec. 105. Effective date.

TITLE II—FULL PUBLIC DISCLOSURE OF LOBBYING

- Sec. 201. Quarterly filing of lobbying disclosure reports.
- Sec. 202. Additional disclosure.
- Sec. 203. Semiannual reports on certain contributions.
- Sec. 204. Disclosure of bundled contributions.
- Sec. 205. Electronic filing of lobbying disclosure reports.
- Sec. 206. Prohibition on provision of gifts or travel by registered lobbyists to Members of Congress and to congressional employees.
- Sec. 207. Disclosure of lobbying activities by certain coalitions and associations.
- Sec. 208. Disclosure by registered lobbyists of past executive branch and congressional employment.
- Sec. 209. Public availability of lobbying disclosure information; maintenance of information.
- Sec. 210. Disclosure of enforcement for noncompliance.
- Sec. 211. Increased civil and criminal penalties for failure to comply with lobbying disclosure requirements.
- Sec. 212. Electronic filing and public database for lobbyists for foreign governments.
- Sec. 213. Comptroller General audit and annual report.
- Sec. 214. Sense of Congress.
- Sec. 215. Effective date.

TITLE III—MATTERS RELATING TO THE HOUSE OF REPRESENTATIVES

- Sec. 301. Disclosure by Members and staff of employment negotiations.
- Sec. 302. Prohibition on lobbying contacts with spouse of Member who is a registered lobbyist.
- Sec. 303. Treatment of firms and other businesses whose members serve as House committee consultants.
- Sec. 304. Posting of travel and financial disclosure reports on public website of Clerk of the House of Representatives.

Sec. 305. Prohibiting participation in lobbyist-sponsored events during political conventions.

Sec. 306. Exercise of rulemaking Authority.

TITLE IV—CONGRESSIONAL PENSION ACCOUNTABILITY

Sec. 401. Loss of pensions accrued during service as a Member of Congress for abusing the public trust.

TITLE V—SENATE LEGISLATIVE TRANSPARENCY AND ACCOUNTABILITY

Subtitle A—Procedural Reform

Sec. 511. Amendments to rule XXVIII.

Sec. 512. Notice of objecting to proceeding.

Sec. 513. Public availability of Senate committee and subcommittee meetings.

Sec. 514. Amendments and motions to recommit.

Sec. 515. Sense of the Senate on conference committee protocols.

Subtitle B—Earmark Reform

Sec. 521. Congressionally directed spending.

Subtitle C—Revolving Door Reform

Sec. 531. Post-employment restrictions.

Sec. 532. Disclosure by Members of Congress and staff of employment negotiations.

Sec. 533. Elimination of floor privileges for former Members, Senate officers, and Speakers of the House who are registered lobbyists or seek financial gain.

Sec. 534. Influencing hiring decisions.

Sec. 535. Notification of post-employment restrictions.

Subtitle D—Gift and Travel Reform

Sec. 541. Ban on gifts from registered lobbyists and entities that hire registered lobbyists.

Sec. 542. National party conventions.

Sec. 543. Proper valuation of tickets to entertainment and sporting events.

Sec. 544. Restrictions on registered lobbyist participation in travel and disclosure.

Sec. 545. Free attendance at a constituent event.

Sec. 546. Senate privately paid travel public website.

Subtitle E—Other Reforms

Sec. 551. Compliance with lobbying disclosure.

Sec. 552. Prohibit official contact with spouse or immediate family member of Member who is a registered lobbyist.

Sec. 553. Mandatory Senate ethics training for Members and staff.

Sec. 554. Annual report by Select Committee on Ethics.

Sec. 555. Exercise of rulemaking powers.

Sec. 556. Effective date and general provisions.

TITLE VI—PROHIBITED USE OF PRIVATE AIRCRAFT

Sec. 601. Restrictions on Use of Campaign Funds for Flights on Noncommercial Aircraft.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Sense of the Congress that any applicable restrictions on congressional officials and employees should apply to the executive and judicial branches.

Sec. 702. Knowing and willful falsification or failure to report.

Sec. 703. Rule of construction.

TITLE I—CLOSING THE REVOLVING DOOR

SEC. 101. AMENDMENTS TO RESTRICTIONS ON FORMER OFFICERS, EMPLOYEES, AND ELECTED OFFICIALS OF THE EXECUTIVE AND LEGISLATIVE BRANCHES.

(a) VERY SENIOR EXECUTIVE PERSONNEL.—The matter after subparagraph (C) in section 207(d)(1) of title 18, United States

Code, is amended by striking “within 1 year” and inserting “within 2 years”.

(b) RESTRICTIONS ON LOBBYING BY MEMBERS OF CONGRESS AND EMPLOYEES OF CONGRESS.—Subsection (e) of section 207 of title 18, United States Code, is amended—

(1) by redesignating paragraph (7) as paragraph (9);

(2) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(3) by striking paragraph (1) and inserting the following:

“(1) MEMBERS OF CONGRESS AND ELECTED OFFICERS OF THE HOUSE.—

“(A) SENATORS.—Any person who is a Senator and who, within 2 years after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any Member, officer, or employee of either House of Congress or any employee of any other legislative office of the Congress, on behalf of any other person (except the United States) in connection with any matter on which such former Senator seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

“(B) MEMBERS AND OFFICERS OF THE HOUSE OF REPRESENTATIVES.—(i) Any person who is a Member of the House of Representatives or an elected officer of the House of Representatives and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in clause (ii) or (iii), on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

“(ii) The persons referred to in clause (i) with respect to appearances or communications by a former Member of the House of Representatives are any Member, officer, or employee of either House of Congress and any employee of any other legislative office of the Congress.

“(iii) The persons referred to in clause (i) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Representatives.

“(2) OFFICERS AND STAFF OF THE SENATE.—Any person who is an elected officer of the Senate, or an employee of the Senate to whom paragraph (7)(A) applies, and who, within 1 year after that person leaves office or employment, knowingly makes, with the intent to influence, any communication to or appearance before any Senator or any officer or employee of the Senate, on behalf of any other person (except the United States) in connection with any matter on which such former elected officer or former employee seeks action by a Senator or an officer or employee of the Senate, in his or her official capacity, shall be punished as provided in section 216 of this title.”;

(4) in paragraph (3) (as redesignated by paragraph (2) of this subsection)—

(A) in subparagraph (A), by striking “of a Senator or an employee of a Member of the House of Representatives” and inserting “of a Member of the House of Representatives to whom paragraph (7)(A) applies”; and

(B) in subparagraph (B)—

(i) in clause (i), by striking “Senator or”; and

(ii) in clause (ii), by striking “Senator or”;

(5) in paragraph (4) (as redesignated by paragraph (2) of this subsection)—

(A) by striking “committee of Congress” and inserting “committee of the House of Representatives, or an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, to whom paragraph (7)(A) applies”; and

(B) by inserting “or joint committee (as the case may be)” after “committee” each subsequent place that term appears;

(6) in paragraph (5) (as redesignated by paragraph (2) of this subsection)—

(A) in subparagraph (A), by striking “or an employee on the leadership staff of the Senate” and inserting “to whom paragraph (7)(A) applies”; and

(B) in subparagraph (B), by striking “the following:” and all that follows through the end of clause (ii) and inserting “any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives.”;

(7) in paragraph (6)(A) (as redesignated by paragraph (2) of this subsection), by inserting “to whom paragraph (7)(B) applies” after “office of the Congress”;

(8) in paragraph (7) (as redesignated by paragraph (2) of this subsection)—

(A) in subparagraph (A), by striking “and (4)” and inserting “(4), and (5)”; and

(B) in subparagraph (B)—

(i) by striking “(5)” and inserting “(6)”; and

(ii) in subparagraph (B), by striking “(or any comparable adjustment pursuant to interim authority of the President)”; and

(iii) by striking “level 5 of the Senior Executive Service” and inserting “level IV of the Executive Schedule”;

(9) by inserting after paragraph (7) (as redesignated by paragraph (2) of this subsection) the following:

“(8) EXCEPTION.—This subsection shall not apply to contacts with the staff of the Secretary of the Senate or the Clerk of the House of Representatives regarding compliance with lobbying disclosure requirements under the Lobbying Disclosure Act of 1995.”; and

(10) in paragraph (9)(G) (as redesignated by paragraph (1) of this subsection)—

(A) by striking “the Copyright Royalty Tribunal,”; and

(B) by striking “or (4)” and inserting “(4), or (5)”.

SEC. 102. WRONGFULLY INFLUENCING A PRIVATE ENTITY'S EMPLOYMENT DECISIONS OR PRACTICES.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

“§ 227. Wrongfully influencing a private entity's employment decisions by a Member of Congress

“Whoever, being a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress or an employee of either House of Congress, with the intent to influence, solely on the basis of partisan political affiliation, an employment decision or employment practice of any private entity—

Penalties.

“(1) takes or withholds, or offers or threatens to take or withhold, an official act, or

“(2) influences, or offers or threatens to influence, the official act of another,

shall be fined under this title or imprisoned for not more than 15 years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.”.

(b) NO INFERENCE.—Nothing in section 227 of title 18, United States Code, as added by this section, shall be construed to create any inference with respect to whether the activity described in section 227 of title 18, United States Code, was a criminal or civil offense before the enactment of this Act, including under section 201(b), 201(c), any of sections 203 through 209, or section 872, of title 18, United States Code.

18 USC 227 note.

(c) CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

“227. Wrongfully influencing a private entity's employment decisions by a Member of Congress.”.

SEC. 103. NOTIFICATION OF POST-EMPLOYMENT RESTRICTIONS.

2 USC 104d.

(a) NOTIFICATION OF POST-EMPLOYMENT RESTRICTIONS.—After a Member of Congress or an elected officer of either House of Congress leaves office, or after the termination of employment with the House of Representatives or the Senate of an employee who is covered under paragraph (2), (3), (4), or (5) of section 207(e) of title 18, United States Code, the Clerk of the House of Representatives, after consultation with the Committee on Standards of Official Conduct, or the Secretary of the Senate, as the case may be, shall notify the Member, officer, or employee of the beginning and ending date of the prohibitions that apply to the Member, officer, or employee under section 207(e) of that title.

(b) POSTING ON INTERNET.—The Clerk of the House of Representatives, with respect to notifications under subsection (a) relating to Members, officers, and employees of the House, and the Secretary of the Senate, with respect to such notifications relating to Members, officers, and employees of the Senate, shall post the information contained in such notifications on the public Internet site of the Office of the Clerk or the Secretary of the Senate, as the case may be, in a format that, to the extent technically practicable, is searchable, sortable, and downloadable.

SEC. 104. EXCEPTION TO RESTRICTIONS ON FORMER OFFICERS, EMPLOYEES, AND ELECTED OFFICIALS OF THE EXECUTIVE AND LEGISLATIVE BRANCH.

(a) IN GENERAL.—Section 207(j)(1) of title 18, United States Code, is amended—

(1) by striking “The restrictions” and inserting the following:

“(A) IN GENERAL.—The restrictions”;

(2) by moving the remaining text 2 ems to the right; and

(3) by adding at the end the following:

“(B) TRIBAL ORGANIZATIONS AND INTER-TRIBAL CONSORTIUMS.—The restrictions contained in this section shall not apply to acts authorized by section 104(j) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450i(j)).”.

(b) CONFORMING AMENDMENT.—Section 104(j) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450i(j)) is amended to read as follows:

“(j) Anything in sections 205 and 207 of title 18, United States Code, to the contrary notwithstanding—

“(1) an officer or employee of the United States assigned to a tribal organization (as defined in section 4(l)) or an inter-tribal consortium (as defined in section 501), as authorized under section 3372 of title 5, United States Code, or section 2072 of the Revised Statutes (25 U.S.C. 48) may act as agent or attorney for, and appear on behalf of, such tribal organization or inter-tribal consortium in connection with any matter related to a tribal governmental activity or Federal Indian program or service pending before any department, agency, court, or commission, including any matter in which the United States is a party or has a direct and substantial interest: *Provided*, That such officer or employee must advise in writing the head of the department, agency, court, or commission with which the officer or employee is dealing or appearing on behalf of the tribal organization or inter-tribal consortium of any personal and substantial involvement with the matter involved; and

“(2) a former officer or employee of the United States who is carrying out official duties as an employee or as an elected or appointed official of a tribal organization (as defined in section 4(l)) or inter-tribal consortium (as defined in section 501) may act as agent or attorney for, and appear on behalf of, such tribal organization or intra-tribal consortium in connection with any matter related to a tribal governmental activity or Federal Indian program or service pending before any department, agency, court, or commission, including any matter in which the United States is a party or has a direct and substantial interest: *Provided*, That such former officer or employee must advise in writing the head of the department, agency, court, or commission with which the former officer or employee is dealing or appearing on behalf of the tribal organization or inter-tribal consortium of any personal and substantial involvement that he or she may have had as an officer or employee of the United States in connection with the matter involved.”.

18 USC 207 note.

(c) EFFECT OF SECTION.—Except as expressly identified in this section and in the amendments made by this section, nothing in

this section or the amendments made by this section affects any other provision of law.

SEC. 105. EFFECTIVE DATE.

(a) SECTION 101.—The amendments made by section 101 shall apply to individuals who leave Federal office or employment to which such amendments apply on or after the date of adjournment of the first session of the 110th Congress sine die or December 31, 2007, whichever date is earlier. 18 USC 207 note.

(b) SECTION 102.—The amendments made by section 102 shall take effect on the date of the enactment of this Act. 2 USC 227 note.

(c) SECTION 103.— 2 USC 104d note.

(1) NOTIFICATION OF POST-EMPLOYMENT RESTRICTIONS.—Subsection (a) of section 103 shall take effect on the 60th day after the date of the enactment of this Act.

(2) POSTING OF INFORMATION.—Subsection (b) of section 103 shall take effect January 1, 2008, except that the Secretary of the Senate and the Clerk of the House of Representatives shall post the information contained in notifications required by that subsection that are made on or after the effective date provided under paragraph (1) of this subsection.

(d) SECTION 104.—The amendments made by section 104 shall take effect on the date of the enactment of this Act, except that section 104(j)(2) of the Indian Self-Determination and Education Assistance Act (as amended by section 104(b)) shall apply to individuals who leave Federal office or employment to which such amendments apply on or after the 60th day after the date of the enactment of this Act. 25 USC 450i note.

TITLE II—FULL PUBLIC DISCLOSURE OF LOBBYING

SEC. 201. QUARTERLY FILING OF LOBBYING DISCLOSURE REPORTS.

(a) QUARTERLY FILING REQUIRED.—Section 5 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604) is amended—

(1) in subsection (a)—

(A) by striking “SEMIANNUAL” and inserting “QUARTERLY”;

(B) by striking “45 days” and all that follows through “section 4,” and inserting “20 days after the end of the quarterly period beginning on the first day of January, April, July, and October of each year in which a registrant is registered under section 4, or on the first business day after such 20th day if the 20th day is not a business day,”; and

(C) by striking “such semiannual period” and inserting “such quarterly period”; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “semiannual report” and inserting “quarterly report”;

(B) in paragraph (2), by striking “semiannual filing period” and inserting “quarterly period”;

(C) in paragraph (3), by striking “semiannual period” and inserting “quarterly period”; and

(D) in paragraph (4), by striking “semiannual filing period” and inserting “quarterly period”.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 3(10) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602) is amended by striking “six month period” and inserting “3-month period”.

(2) REGISTRATION.—Section 4 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603) is amended—

(A) in subsection (a)(1), by inserting after “earlier,” the following: “or on the first business day after such 45th day if the 45th day is not a business day,”; and

(B) in subsection (a)(3)(A), by striking “semiannual period” and inserting “quarterly period”.

(3) ENFORCEMENT.—Section 6 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605) is amended in paragraph (6) by striking “semiannual period” and inserting “quarterly period”.

(4) ESTIMATES.—Section 15 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1610) is amended—

(A) in subsection (a)(1), by striking “semiannual period” and inserting “quarterly period”; and

(B) in subsection (b)(1), by striking “semiannual period” and inserting “quarterly period”.

(5) DOLLAR AMOUNTS.—Section 4 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603) is further amended—

(A) in subsection (a)(3)(A)(i), by striking “\$5,000” and inserting “\$2,500”;

(B) in subsection (a)(3)(A)(ii), by striking “\$20,000” and inserting “\$10,000”;

(C) in subsection (b)(3)(A), by striking “\$10,000” and inserting “\$5,000”; and

(D) in subsection (b)(4), by striking “\$10,000” and inserting “\$5,000”.

(6) REPORTS.—Section 5(c) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604(c)) is further amended—

(A) in paragraph (1), by striking “\$10,000” and “\$20,000” and inserting “\$5,000” and “\$10,000”, respectively; and

(B) in paragraph (2), by striking “\$10,000” both places such term appears and inserting “\$5,000”.

SEC. 202. ADDITIONAL DISCLOSURE.

Section 5(b) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604(b)) is amended—

(1) in paragraph (3), by striking “and” after the semicolon;

(2) in paragraph (4), by striking the period and inserting “; and”; and

(3) by adding at the end of the following:

“(5) for each client, immediately after listing the client, an identification of whether the client is a State or local government or a department, agency, special purpose district, or other instrumentality controlled by one or more State or local governments.”.

SEC. 203. SEMIANNUAL REPORTS ON CERTAIN CONTRIBUTIONS.

(a) OTHER CONTRIBUTIONS.—Section 5 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604) is further amended by adding at the end the following:

“(d) SEMIANNUAL REPORTS ON CERTAIN CONTRIBUTIONS.—

“(1) IN GENERAL.—Not later than 30 days after the end of the semiannual period beginning on the first day of January

and July of each year, or on the first business day after such 30th day if the 30th day is not a business day, each person or organization who is registered or is required to register under paragraph (1) or (2) of section 4(a), and each employee who is or is required to be listed as a lobbyist under section 4(b)(6) or subsection (b)(2)(C) of this section, shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives containing—

“(A) the name of the person or organization;

“(B) in the case of an employee, his or her employer;

“(C) the names of all political committees established or controlled by the person or organization;

“(D) the name of each Federal candidate or officeholder, leadership PAC, or political party committee, to whom aggregate contributions equal to or exceeding \$200 were made by the person or organization, or a political committee established or controlled by the person or organization within the semiannual period, and the date and amount of each such contribution made within the semiannual period;

“(E) the date, recipient, and amount of funds contributed or disbursed during the semiannual period by the person or organization or a political committee established or controlled by the person or organization—

“(i) to pay the cost of an event to honor or recognize a covered legislative branch official or covered executive branch official;

“(ii) to an entity that is named for a covered legislative branch official, or to a person or entity in recognition of such official;

“(iii) to an entity established, financed, maintained, or controlled by a covered legislative branch official or covered executive branch official, or an entity designated by such official; or

“(iv) to pay the costs of a meeting, retreat, conference, or other similar event held by, or in the name of, 1 or more covered legislative branch officials or covered executive branch officials,

except that this subparagraph shall not apply if the funds are provided to a person who is required to report the receipt of the funds under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

“(F) the name of each Presidential library foundation, and each Presidential inaugural committee, to whom contributions equal to or exceeding \$200 were made by the person or organization, or a political committee established or controlled by the person or organization, within the semiannual period, and the date and amount of each such contribution within the semiannual period; and

“(G) a certification by the person or organization filing the report that the person or organization—

“(i) has read and is familiar with those provisions of the Standing Rules of the Senate and the Rules of the House of Representatives relating to the provision of gifts and travel; and

“(ii) has not provided, requested, or directed a gift, including travel, to a Member of Congress or an

officer or employee of either House of Congress with knowledge that receipt of the gift would violate rule XXXV of the Standing Rules of the Senate or rule XXV of the Rules of the House of Representatives.

“(2) DEFINITION.—In this subsection, the term ‘leadership PAC’ has the meaning given such term in section 304(i)(8)(B) of the Federal Election Campaign Act of 1971.”

2 USC 1604 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to the first semiannual period described in section 5(d)(1) of the Lobbying Disclosure Act of 1995 (as added by this section) that begins after the date of the enactment of this Act and each succeeding semiannual period.

(c) REPORT ON REQUIRING QUARTERLY REPORTS.—The Clerk of the House of Representatives and the Secretary of the Senate shall submit a report to the Congress, not later than 1 year after the date on which the first reports are required to be made under section 5(d) of the Lobbying Disclosure Act of 1995 (as added by this section), on the feasibility of requiring the reports under such section 5(d) to be made on a quarterly, rather than a semiannual, basis.

(d) SENSE OF CONGRESS.—It is the sense of the Congress that after the end of the 2-year period beginning on the day on which the amendment made by subsection (a) of this section first applies, the reports required under section 5(d) of the Lobbying Disclosure Act of 1995 (as added by this section) should be made on a quarterly basis if it is practicably feasible to do so.

SEC. 204. DISCLOSURE OF BUNDLED CONTRIBUTIONS.

(a) DISCLOSURE.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

“(i) DISCLOSURE OF BUNDLED CONTRIBUTIONS.—

Reports.

“(1) REQUIRED DISCLOSURE.—Each committee described in paragraph (6) shall include in the first report required to be filed under this section after each covered period (as defined in paragraph (2)) a separate schedule setting forth the name, address, and employer of each person reasonably known by the committee to be a person described in paragraph (7) who provided 2 or more bundled contributions to the committee in an aggregate amount greater than the applicable threshold (as defined in paragraph (3)) during the covered period, and the aggregate amount of the bundled contributions provided by each such person during the covered period.

“(2) COVERED PERIOD.—In this subsection, a ‘covered period’ means, with respect to a committee—

“(A) the period beginning January 1 and ending June 30 of each year;

“(B) the period beginning July 1 and ending December 31 of each year; and

“(C) any reporting period applicable to the committee under this section during which any person described in paragraph (7) provided 2 or more bundled contributions to the committee in an aggregate amount greater than the applicable threshold.

“(3) APPLICABLE THRESHOLD.—

“(A) IN GENERAL.—In this subsection, the ‘applicable threshold’ is \$15,000, except that in determining whether

the amount of bundled contributions provided to a committee by a person described in paragraph (7) exceeds the applicable threshold, there shall be excluded any contribution made to the committee by the person or the person's spouse.

“(B) INDEXING.—In any calendar year after 2007, section 315(c)(1)(B) shall apply to the amount applicable under subparagraph (A) in the same manner as such section applies to the limitations established under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h) of such section, except that for purposes of applying such section to the amount applicable under subparagraph (A), the ‘base period’ shall be 2006.

“(4) PUBLIC AVAILABILITY.—The Commission shall ensure that, to the greatest extent practicable—

Websites.

“(A) information required to be disclosed under this subsection is publicly available through the Commission website in a manner that is searchable, sortable, and downloadable; and

“(B) the Commission's public database containing information disclosed under this subsection is linked electronically to the websites maintained by the Secretary of the Senate and the Clerk of the House of Representatives containing information filed pursuant to the Lobbying Disclosure Act of 1995.

Internet.

“(5) REGULATIONS.—Not later than 6 months after the date of enactment of the Honest Leadership and Open Government Act of 2007, the Commission shall promulgate regulations to implement this subsection. Under such regulations, the Commission—

Deadlines.

“(A) may, notwithstanding paragraphs (1) and (2), provide for quarterly filing of the schedule described in paragraph (1) by a committee which files reports under this section more frequently than on a quarterly basis;

“(B) shall provide guidance to committees with respect to whether a person is reasonably known by a committee to be a person described in paragraph (7), which shall include a requirement that committees consult the websites maintained by the Secretary of the Senate and the Clerk of the House of Representatives containing information filed pursuant to the Lobbying Disclosure Act of 1995;

“(C) may not exempt the activity of a person described in paragraph (7) from disclosure under this subsection on the grounds that the person is authorized to engage in fundraising for the committee or any other similar grounds; and

“(D) shall provide for the broadest possible disclosure of activities described in this subsection by persons described in paragraph (7) that is consistent with this subsection.

“(6) COMMITTEES DESCRIBED.—A committee described in this paragraph is an authorized committee of a candidate, a leadership PAC, or a political party committee.

“(7) PERSONS DESCRIBED.—A person described in this paragraph is any person, who, at the time a contribution is forwarded to a committee as described in paragraph (8)(A)(i) or

is received by a committee as described in paragraph (8)(A)(ii), is—

“(A) a current registrant under section 4(a) of the Lobbying Disclosure Act of 1995;

“(B) an individual who is listed on a current registration filed under section 4(b)(6) of such Act or a current report under section 5(b)(2)(C) of such Act; or

“(C) a political committee established or controlled by such a registrant or individual.

“(8) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

“(A) BUNDLED CONTRIBUTION.—The term ‘bundled contribution’ means, with respect to a committee described in paragraph (6) and a person described in paragraph (7), a contribution (subject to the applicable threshold) which is—

“(i) forwarded from the contributor or contributors to the committee by the person; or

“(ii) received by the committee from a contributor or contributors, but credited by the committee or candidate involved (or, in the case of a leadership PAC, by the individual referred to in subparagraph (B) involved) to the person through records, designations, or other means of recognizing that a certain amount of money has been raised by the person.

“(B) LEADERSHIP PAC.—The term ‘leadership PAC’ means, with respect to a candidate for election to Federal office or an individual holding Federal office, a political committee that is directly or indirectly established, financed, maintained or controlled by the candidate or the individual but which is not an authorized committee of the candidate or individual and which is not affiliated with an authorized committee of the candidate or individual, except that such term does not include a political committee of a political party.”.

2 USC 434 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reports filed under section 304 of the Federal Election Campaign Act after the expiration of the 3-month period which begins on the date that the regulations required to be promulgated by the Federal Election Commission under section 304(i)(5) of such Act (as added by subsection (a)) become final.

SEC. 205. ELECTRONIC FILING OF LOBBYING DISCLOSURE REPORTS.

Section 5 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604) is further amended by adding at the end the following:

“(e) ELECTRONIC FILING REQUIRED.—A report required to be filed under this section shall be filed in electronic form, in addition to any other form that the Secretary of the Senate or the Clerk of the House of Representatives may require or allow. The Secretary of the Senate and the Clerk of the House of Representatives shall use the same electronic software for receipt and recording of filings under this Act.”.

SEC. 206. PROHIBITION ON PROVISION OF GIFTS OR TRAVEL BY REGISTERED LOBBYISTS TO MEMBERS OF CONGRESS AND TO CONGRESSIONAL EMPLOYEES.

(a) PROHIBITION.—The Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) is amended by adding at the end the following:

“SEC. 25. PROHIBITION ON PROVISION OF GIFTS OR TRAVEL BY REGISTERED LOBBYISTS TO MEMBERS OF CONGRESS AND TO CONGRESSIONAL EMPLOYEES.

2 USC 1613.

“(a) PROHIBITION.—Any person described in subsection (b) may not make a gift or provide travel to a covered legislative branch official if the person has knowledge that the gift or travel may not be accepted by that covered legislative branch official under the Rules of the House of Representatives or the Standing Rules of the Senate (as the case may be).

“(b) PERSONS SUBJECT TO PROHIBITION.—The persons subject to the prohibition under subsection (a) are any lobbyist that is registered or is required to register under section 4(a)(1), any organization that employs 1 or more lobbyists and is registered or is required to register under section 4(a)(2), and any employee listed or required to be listed as a lobbyist by a registrant under section 4(b)(6) or 5(b)(2)(C).”

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 2 USC 1613 note.

SEC. 207. DISCLOSURE OF LOBBYING ACTIVITIES BY CERTAIN COALITIONS AND ASSOCIATIONS.

(a) IN GENERAL.—

(1) DISCLOSURE.—Section 4(b)(3) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603(b)(3)) is amended—

(A) by amending subparagraph (A) to read as follows:

“(A) contributes more than \$5,000 to the registrant or the client in the quarterly period to fund the lobbying activities of the registrant; and”; and

(B) by amending subparagraph (B) to read as follows:

“(B) actively participates in the planning, supervision, or control of such lobbying activities;”.

(2) UPDATING OF INFORMATION.—Section 5(b)(1) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604(b)(1)) is amended by inserting “, including information under section 4(b)(3)” after “initial registration”.

(b) NO DONOR OR MEMBERSHIP LIST DISCLOSURE.—Section 4(b) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603(b)) is amended by adding at the end the following:

“No disclosure is required under paragraph (3)(B) if the organization that would be identified as affiliated with the client is listed on the client’s publicly accessible Internet website as being a member of or contributor to the client, unless the organization in whole or in major part plans, supervises, or controls such lobbying activities. If a registrant relies upon the preceding sentence, the registrant must disclose the specific Internet address of the web page containing the information relied upon. Nothing in paragraph (3)(B) shall be construed to require the disclosure of any information about individuals who are members of, or donors to, an entity treated as a client by this Act or an organization identified under that paragraph.”.

SEC. 208. DISCLOSURE BY REGISTERED LOBBYISTS OF PAST EXECUTIVE BRANCH AND CONGRESSIONAL EMPLOYMENT.

Section 4(b)(6) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603(b)(6)) is amended by striking “in the 2 years” and all that follows through “Act)” and inserting “in the 20 years before the date on which the employee first acted”.

Internet.

SEC. 209. PUBLIC AVAILABILITY OF LOBBYING DISCLOSURE INFORMATION; MAINTENANCE OF INFORMATION.

(a) **PUBLIC AVAILABILITY.**—Section 6 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605) is further amended—

- (1) in paragraph (7), by striking “and” at the end;
- (2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(9) maintain all registrations and reports filed under this Act, and make them available to the public over the Internet, without a fee or other access charge, in a searchable, sortable, and downloadable manner, to the extent technically practicable, that—

“(A) includes the information contained in the registrations and reports;

“(B) is searchable and sortable to the maximum extent practicable, including searchable and sortable by each of the categories of information described in section 4(b) or 5(b); and

“(C) provides electronic links or other appropriate mechanisms to allow users to obtain relevant information in the database of the Federal Election Commission; and

“(10) retain the information contained in a registration or report filed under this Act for a period of 6 years after the registration or report (as the case may be) is filed.”.

(b) **AVAILABILITY OF REPORTS.**—Section 6(4) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605) is amended by inserting before the semicolon at the end the following: “and, in the case of a report filed in electronic form under section 5(e), make such report available for public inspection over the Internet as soon as technically practicable after the report is so filed”.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (9) of section 6 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605), as added by subsection (a) of this section.

SEC. 210. DISCLOSURE OF ENFORCEMENT FOR NONCOMPLIANCE.

Section 6 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605) is further amended—

(1) by striking “The Secretary” and inserting “(a) IN GENERAL.—The Secretary”; ;

(2) in paragraph (9), by striking “and” at the end;

(3) in paragraph (10), by striking the period and inserting “; and”;

(4) by adding after paragraph (10) the following:

“(11) make publicly available, on a semiannual basis, the aggregate number of registrants referred to the United States Attorney for the District of Columbia for noncompliance as required by paragraph (8).”; and

(5) by adding at the end the following:

Public
information.
Deadline.

“(b) ENFORCEMENT REPORT.—

“(1) REPORT.—The Attorney General shall report to the congressional committees referred to in paragraph (2), after the end of each semiannual period beginning on January 1 and July 1, the aggregate number of enforcement actions taken by the Department of Justice under this Act during that semiannual period and, by case, any sentences imposed, except that such report shall not include the names of individuals, or personally identifiable information, that is not already a matter of public record.

“(2) COMMITTEES.—The congressional committees referred to in paragraph (1) are the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.”.

SEC. 211. INCREASED CIVIL AND CRIMINAL PENALTIES FOR FAILURE TO COMPLY WITH LOBBYING DISCLOSURE REQUIREMENTS.

(a) IN GENERAL.—Section 7 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1606) is amended—

(1) by striking “Whoever” and inserting “(a) CIVIL PENALTY.—Whoever”;

(2) by striking “\$50,000” and inserting “\$200,000”; and

(3) by adding at the end the following:

“(b) CRIMINAL PENALTY.—Whoever knowingly and corruptly fails to comply with any provision of this Act shall be imprisoned for not more than 5 years or fined under title 18, United States Code, or both.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any violation committed on or after the date of the enactment of this Act.

2 USC 1606 note.

SEC. 212. ELECTRONIC FILING AND PUBLIC DATABASE FOR LOBBYISTS FOR FOREIGN GOVERNMENTS.

(a) ELECTRONIC FILING.—Section 2 of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 612), is amended by adding at the end the following new subsection:

“(g) ELECTRONIC FILING OF REGISTRATION STATEMENTS AND SUPPLEMENTS.—A registration statement or supplement required to be filed under this section shall be filed in electronic form, in addition to any other form that may be required by the Attorney General.”.

(b) PUBLIC DATABASE.—Section 6 of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 616), is amended by adding at the end the following new subsection:

“(d) PUBLIC DATABASE OF REGISTRATION STATEMENTS AND UPDATES.—

“(1) IN GENERAL.—The Attorney General shall maintain, and make available to the public over the Internet, without a fee or other access charge, in a searchable, sortable, and downloadable manner, to the extent technically practicable, an electronic database that—

Internet.

“(A) includes the information contained in registration statements and updates filed under this Act; and

“(B) is searchable and sortable, at a minimum, by each of the categories of information described in section 2(a).

“(2) ACCOUNTABILITY.—The Attorney General shall make each registration statement and update filed in electronic form pursuant to section 2(g) available for public inspection over the Internet as soon as technically practicable after the registration statement or update is filed.”.

22 USC 612 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

SEC. 213. COMPTROLLER GENERAL AUDIT AND ANNUAL REPORT.

(a) ANNUAL AUDITS AND REPORTS.—The Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) is further amended by adding at the end the following:

2 USC 1614.

“SEC. 26. ANNUAL AUDITS AND REPORTS BY COMPTROLLER GENERAL.

“(a) AUDIT.—On an annual basis, the Comptroller General shall audit the extent of compliance or noncompliance with the requirements of this Act by lobbyists, lobbying firms, and registrants through a random sampling of publicly available lobbying registrations and reports filed under this Act during each calendar year.

“(b) REPORTS TO CONGRESS.—

“(1) ANNUAL REPORTS.—Not later than April 1 of each year, the Comptroller General shall submit to the Congress a report on the review required by subsection (a) for the preceding calendar year. The report shall include the Comptroller General’s assessment of the matters required to be emphasized by that subsection and any recommendations of the Comptroller General to—

“(A) improve the compliance by lobbyists, lobbying firms, and registrants with the requirements of this Act; and

“(B) provide the Department of Justice with the resources and authorities needed for the effective enforcement of this Act.

“(2) ASSESSMENT OF COMPLIANCE.—The annual report under paragraph (1) shall include an assessment of compliance by registrants with the requirements of section 4(b)(3).

“(c) ACCESS TO INFORMATION.—The Comptroller General may, in carrying out this section, request information from and access to any relevant documents from any person registered under paragraph (1) or (2) of section 4(a) and each employee who is listed as a lobbyist under section 4(b)(6) or section 5(b)(2)(C) if the material requested relates to the purposes of this section. The Comptroller General may request such person to submit in writing such information as the Comptroller General may prescribe. The Comptroller General may notify the Congress in writing if a person from whom information has been requested under this subsection refuses to comply with the request within 45 days after the request is made.”.

2 USC 1614 note.

(b) INITIAL AUDIT AND REPORT.—The initial audit under subsection (a) of section 26 of the Lobbying Disclosure Act of 1995 (as added by subsection (a) of this section) shall be made with respect to lobbying registrations and reports filed during the first calendar quarter of 2008, and the initial report under subsection (b) of such section shall be filed, with respect to those registrations and reports, not later than 6 months after the end of that calendar quarter.

SEC. 214. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the use of a family relationship by a lobbyist who is an immediate family member of a Member of Congress to gain special advantages over other lobbyists is inappropriate; and

(2) the lobbying community should develop proposals for multiple self-regulatory organizations which could—

(A) provide for the creation of standards for the organizations appropriate to the type of lobbying and individuals to be served;

(B) provide training for the lobbying community on law, ethics, reporting requirements, and disclosure requirements;

(C) provide for the development of educational materials for the public on how to responsibly hire a lobbyist or lobby firm;

(D) provide standards regarding reasonable fees charged to clients;

(E) provide for the creation of a third-party certification program that includes ethics training; and

(F) provide for disclosure of requirements to clients regarding fee schedules and conflict of interest rules.

SEC. 215. EFFECTIVE DATE.

2 USC 434 note.

Except as otherwise provided in sections 203, 204, 206, 211, 212, and 213, the amendments made by this title shall apply with respect to registrations under the Lobbying Disclosure Act of 1995 having an effective date of January 1, 2008, or later and with respect to quarterly reports under that Act covering calendar quarters beginning on or after January 1, 2008.

TITLE III—MATTERS RELATING TO THE HOUSE OF REPRESENTATIVES

SEC. 301. DISCLOSURE BY MEMBERS AND STAFF OF EMPLOYMENT NEGOTIATIONS.

(a) **IN GENERAL.**—The Rules of the House of Representatives are amended by redesignating rules XXVII and XXVIII as rules XXVIII and XXIX, respectively, and by inserting after rule XXVI the following new rule:

“RULE XXVII

“DISCLOSURE BY MEMBERS AND STAFF OF EMPLOYMENT NEGOTIATIONS

“1. A Member, Delegate, or Resident Commissioner shall not directly negotiate or have any agreement of future employment or compensation until after his or her successor has been elected, unless such Member, Delegate, or Resident Commissioner, within 3 business days after the commencement of such negotiation or agreement of future employment or compensation, files with the Committee on Standards of Official Conduct a statement, which must be signed by the Member, Delegate, or Resident Commissioner, regarding such negotiations or agreement, including the

Deadline.

	name of the private entity or entities involved in such negotiations or agreement, and the date such negotiations or agreement commenced.
Notification.	“2. An officer or an employee of the House earning in excess of 75 percent of the salary paid to a Member shall notify the Committee on Standards of Official Conduct that he or she is negotiating or has any agreement of future employment or compensation.
Deadline.	“3. The disclosure and notification under this rule shall be made within 3 business days after the commencement of such negotiation or agreement of future employment or compensation.
Notification.	“4. A Member, Delegate, or Resident Commissioner, and an officer or employee to whom this rule applies, shall recuse himself or herself from any matter in which there is a conflict of interest or an appearance of a conflict for that Member, Delegate, Resident Commissioner, officer, or employee under this rule and shall notify the Committee on Standards of Official Conduct of such recusal.
Public information.	A Member, Delegate, or Resident Commissioner making such recusal shall, upon such recusal, submit to the Clerk for public disclosure the statement of disclosure under clause 1 with respect to which the recusal was made.”.
	(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to negotiations commenced, and agreements entered into, on or after that date.

SEC. 302. PROHIBITION ON LOBBYING CONTACTS WITH SPOUSE OF MEMBER WHO IS A REGISTERED LOBBYIST.

Rule XXV of the Rules of the House of Representatives is amended by adding at the end the following new clause:

“7. A Member, Delegate, or Resident Commissioner shall prohibit all staff employed by that Member, Delegate, or Resident Commissioner (including staff in personal, committee, and leadership offices) from making any lobbying contact (as defined in section 3 of the Lobbying Disclosure Act of 1995) with that individual’s spouse if that spouse is a lobbyist under the Lobbying Disclosure Act of 1995 or is employed or retained by such a lobbyist for the purpose of influencing legislation.”.

SEC. 303. TREATMENT OF FIRMS AND OTHER BUSINESSES WHOSE MEMBERS SERVE AS HOUSE COMMITTEE CONSULTANTS.

Clause 18(b) of rule XXIII of the Rules of the House of Representatives is amended by adding at the end the following: “In the case of such an individual who is a member or employee of a firm, partnership, or other business organization, the other members and employees of the firm, partnership, or other business organization shall be subject to the same restrictions on lobbying that apply to the individual under this paragraph.”.

2 USC 104e.

SEC. 304. POSTING OF TRAVEL AND FINANCIAL DISCLOSURE REPORTS ON PUBLIC WEBSITE OF CLERK OF THE HOUSE OF REPRESENTATIVES.

(a) REQUIRING POSTING ON INTERNET.—The Clerk of the House of Representatives shall post on the public Internet site of the Office of the Clerk, in a format that is searchable, sortable, and downloadable, to the extent technically practicable, each of the following:

(1) The advance authorizations, certifications, and disclosures filed with respect to transportation, lodging, and related expenses for travel under clause 5(b) of rule XXV of the Rules of the House of Representatives by Members (including Delegates and Resident Commissioners to the Congress), officers, and employees of the House.

(2) The reports filed under section 103(h)(1) of the Ethics in Government Act of 1978 by Members of the House of Representatives (including Delegates and Resident Commissioners to the Congress).

(b) APPLICABILITY AND TIMING.—

(1) APPLICABILITY.—Subject to paragraph (2), subsection (a) shall apply with respect to information received by the Clerk of the House of Representatives on or after the date of the enactment of this Act.

(2) TIMING.—The Clerk of the House of Representatives shall—

(A) not later than August 1, 2008, post the information required by subsection (a) that the Clerk receives by June 1, 2008; and

(B) not later than the end of each 45-day period occurring after information is required to be posted under subparagraph (A), post the information required by subsection (a) that the Clerk has received since the last posting under this subsection.

(3) OMISSION OF PERSONALLY IDENTIFIABLE INFORMATION.—Members of the House of Representatives (including Delegates and Resident Commissioners to the Congress) shall be permitted to omit personally identifiable information not required to be disclosed on the reports posted on the public Internet site under this section (such as home address, Social Security numbers, personal bank account numbers, home telephone, and names of children) prior to the posting of such reports on such public Internet site.

(4) ASSISTANCE IN PROTECTING PERSONAL INFORMATION.—The Clerk of the House of Representatives, in consultation with the Committee on Standards of Official Conduct, shall include in any informational materials concerning any disclosure that will be posted on the public Internet site under this section an explanation of the procedures for protecting personally identifiable information as described in this section.

(c) RETENTION.—The Clerk shall maintain the information posted on the public Internet site of the Office of the Clerk under this section for a period of 6 years after receiving the information.

SEC. 305. PROHIBITING PARTICIPATION IN LOBBYIST-SPONSORED EVENTS DURING POLITICAL CONVENTIONS.

Rule XXV of the Rules of the House of Representatives, as amended by section 302, is amended by adding at the end the following new clause:

“8. During the dates on which the national political party to which a Member (including a Delegate or Resident Commissioner) belongs holds its convention to nominate a candidate for the office of President or Vice President, the Member may not participate in an event honoring that Member, other than in his or her capacity as a candidate for such office, if such event is directly paid for by a registered lobbyist under the Lobbying Disclosure Act of 1995

or a private entity that retains or employs such a registered lobbyist.”.

2 USC 104e note.

SEC. 306. EXERCISE OF RULEMAKING AUTHORITY.

The provisions of this title are adopted by the House of Representatives—

(1) as an exercise of the rulemaking power of the House; and

(2) with full recognition of the constitutional right of the House to change those rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House.

TITLE IV—CONGRESSIONAL PENSION ACCOUNTABILITY

SEC. 401. LOSS OF PENSIONS ACCRUED DURING SERVICE AS A MEMBER OF CONGRESS FOR ABUSING THE PUBLIC TRUST.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8332 of title 5, United States Code, is amended by adding at the end the following:

Applicability.

“(o)(1) Notwithstanding any other provision of this subchapter, the service of an individual finally convicted of an offense described in paragraph (2) shall not be taken into account for purposes of this subchapter, except that this sentence applies only to service rendered as a Member (irrespective of when rendered). Any such individual (or other person determined under section 8342(c), if applicable) shall be entitled to be paid so much of such individual’s lump-sum credit as is attributable to service to which the preceding sentence applies.

“(2)(A) An offense described in this paragraph is any offense described in subparagraph (B) for which the following apply:

“(i) Every act or omission of the individual (referred to in paragraph (1)) that is needed to satisfy the elements of the offense occurs while the individual is a Member.

“(ii) Every act or omission of the individual that is needed to satisfy the elements of the offense directly relates to the performance of the individual’s official duties as a Member.

“(iii) The offense is committed after the date of enactment of this subsection.

“(B) An offense described in this subparagraph is only the following, and only to the extent that the offense is a felony:

“(i) An offense under section 201 of title 18 (relating to bribery of public officials and witnesses).

“(ii) An offense under section 219 of title 18 (relating to officers and employees acting as agents of foreign principals).

“(iii) An offense under section 1343 of title 18 (relating to fraud by wire, radio, or television, including as part of a scheme to deprive citizens of honest services thereby).

“(iv) An offense under section 104(a) of the Foreign Corrupt Practices Act of 1977 (relating to prohibited foreign trade practices by domestic concerns).

“(v) An offense under section 1957 of title 18 (relating to engaging in monetary transactions in property derived from specified unlawful activity).

“(vi) An offense under section 1512 of title 18 (relating to tampering with a witness, victim, or an informant).

“(vii) An offense under chapter 96 of title 18 (relating to racketeer influenced and corrupt organizations).

“(viii) An offense under section 371 of title 18 (relating to conspiracy to commit offense or to defraud United States), to the extent of any conspiracy to commit an act which constitutes—

“(I) an offense under clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

“(II) an offense under section 207 of title 18 (relating to restrictions on former officers, employees, and elected officials of the executive and legislative branches).

“(ix) Perjury committed under section 1621 of title 18 in falsely denying the commission of an act which constitutes—

“(I) an offense under clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

“(II) an offense under clause (viii), to the extent provided in such clause.

“(x) Subornation of perjury committed under section 1622 of title 18 in connection with the false denial or false testimony of another individual as specified in clause (ix).

“(3) An individual convicted of an offense described in paragraph (2) shall not, after the date of the final conviction, be eligible to participate in the retirement system under this subchapter or chapter 84 while serving as a Member.

“(4) The Office of Personnel Management shall prescribe any regulations necessary to carry out this subsection. Such regulations shall include—

Regulations.

“(A) provisions under which interest on any lump-sum payment under the second sentence of paragraph (1) shall be limited in a manner similar to that specified in the last sentence of section 8316(b); and

“(B) provisions under which the Office may provide for—

“(i) the payment, to the spouse or children of any individual referred to in the first sentence of paragraph (1), of any amounts which (but for this clause) would otherwise have been nonpayable by reason of such first sentence, subject to paragraph (5); and

“(ii) an appropriate adjustment in the amount of any lump-sum payment under the second sentence of paragraph (1) to reflect the application of clause (i).

“(5) Regulations to carry out clause (i) of paragraph (4)(B) shall include provisions to ensure that the authority to make any payment to the spouse or children of an individual under such clause shall be available only to the extent that the application of such clause is considered necessary and appropriate taking into account the totality of the circumstances, including the financial needs of the spouse or children, whether the spouse or children participated in an offense described in paragraph (2) of which such individual was finally convicted, and what measures, if any, may be necessary to ensure that the convicted individual does not benefit from any such payment.

“(6) For purposes of this subsection—

“(A) the terms ‘finally convicted’ and ‘final conviction’ refer to a conviction (i) which has not been appealed and is no longer appealable because the time for taking an appeal has

expired, or (ii) which has been appealed and the appeals process for which is completed;

“(B) the term ‘Member’ has the meaning given such term by section 2106, notwithstanding section 8331(2); and

“(C) the term ‘child’ has the meaning given such term by section 8341.”.

(b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—Section 8411 of title 5, United States Code, is amended by adding at the end the following:

Applicability.

“(1)(1) Notwithstanding any other provision of this chapter, the service of an individual finally convicted of an offense described in paragraph (2) shall not be taken into account for purposes of this chapter, except that this sentence applies only to service rendered as a Member (irrespective of when rendered). Any such individual (or other person determined under section 8424(d), if applicable) shall be entitled to be paid so much of such individual’s lump-sum credit as is attributable to service to which the preceding sentence applies.

“(2) An offense described in this paragraph is any offense described in section 8332(o)(2)(B) for which the following apply:

“(A) Every act or omission of the individual (referred to in paragraph (1)) that is needed to satisfy the elements of the offense occurs while the individual is a Member.

“(B) Every act or omission of the individual that is needed to satisfy the elements of the offense directly relates to the performance of the individual’s official duties as a Member.

“(C) The offense is committed after the date of enactment of this subsection.

“(3) An individual convicted of an offense described in paragraph (2) shall not, after the date of the final conviction, be eligible to participate in the retirement system under this chapter while serving as a Member.

Regulations.

“(4) The Office of Personnel Management shall prescribe any regulations necessary to carry out this subsection. Such regulations shall include—

“(A) provisions under which interest on any lump-sum payment under the second sentence of paragraph (1) shall be limited in a manner similar to that specified in the last sentence of section 8316(b); and

“(B) provisions under which the Office may provide for—

“(i) the payment, to the spouse or children of any individual referred to in the first sentence of paragraph (1), of any amounts which (but for this clause) would otherwise have been nonpayable by reason of such first sentence, subject to paragraph (5); and

“(ii) an appropriate adjustment in the amount of any lump-sum payment under the second sentence of paragraph (1) to reflect the application of clause (i).

“(5) Regulations to carry out clause (i) of paragraph (4)(B) shall include provisions to ensure that the authority to make any payment under such clause to the spouse or children of an individual shall be available only to the extent that the application of such clause is considered necessary and appropriate taking into account the totality of the circumstances, including the financial needs of the spouse or children, whether the spouse or children participated in an offense described in paragraph (2) of which such individual was finally convicted, and what measures, if any,

may be necessary to ensure that the convicted individual does not benefit from any such payment.

“(6) For purposes of this subsection—

“(A) the terms ‘finally convicted’ and ‘final conviction’ refer to a conviction (i) which has not been appealed and is no longer appealable because the time for taking an appeal has expired, or (ii) which has been appealed and the appeals process for which is completed;

“(B) the term ‘Member’ has the meaning given such term by section 2106, notwithstanding section 8401(20); and

“(C) the term ‘child’ has the meaning given such term by section 8441.”.

TITLE V—SENATE LEGISLATIVE TRANSPARENCY AND ACCOUNTABILITY

Subtitle A—Procedural Reform

SEC. 511. AMENDMENTS TO RULE XXVIII.

(a) OUT OF SCOPE MATERIAL AMENDMENT.—Rule XXVIII of the Standing Rules of the Senate is amended by—

(1) redesignating paragraphs 4 through 6 as paragraphs 6 through 8, respectively; and

(2) striking paragraphs 2 and 3 and inserting the following:

“2. (a) Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses.

“(b) If matter which was agreed to by both Houses is stricken from the bill a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon.

“(c) If new matter is inserted in the report, a point of order may be made against the conference report and it shall be disposed of as provided under paragraph 4.

“3. (a) In any case in which a disagreement to an amendment in the nature of a substitute has been referred to conferees—

“(1) it shall be in order for the conferees to report a substitute on the same subject matter;

“(2) the conferees may not include in the report matter not committed to them by either House; and

“(3) the conferees may include in their report in any such case matter which is a germane modification of subjects in disagreement.

“(b) In any case in which the conferees violate subparagraph (a), a point of order may be made against the conference report and it shall be disposed of as provided under paragraph 4.

“4. (a) A Senator may raise a point of order that one or more provisions of a conference report violates paragraph 2 or paragraph 3, as the case may be. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

“(b) If the Presiding Officer sustains the point of order as to any of the provisions against which the Senator raised the point of order, then those provisions against which the Presiding

Officer sustains the point of order shall be stricken. After all other points of order under this paragraph have been disposed of—

“(1) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report that has not been stricken;

“(2) the question in clause (1) shall be decided under the same debate limitation as the conference report; and

“(3) no further amendment shall be in order.

“5. (a) Any Senator may move to waive any or all points of order under paragraph 2 or 3 with respect to the pending conference report by an affirmative vote of three-fifths of the Members, duly chosen and sworn. All motions to waive under this paragraph shall be debatable collectively for not to exceed 1 hour equally divided between the Majority Leader and the Minority Leader or their designees. A motion to waive all points of order under this paragraph shall not be amendable.

“(b) All appeals from rulings of the Chair under paragraph 4 shall be debatable collectively for not to exceed 1 hour, equally divided between the Majority and the Minority Leader or their designees. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair under paragraph 4.”.

(b) PUBLIC AVAILABILITY AMENDMENT.—

(1) IN GENERAL.—Rule XXVIII of the Standing Rules of the Senate is amended by adding at the end the following:

“9. (a)(1) It shall not be in order to vote on the adoption of a report of a committee of conference unless such report has been available to Members and to the general public for at least 48 hours before such vote. If a point of order is sustained under this paragraph, then the conference report shall be set aside.

“(2) For purposes of this paragraph, a report of a committee of conference is made available to the general public as of the time it is posted on a publicly accessible website controlled by a Member, committee, Library of Congress, or other office of Congress, or the Government Printing Office, as reported to the Presiding Officer by the Secretary of the Senate.

“(b)(1) This paragraph may be waived in the Senate with respect to the pending conference report by an affirmative vote of three-fifths of the Members, duly chosen and sworn. A motion to waive this paragraph shall be debatable for not to exceed 1 hour equally divided between the Majority Leader and the Minority Leader or their designees.

“(2) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph. An appeal of the ruling of the Chair shall be debatable for not to exceed 1 hour equally divided between the Majority and the Minority Leader or their designees

“(c) This paragraph may be waived by joint agreement of the Majority Leader and the Minority Leader of the Senate, upon their certification that such waiver is necessary as a result of a significant disruption to Senate facilities or to the availability of the Internet.”.

(2) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this section, the Committee on Rules and Administration, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, and the Government Printing Office shall promulgate regulations for the implementation of the requirements of paragraph 9 of rule XXVIII of the Standing Rules of the Senate, as added by this section.

Deadline.
Regulations.

SEC. 512. NOTICE OF OBJECTING TO PROCEEDING.

2 USC 30b.

(a) IN GENERAL.—The Majority and Minority Leaders of the Senate or their designees shall recognize a notice of intent of a Senator who is a member of their caucus to object to proceeding to a measure or matter only if the Senator—

(1) following the objection to a unanimous consent to proceeding to, and, or passage of, a measure or matter on their behalf, submits the notice of intent in writing to the appropriate leader or their designee; and

(2) not later than 6 session days after the submission under paragraph (1), submits for inclusion in the Congressional Record and in the applicable calendar section described in subsection (b) the following notice:

“I, Senator _____, intend to object to proceedings to _____, dated _____ for the following reasons _____.”

(b) CALENDAR.—

(1) IN GENERAL.—The Secretary of the Senate shall establish for both the Senate Calendar of Business and the Senate Executive Calendar a separate section entitled “Notice of Intent to Object to Proceeding”.

(2) CONTENT.—The section required by paragraph (1) shall include—

(A) the name of each Senator filing a notice under subsection (a)(2);

(B) the measure or matter covered by the calendar that the Senator objects to; and

(C) the date the objection was filed.

(3) NOTICE.—A Senator who has notified their respective leader and who has withdrawn their objection within the 6 session day period is not required to submit a notification under subsection (a)(2).

(c) REMOVAL.—A Senator may have an item with respect to the Senator removed from a calendar to which it was added under subsection (b) by submitting for inclusion in the Congressional Record the following notice:

“I, Senator _____, do not object to proceed to _____, dated _____.”

SEC. 513. PUBLIC AVAILABILITY OF SENATE COMMITTEE AND SUBCOMMITTEE MEETINGS.

(a) IN GENERAL.—Paragraph 5(e) of rule XXVI of the Standing Rules of the Senate is amended by—

(1) inserting after “(e)” the following: “(1)”; and

(2) adding at the end the following:

“(2)(A) Except with respect to meetings closed in accordance with this rule, each committee and subcommittee shall make publicly available through the Internet a video recording, audio recording, or transcript of any meeting not later than 21 business days after the meeting occurs.

Internet.
Deadline.

“(B) Information required by subclause (A) shall be available until the end of the Congress following the date of the meeting.

“(C) The Committee on Rules and Administration may waive this clause upon request based on the inability of a committee or subcommittee to comply with this clause due to technical or logistical reasons.”.

(b) **EFFECTIVE DATE.**—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 514. AMENDMENTS AND MOTIONS TO RECOMMIT.

Paragraph 1 of rule XV of the Standing Rules of the Senate is amended to read as follows:

“1. (a) An amendment and any instruction accompanying a motion to recommit shall be reduced to writing and read and identical copies shall be provided by the Senator offering the amendment or instruction to the desks of the Majority Leader and the Minority Leader before being debated.

“(b) A motion shall be reduced to writing, if desired by the Presiding Officer or by any Senator, and shall be read before being debated.”.

SEC. 515. SENSE OF THE SENATE ON CONFERENCE COMMITTEE PROTOCOLS.

It is the sense of the Senate that—

(1) conference committees should hold regular, formal meetings of all conferees that are open to the public;

(2) all conferees should be given adequate notice of the time and place of all such meetings;

(3) all conferees should be afforded an opportunity to participate in full and complete debates of the matters that such conference committees may recommend to their respective Houses; and

(4) the text of a report of a committee of conference shall not be changed after the Senate signature sheets have been signed by a majority of the Senate conferees.

Subtitle B—Earmark Reform

SEC. 521. CONGRESSIONALLY DIRECTED SPENDING.

The Standing Rules of the Senate are amended by adding at the end the following:

“RULE XLIV

“CONGRESSIONALLY DIRECTED SPENDING AND RELATED ITEMS

“1. (a) It shall not be in order to vote on a motion to proceed to consider a bill or joint resolution reported by any committee unless the chairman of the committee of jurisdiction or the Majority Leader or his or her designee certifies—

“(1) that each congressionally directed spending item, limited tax benefit, and limited tariff benefit, if any, in the bill or joint resolution, or in the committee report accompanying the bill or joint resolution, has been identified through lists, charts, or other similar means including the name of each Senator who submitted a request to the committee for each item so identified; and

Certification.

“(2) that the information in clause (1) has been available on a publicly accessible congressional website in a searchable format at least 48 hours before such vote. Website.

“(b) If a point of order is sustained under this paragraph, the motion to proceed shall be suspended until the sponsor of the motion or his or her designee has requested resumption and compliance with this paragraph has been achieved.

“2. (a) It shall not be in order to vote on a motion to proceed to consider a Senate bill or joint resolution not reported by committee unless the chairman of the committee of jurisdiction or the Majority Leader or his or her designee certifies— Certification.

“(1) that each congressionally directed spending item, limited tax benefit, and limited tariff benefit, if any, in the bill or joint resolution, has been identified through lists, charts, or other similar means, including the name of each Senator who submitted a request to the sponsor of the bill or joint resolution for each item so identified; and

“(2) that the information in clause (1) has been available on a publicly accessible congressional website in a searchable format at least 48 hours before such vote. Website.

“(b) If a point of order is sustained under this paragraph, the motion to proceed shall be suspended until the sponsor of the motion or his or her designee has requested resumption and compliance with this paragraph has been achieved.

“3. (a) It shall not be in order to vote on the adoption of a report of a committee of conference unless the chairman of the committee of jurisdiction or the Majority Leader or his or her designee certifies— Certification.

“(1) that each congressionally directed spending item, limited tax benefit, and limited tariff benefit, if any, in the conference report, or in the joint statement of managers accompanying the conference report, has been identified through lists, charts, or other means, including the name of each Senator who submitted a request to the committee of jurisdiction for each item so identified; and

“(2) that the information in clause (1) has been available on a publicly accessible congressional website at least 48 hours before such vote. Website.

“(b) If a point of order is sustained under this paragraph, then the conference report shall be set aside.

“4. (a) If during consideration of a bill or joint resolution, a Senator proposes an amendment containing a congressionally directed spending item, limited tax benefit, or limited tariff benefit which was not included in the bill or joint resolution as placed on the calendar or as reported by any committee, in a committee report on such bill or joint resolution, or a committee report of the Senate on a companion measure, then as soon as practicable, the Senator shall ensure that a list of such items (and the name of any Senator who submitted a request to the Senator for each respective item included in the list) is printed in the Congressional Record. Congressional Record, publication.

“(b) If a committee reports a bill or joint resolution that includes congressionally directed spending items, limited tax benefits, or limited tariff benefits in the bill or joint resolution, or in the committee report accompanying the bill or joint resolution, the committee shall as soon as practicable identify on a publicly accessible congressional website each such item through lists, charts,

or other similar means, including the name of each Senator who submitted a request to the committee for each item so identified. Availability on the Internet of a committee report that contains the information described in this subparagraph shall satisfy the requirements of this subparagraph.

“(c) To the extent technically feasible, information made available on publicly accessible congressional websites under paragraphs 3 and 4 shall be provided in a searchable format.

“5. For the purpose of this rule—

“(a) the term ‘congressionally directed spending item’ means a provision or report language included primarily at the request of a Senator providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

“(b) the term ‘limited tax benefit’ means—

“(1) any revenue provision that—

“(A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

“(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision;

“(c) the term ‘limited tariff benefit’ means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities; and

“(d) except as used in subparagraph 8(e), the term ‘item’ when not preceded by ‘congressionally directed spending’ means any provision that is a congressionally directed spending item, a limited tax benefit, or a limited tariff benefit.

“6. (a) A Senator who requests a congressionally directed spending item, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report (or an accompanying joint statement of managers) shall provide a written statement to the chairman and ranking member of the committee of jurisdiction, including—

“(1) the name of the Senator;

“(2) in the case of a congressionally directed spending item, the name and location of the intended recipient or, if there is no specifically intended recipient, the intended location of the activity;

“(3) in the case of a limited tax or tariff benefit, identification of the individual or entities reasonably anticipated to benefit, to the extent known to the Senator;

“(4) the purpose of such congressionally directed spending item or limited tax or tariff benefit; and

“(5) a certification that neither the Senator nor the Senator’s immediate family has a pecuniary interest in the item, consistent with the requirements of paragraph 9.

“(b) With respect to each item included in a Senate bill or joint resolution (or accompanying report) reported by committee or considered by the Senate, or included in a conference report (or joint statement of managers accompanying the conference report)

Statement.
Certification.

Public
information.
Internet.

considered by the Senate, each committee of jurisdiction shall make available for public inspection on the Internet the certifications under subparagraph (a)(5) as soon as practicable.

“7. In the case of a bill, joint resolution, or conference report that contains congressionally directed spending items in any classified portion of a report accompanying the measure, the committee of jurisdiction shall, to the greatest extent practicable, consistent with the need to protect national security (including intelligence sources and methods), include on the list required by paragraph 1, 2, or 3 as the case may be, a general program description in unclassified language, funding level, and the name of the sponsor of that congressionally directed spending item.

“8. (a) A Senator may raise a point of order against one or more provisions of a conference report if they constitute new directed spending provisions. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

“(b) If the Presiding Officer sustains the point of order as to any of the provisions against which the Senator raised the point of order, then those provisions against which the Presiding Officer sustains the point of order shall be stricken. After all other points of order under this paragraph have been disposed of—

“(1) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report that has not been stricken; and

“(2) the question in clause (1) shall be decided under the same debate limitation as the conference report and no further amendment shall be in order.

“(c) Any Senator may move to waive any or all points of order under this paragraph with respect to the pending conference report by an affirmative vote of three-fifths of the Members, duly chosen and sworn. All motions to waive under this paragraph shall be debatable collectively for not to exceed 1 hour equally divided between the Majority Leader and the Minority Leader or their designees. A motion to waive all points of order under this paragraph shall not be amendable.

“(d) All appeals from rulings of the Chair under this paragraph shall be debatable collectively for not to exceed 1 hour, equally divided between the Majority and the Minority Leader or their designees. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair under this paragraph.

“(e) The term ‘new directed spending provision’ as used in this paragraph means any item that consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.

“9. No Member, officer, or employee of the Senate shall knowingly use his official position to introduce, request, or otherwise aid the progress or passage of congressionally directed spending items, limited tax benefits, or limited tariff benefits a principal purpose of which is to further only his pecuniary interest, only

the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he or his immediate family, or enterprises controlled by them, are members of the affected class.

“10. Any Senator may move to waive application of paragraph 1, 2, or 3 with respect to a measure by an affirmative vote of three-fifths of the Members, duly chosen and sworn. A motion to waive under this paragraph with respect to a measure shall be debatable for not to exceed 1 hour equally divided between the Majority Leader and the Minority Leader or their designees. With respect to points of order raised under paragraphs 1, 2, or 3, only one appeal from a ruling of the Chair shall be in order, and debate on such an appeal from a ruling of the Chair on such point of order shall be limited to one hour.

“11. Any Senator may move to waive all points of order under this rule with respect to the pending measure or motion by an affirmative vote of three-fifths of the Members, duly chosen and sworn. All motions to waive all points of order with respect to a measure or motion as provided by this paragraph shall be debatable collectively for not to exceed 1 hour equally divided between the Majority Leader and the Minority Leader or their designees. A motion to waive all points of order with respect to a measure or motion as provided by this paragraph shall not be amendable.

“12. Paragraph 1, 2, or 3 of this rule may be waived by joint agreement of the Majority Leader and the Minority Leader of the Senate upon their certification that such waiver is necessary as a result of a significant disruption to Senate facilities or to the availability of the Internet.”.

Subtitle C—Revolving Door Reform

SEC. 531. POST-EMPLOYMENT RESTRICTIONS.

(a) APPLICATION TO ENTITY.—Paragraph 8 of rule XXXVII of the Standing Rules of the Senate is amended by—

(1) inserting after “by such a registered lobbyist” the following “or an entity that employs or retains a registered lobbyist”; and

(2) striking “one year” and inserting “2 years”.

(b) PROHIBITION.—Paragraph 9 of rule XXXVII of the Standing Rules of the Senate is amended—

(1) in the first sentence, by inserting after “by such a registered lobbyist” the following: “or an entity that employs or retains a registered lobbyist”;

(2) in the second sentence, by inserting after “by such a registered lobbyist” the following: “or an entity that employs or retains a registered lobbyist”;

(3) by designating the first and second sentences as subparagraphs (a) and (b), respectively; and

(4) by adding at the end the following:

“(c) If an officer of the Senate or an employee on the staff of a Member or on the staff of a committee whose rate of pay is equal to or greater than 75 percent of the rate of pay of a Member and employed at such rate for more than 60 days in a calendar year, upon leaving that position, becomes a registered lobbyist, or is employed or retained by such a registered lobbyist or an entity that employs or retains a registered lobbyist for the

purpose of influencing legislation, such employee may not lobby any Member, officer, or employee of the Senate for a period of 1 year after leaving that position.”.

(c) **EFFECTIVE DATE.**—Paragraph 9(c) of rule XXXVII of the Standing Rules of the Senate shall apply to individuals who leave office or employment to which such paragraph applies on or after the date of adjournment of the first session of the 110th Congress sine die or December 31, 2007, whichever date is earlier.

SEC. 532. DISCLOSURE BY MEMBERS OF CONGRESS AND STAFF OF EMPLOYMENT NEGOTIATIONS.

Rule XXXVII of the Standing Rules of the Senate is amended by—

(1) redesignating paragraph 12 as paragraph 13; and

(2) adding after paragraph 11 the following:

“12. (a) A Member shall not negotiate or have any arrangement concerning prospective private employment until after his or her successor has been elected, unless such Member files a signed statement with the Secretary of the Senate, for public disclosure, regarding such negotiations or arrangements not later than 3 business days after the commencement of such negotiation or arrangement, including the name of the private entity or entities involved in such negotiations or arrangements, and the date such negotiations or arrangements commenced. Deadline.

“(b) A Member shall not negotiate or have any arrangement concerning prospective employment for a job involving lobbying activities as defined by the Lobbying Disclosure Act of 1995 until after his or her successor has been elected.

“(c)(1) An employee of the Senate earning in excess of 75 percent of the salary paid to a Senator shall notify the Select Committee on Ethics that he or she is negotiating or has any arrangement concerning prospective private employment. Notification.

“(2) The notification under this subparagraph shall be made not later than 3 business days after the commencement of such negotiation or arrangement. Deadline.

“(3) An employee to whom this subparagraph applies shall— Applicability.

“(A) recuse himself or herself from—

“(i) any contact or communication with the prospective employer on issues of legislative interest to the prospective employer; and

“(ii) any legislative matter in which there is a conflict of interest or an appearance of a conflict for that employee under this subparagraph; and

“(B) notify the Select Committee on Ethics of such recusal.”. Notification.

SEC. 533. ELIMINATION OF FLOOR PRIVILEGES FOR FORMER MEMBERS, SENATE OFFICERS, AND SPEAKERS OF THE HOUSE WHO ARE REGISTERED LOBBYISTS OR SEEK FINANCIAL GAIN.

Rule XXIII of the Standing Rules of the Senate is amended by—

(1) inserting “1.” before “Other”;

(2) inserting after “Ex-Senators and Senators-elect” the following: “, except as provided in paragraph 2”;

(3) inserting after “Ex-Secretaries and ex-Sergeants at Arms of the Senate” the following: “, except as provided in paragraph 2”;

(4) inserting after “Ex-Speakers of the House of Representatives” the following: “, except as provided in paragraph 2”; and

(5) adding at the end the following:

“2.(a) The floor privilege provided in paragraph 1 shall not apply, when the Senate is in session, to an individual covered by this paragraph who is—

“(1) a registered lobbyist or agent of a foreign principal;

or

“(2) in the employ of or represents any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any Federal legislative proposal.

“(b) The Committee on Rules and Administration may promulgate regulations to allow individuals covered by this paragraph floor privileges for ceremonial functions and events designated by the Majority Leader and the Minority Leader.

“3. A former Member of the Senate may not exercise privileges to use Senate athletic facilities or Member-only parking spaces if such Member is—

“(a) a registered lobbyist or agent of a foreign principal;

or

“(b) in the employ of or represents any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any Federal legislative proposal.”.

SEC. 534. INFLUENCING HIRING DECISIONS.

Rule XLIII of the Standing Rules of the Senate is amended by adding at the end the following:

“6. No Member, with the intent to influence solely on the basis of partisan political affiliation an employment decision or employment practice of any private entity, shall—

“(a) take or withhold, or offer or threaten to take or withhold, an official act; or

“(b) influence, or offer or threaten to influence the official act of another.”.

2 USC 104f.

SEC. 535. NOTIFICATION OF POST-EMPLOYMENT RESTRICTIONS.

(a) **IN GENERAL.**—After a Senator or an elected officer of the Senate leaves office or after the termination of employment with the Senate of an employee of the Senate, the Secretary of the Senate shall notify the Member, officer, or employee of the beginning and ending date of the prohibitions that apply to the Member, officer, or employee under rule XXXVII of the Standing Rules of the Senate.

(b) **EFFECTIVE DATE.**—This section shall take effect 60 days after the date of enactment of this Act.

Subtitle D—Gift and Travel Reform

SEC. 541. BAN ON GIFTS FROM REGISTERED LOBBYISTS AND ENTITIES THAT HIRE REGISTERED LOBBYISTS.

Paragraph 1(a)(2) of rule XXXV of the Standing Rules of the Senate is amended by—

(1) inserting “(A)” after “(2)”; and

(2) adding at the end the following:

“(B) A Member, officer, or employee may not knowingly accept a gift from a registered lobbyist, an agent of a foreign principal, or a private entity that retains or employs a registered lobbyist or an agent of a foreign principal, except as provided in subparagraphs (c) and (d).”.

SEC. 542. NATIONAL PARTY CONVENTIONS.

Paragraph (1)(d) of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following:

“(5) During the dates of the national party convention for the political party to which a Member belongs, a Member may not participate in an event honoring that Member, other than in his or her capacity as the party’s presidential or vice presidential nominee or presumptive nominee, if such event is directly paid for by a registered lobbyist or a private entity that retains or employs a registered lobbyist.”.

SEC. 543. PROPER VALUATION OF TICKETS TO ENTERTAINMENT AND SPORTING EVENTS.

Paragraph 1(c)(1) of rule XXXV of the Standing Rules of the Senate is amended by—

(1) inserting “(A)” before “Anything”; and

(2) adding at the end the following:

“(B) The market value of a ticket to an entertainment or sporting event shall be the face value of the ticket or, in the case of a ticket without a face value, the value of the ticket with the highest face value for the event, except that if a ticket holder can establish in advance of the event to the Select Committee on Ethics that the ticket at issue is equivalent to another ticket with a face value, then the market value shall be set at the face value of the equivalent ticket. In establishing equivalency, the ticket holder shall provide written and independently verifiable information related to the primary features of the ticket, including, at a minimum, the seat location, access to parking, availability of food and refreshments, and access to venue areas not open to the public. The Select Committee on Ethics may make a determination of equivalency only if such information is provided in advance of the event.”.

SEC. 544. RESTRICTIONS ON REGISTERED LOBBYIST PARTICIPATION IN TRAVEL AND DISCLOSURE.

(a) PROHIBITION.—Paragraph 2 of rule XXXV of the Standing Rules of the Senate is amended—

(1) in subparagraph (a)(1), by—

(A) adding after “foreign principal” the following: “or a private entity that retains or employs 1 or more registered lobbyists or agents of a foreign principal”;

(B) striking the dash and inserting “complies with the requirements of this paragraph.”; and

(C) striking clauses (A) and (B);

(2) by redesignating subparagraph (a)(2) as subparagraph (a)(3) and adding after subparagraph (a)(1) the following:

“(2)(A) Notwithstanding clause (1), a reimbursement (including payment in kind) to a Member, officer, or employee of the Senate from an individual, other than a registered lobbyist or agent of a foreign principal, that is a private entity that retains or employs 1 or more registered lobbyists or agents of a foreign principal

shall be deemed to be a reimbursement to the Senate under clause (1) if—

“(i) the reimbursement is for necessary transportation, lodging, and related expenses for travel to a meeting, speaking engagement, factfinding trip, or similar event described in clause (1) in connection with the duties of the Member, officer, or employee and the reimbursement is provided only for attendance at or participation for 1-day (exclusive of travel time and an overnight stay) at an event described in clause (1); or

“(ii) the reimbursement is for necessary transportation, lodging, and related expenses for travel to a meeting, speaking engagement, factfinding trip, or similar event described in clause (1) in connection with the duties of the Member, officer, or employee and the reimbursement is from an organization designated under section 501(c)(3) of the Internal Revenue Code of 1986.

“(B) When deciding whether to preapprove a trip under this clause, the Select Committee on Ethics shall make a determination consistent with regulations issued pursuant to section 544(b) of the Honest Leadership and Open Government Act of 2007. The committee through regulations to implement subclause (A)(i) may permit a longer stay when determined by the committee to be practically required to participate in the event, but in no event may the stay exceed 2 nights.”;

(3) in subparagraph (a)(3), as redesignated, by striking “clause (1)” and inserting “clauses (1) and (2)”;

(4) in subparagraph (b), by inserting before “Each” the following: “Before an employee may accept reimbursement pursuant to subparagraph (a), the employee shall receive advance written authorization from the Member or officer under whose direct supervision the employee works.”;

(5) in subparagraph (c)—

(A) by inserting before “Each” the following: “Each Member, officer, or employee that receives reimbursement under this paragraph shall disclose the expenses reimbursed or to be reimbursed, the authorization under subparagraph (b) (for an employee), and a copy of the certification in subparagraph (e)(1) to the Secretary of the Senate not later than 30 days after the travel is completed.”;

(B) by striking “subparagraph (a)(1)” and inserting “this subparagraph”;

(C) in clause (5), by striking “and” after the semicolon;

(D) by redesignating clause (6) as clause (7); and

(E) by inserting after clause (5) the following:

“(6) a description of meetings and events attended; and”;

(6) by redesignating subparagraphs (d) and (e) as subparagraphs (f) and (g), respectively;

(7) by adding after subparagraph (c) the following:

“(d)(1) A Member, officer, or employee of the Senate may not accept a reimbursement (including payment in kind) for transportation, lodging, or related expenses under subparagraph (a) for a trip that was—

“(A) planned, organized, or arranged by or at the request of a registered lobbyist or agent of a foreign principal; or

Records.
Deadline.

“(B)(i) for trips described under subparagraph (a)(2)(A)(i) on which a registered lobbyist accompanies the Member, officer, or employee on any segment of the trip; or

“(ii) for all other trips allowed under this paragraph, on which a registered lobbyist accompanies the Member, officer, or employee at any point throughout the trip.

“(2) The Select Committee on Ethics shall issue regulations identifying de minimis activities by registered lobbyists or foreign agents that would not violate this subparagraph.

Regulations.

“(e) A Member, officer, or employee shall, before accepting travel otherwise permissible under this paragraph from any source—

“(1) provide to the Select Committee on Ethics a written certification from such source that—

“(A) the trip will not be financed in any part by a registered lobbyist or agent of a foreign principal;

“(B) the source either—

“(i) does not retain or employ registered lobbyists or agents of a foreign principal and is not itself a registered lobbyist or agent of a foreign principal; or

“(ii) certifies that the trip meets the requirements of subclause (i) or (ii) of subparagraph (a)(2)(A);

“(C) the source will not accept from a registered lobbyist or agent of a foreign principal or a private entity that retains or employs 1 or more registered lobbyists or agents of a foreign principal, funds earmarked directly or indirectly for the purpose of financing the specific trip; and

“(D) the trip will not in any part be planned, organized, requested, or arranged by a registered lobbyist or agent of a foreign principal and the traveler will not be accompanied on the trip consistent with the applicable requirements of subparagraph (d)(1)(B) by a registered lobbyist or agent of a foreign principal, except as permitted by regulations issued under subparagraph (d)(2); and

“(2) after the Select Committee on Ethics has promulgated regulations pursuant to section 544(b) of the Honest Leadership and Open Government Act of 2007, obtain the prior approval of the committee for such reimbursement.”; and

(8) by striking subparagraph (g), as redesignated, and inserting the following:

“(g) The Secretary of the Senate shall make all advance authorizations, certifications, and disclosures filed pursuant to this paragraph available for public inspection as soon as possible after they are received, but in no event prior to the completion of the relevant travel.”.

Public information.

(b) GUIDELINES.—

(1) IN GENERAL.—Except as provided in paragraph (4) and not later than 60 days after the date of enactment of this Act and at annual intervals thereafter, the Select Committee on Ethics shall develop and revise, as necessary—

2 USC 31–3.
Deadlines.

(A) guidelines, for purposes of implementing the amendments made by subsection (a), on evaluating a trip proposal and judging the reasonableness of an expense or expenditure, including guidelines related to evaluating—

(i) the stated mission of the organization sponsoring the trip;

(ii) the organization's prior history of sponsoring congressional trips, if any;

(iii) other educational activities performed by the organization besides sponsoring congressional trips;

(iv) whether any trips previously sponsored by the organization led to an investigation by the Select Committee on Ethics;

(v) whether the length of the trip and the itinerary is consistent with the official purpose of the trip;

(vi) whether there is an adequate connection between a trip and official duties;

(vii) the reasonableness of an amount spent by a sponsor of the trip;

(viii) whether there is a direct and immediate relationship between a source of funding and an event; and

(ix) any other factor deemed relevant by the Select Committee on Ethics; and

Regulations.

(B) regulations describing the information it will require individuals subject to the requirements of the amendments made by subsection (a) to submit to the committee in order to obtain the prior approval of the committee for travel under paragraph 2 of rule XXXV of the Standing Rules of the Senate, including any required certifications.

(2) CONSIDERATION.—In developing and revising guidelines under paragraph (1)(A), the committee shall take into account the maximum per diem rates for official Federal Government travel published annually by the General Services Administration, the Department of State, and the Department of Defense.

(3) UNREASONABLE EXPENSE.—For purposes of this subsection, travel on a flight described in paragraph 1(c)(1)(C)(ii) of rule XXXV of the Standing Rules of the Senate shall not be considered to be a reasonable expense.

(4) EXTENSION.—The deadline for the initial guidelines required by paragraph (1) may be extended for 30 days by the Committee on Rules and Administration.

(c) REIMBURSEMENT FOR NONCOMMERCIAL AIR TRAVEL.—

(1) CHARTER RATES.—Paragraph 1(c)(1) of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following:

“(C)(i) Fair market value for a flight on an aircraft described in item (ii) shall be the pro rata share of the fair market value of the normal and usual charter fare or rental charge for a comparable plane of comparable size, as determined by dividing such cost by the number of Members, officers, or employees of Congress on the flight.

“(ii) A flight on an aircraft described in this item is any flight on an aircraft that is not—

“(I) operated or paid for by an air carrier or commercial operator certificated by the Federal Aviation Administration and required to be conducted under air carrier safety rules; or

“(II) in the case of travel which is abroad, an air carrier or commercial operator certificated by an appropriate foreign civil aviation authority and the flight is required to be conducted under air carrier safety rules.

“(iii) This subclause shall not apply to an aircraft owned or leased by a governmental entity or by a Member of Congress or a Member’s immediate family member (including an aircraft owned by an entity that is not a public corporation in which the Member or Member’s immediate family member has an ownership interest), provided that the Member does not use the aircraft anymore than the Member’s or immediate family member’s proportionate share of ownership allows.”.

(2) UNOFFICIAL OFFICE ACCOUNTS.—Paragraph 1 of rule XXXVIII of the Standing Rules of the Senate is amended by adding at the end the following:

“(c) For purposes of reimbursement under this rule, fair market value of a flight on an aircraft shall be determined as provided in paragraph 1(c)(1)(C) of rule XXXV.”.

(d) REVIEW OF TRAVEL ALLOWANCES.—Not later than 90 days after the date of enactment of this Act, the Subcommittee on the Legislative Branch of the Senate Committee on Appropriations, in consultation with the Committee on Rules and Administration of the Senate, shall consider and propose, as necessary in the discretion of the subcommittee, any adjustment to the Senator’s Official Personnel and Office Expense Account needed in light of the enactment of this section, and any modifications of Federal statutes or appropriations measures needed to accomplish such adjustments.

Deadline.

(e) SEPARATELY REGULATED EXPENSES.—Nothing in this section or section 541 is meant to alter treatment under law or Senate rules of expenses that are governed by the Foreign Gifts and Decorations Act or the Mutual Educational and Cultural Exchange Act.

2 USC 31–3 note.

(f) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect 60 days after the date of enactment of this Act or the date the Select Committee on Ethics issues new guidelines as required by subsection (b), whichever is later. Subsection (c) shall take effect on the date of enactment of this Act.

2 USC 31–3 note.

SEC. 545. FREE ATTENDANCE AT A CONSTITUENT EVENT.

(a) IN GENERAL.—Paragraph 1(c) of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following:

“(24) Subject to the restrictions in subparagraph (a)(2)(A), free attendance at a constituent event permitted pursuant to subparagraph (g).”.

(b) IN GENERAL.—Paragraph 1 of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following:

“(g)(1) A Member, officer, or employee may accept an offer of free attendance in the Member’s home State at a conference, symposium, forum, panel discussion, dinner event, site visit, viewing, reception, or similar event, provided by a sponsor of the event, if—

“(A) the cost of meals provided the Member, officer, or employee is less than \$50;

“(B)(i) the event is sponsored by constituents of, or a group that consists primarily of constituents of, the Member (or the Member by whom the officer or employee is employed); and

“(ii) the event will be attended primarily by a group of at least 5 constituents of the Member (or the Member by whom the officer or employee is employed) provided that a registered lobbyist shall not attend the event; and

“(C)(i) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member’s, officer’s, or employee’s official position; or

“(ii) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

“(2) A Member, officer, or employee who attends an event described in clause (1) may accept a sponsor’s unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

“(3) For purposes of this subparagraph, the term ‘free attendance’ has the same meaning given such term in subparagraph (d).”.

2 USC 104g.

Deadline.

SEC. 546. SENATE PRIVATELY PAID TRAVEL PUBLIC WEBSITE.

(a) TRAVEL DISCLOSURE.—Not later than January 1, 2008, the Secretary of the Senate shall establish a publicly available website without fee or without access charge, that contains information on travel that is subject to disclosure under paragraph 2 of rule XXXV of the Standing Rules of the Senate, that includes, with respect to travel occurring on or after January 1, 2008—

(1) a search engine;

(2) uniform categorization by Member, dates of travel, and any other common categories associated with congressional travel; and

(3) forms filed in the Senate relating to officially related travel.

Records.

(b) RETENTION.—The Secretary of the Senate shall maintain the information posted on the public Internet site of the Office of the Secretary under this section for a period not longer than 4 years after receiving the information.

(c) EXTENSION OF AUTHORITY.—If the Secretary of the Senate is unable to meet the deadline established under subsection (a), the Committee on Rules and Administration of the Senate may grant an extension of the Secretary of the Senate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle E—Other Reforms

SEC. 551. COMPLIANCE WITH LOBBYING DISCLOSURE.

Rule XXXVII of the Standing Rules of the Senate is amended by—

(1) redesignating paragraphs 10 through 13 as paragraphs 11 through 14, respectively; and

(2) inserting after paragraph 9, the following:

“10. Paragraphs 8 and 9 shall not apply to contacts with the staff of the Secretary of the Senate regarding compliance with the lobbying disclosure requirements of the Lobbying Disclosure Act of 1995.”.

SEC. 552. PROHIBIT OFFICIAL CONTACT WITH SPOUSE OR IMMEDIATE FAMILY MEMBER OF MEMBER WHO IS A REGISTERED LOBBYIST.

Rule XXXVII of the Standing Rules of the Senate is amended by—

(1) redesignating paragraphs 11 through 14 as paragraphs 12 through 15, respectively; and

(2) inserting after paragraph 10, the following:

“11. (a) If a Member’s spouse or immediate family member is a registered lobbyist, or is employed or retained by such a registered lobbyist or an entity that hires or retains a registered lobbyist for the purpose of influencing legislation, the Member shall prohibit all staff employed or supervised by that Member (including staff in personal, committee, and leadership offices) from having any contact with the Member’s spouse or immediate family member that constitutes a lobbying contact as defined by section 3 of the Lobbying Disclosure Act of 1995 by such person.

“(b) Members and employees on the staff of a Member (including staff in personal, committee, and leadership offices) shall be prohibited from having any contact that constitutes a lobbying contact as defined by section 3 of the Lobbying Disclosure Act of 1995 by any spouse of a Member who is a registered lobbyist, or is employed or retained by such a registered lobbyist.

“(c) The prohibition in subparagraph (b) shall not apply to the spouse of a Member who was serving as a registered lobbyist at least 1 year prior to the most recent election of that Member to office or at least 1 year prior to his or her marriage to that Member.”.

SEC. 553. MANDATORY SENATE ETHICS TRAINING FOR MEMBERS AND STAFF.

2 USC 72a–1h.

(a) **TRAINING PROGRAM.**—The Select Committee on Ethics shall conduct ongoing ethics training and awareness programs for Members of the Senate and Senate staff.

(b) **REQUIREMENTS.**—The ethics training program conducted by the Select Committee on Ethics shall be completed by—

Deadlines.

(1) new Senators or staff not later than 60 days after commencing service or employment; and

(2) Senators and Senate staff serving or employed on the date of enactment of this Act not later than 165 days after the date of enactment of this Act.

SEC. 554. ANNUAL REPORT BY SELECT COMMITTEE ON ETHICS.

2 USC 72a–1i.

The Select Committee on Ethics of the Senate shall issue an annual report due no later than January 31, describing the following:

(1) The number of alleged violations of Senate rules received from any source, including the number raised by a Senator or staff of the committee.

(2) A list of the number of alleged violations that were dismissed—

(A) for lack of subject matter jurisdiction or, in which, even if the allegations in the complaint are true, no violation of Senate rules would exist; or

(B) because they failed to provide sufficient facts as to any material violation of the Senate rules beyond mere allegation or assertion.

(3) The number of alleged violations in which the committee staff conducted a preliminary inquiry.

(4) The number of alleged violations that resulted in an adjudicatory review.

(5) The number of alleged violations that the committee dismissed for lack of substantial merit.

(6) The number of private letters of admonition or public letters of admonition issued.

(7) The number of matters resulting in a disciplinary sanction.

(8) Any other information deemed by the committee to be appropriate to describe its activities in the preceding year.

2 USC 30b note.

SEC. 555. EXERCISE OF RULEMAKING POWERS.

The Senate adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate; and

(2) with full recognition of the constitutional right of the Senate to change those rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

2 USC 30b note.

SEC. 556. EFFECTIVE DATE AND GENERAL PROVISIONS.

Except as otherwise provided in this title, this title shall take effect on the date of enactment of this title.

TITLE VI—PROHIBITED USE OF PRIVATE AIRCRAFT

SEC. 601. RESTRICTIONS ON USE OF CAMPAIGN FUNDS FOR FLIGHTS ON NONCOMMERCIAL AIRCRAFT.

(a) RESTRICTIONS.—Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by adding at the end the following new subsection:

“(c) RESTRICTIONS ON USE OF CAMPAIGN FUNDS FOR FLIGHTS ON NONCOMMERCIAL AIRCRAFT.—

“(1) IN GENERAL.—Notwithstanding any other provision of this Act, a candidate for election for Federal office (other than a candidate who is subject to paragraph (2)), or any authorized committee of such a candidate, may not make any expenditure for a flight on an aircraft unless—

“(A) the aircraft is operated by an air carrier or commercial operator certificated by the Federal Aviation Administration and the flight is required to be conducted under air carrier safety rules, or, in the case of travel which is abroad, by an air carrier or commercial operator certificated by an appropriate foreign civil aviation authority and the flight is required to be conducted under air carrier safety rules; or

“(B) the candidate, the authorized committee, or other political committee pays to the owner, lessee, or other person who provides the airplane the pro rata share of the fair market value of such flight (as determined by dividing the fair market value of the normal and usual charter fare or rental charge for a comparable plane of comparable size by the number of candidates on the flight)

within a commercially reasonable time frame after the date on which the flight is taken.

“(2) HOUSE CANDIDATES.—Notwithstanding any other provision of this Act, in the case of a candidate for election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, an authorized committee and a leadership PAC of the candidate may not make any expenditure for a flight on an aircraft unless—

“(A) the aircraft is operated by an air carrier or commercial operator certificated by the Federal Aviation Administration and the flight is required to be conducted under air carrier safety rules, or, in the case of travel which is abroad, by an air carrier or commercial operator certificated by an appropriate foreign civil aviation authority and the flight is required to be conducted under air carrier safety rules; or

“(B) the aircraft is operated by an entity of the Federal government or the government of any State.

“(3) EXCEPTION FOR AIRCRAFT OWNED OR LEASED BY CANDIDATE.—

“(A) IN GENERAL.—Paragraphs (1) and (2) do not apply to a flight on an aircraft owned or leased by the candidate involved or an immediate family member of the candidate (including an aircraft owned by an entity that is not a public corporation in which the candidate or an immediate family member of the candidate has an ownership interest), so long as the candidate does not use the aircraft more than the candidate’s or immediate family member’s proportionate share of ownership allows.

“(B) IMMEDIATE FAMILY MEMBER DEFINED.—In this subparagraph (A), the term ‘immediate family member’ means, with respect to a candidate, a father, mother, son, daughter, brother, sister, husband, wife, father-in-law, or mother-in-law.

“(4) LEADERSHIP PAC DEFINED.—In this subsection, the term ‘leadership PAC’ has the meaning given such term in section 304(i)(8)(B).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to flights taken on or after the date of the enactment of this Act. 2 USC 439a note.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. SENSE OF THE CONGRESS THAT ANY APPLICABLE RESTRICTIONS ON CONGRESSIONAL OFFICIALS AND EMPLOYEES SHOULD APPLY TO THE EXECUTIVE AND JUDICIAL BRANCHES.

It is the sense of the Congress that any applicable restrictions on congressional officials and employees in this Act should apply to the executive and judicial branches.

SEC. 702. KNOWING AND WILLFUL FALSIFICATION OR FAILURE TO REPORT.

Section 104(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

- (1) by inserting “(1)” after “(a)”;
- (2) in paragraph (1), as so designated, by striking “\$10,000” and inserting “\$50,000”; and
- (3) by adding at the end the following:
 - “(2)(A) It shall be unlawful for any person to knowingly and willfully—
 - “(i) falsify any information that such person is required to report under section 102; and
 - “(ii) fail to file or report any information that such person is required to report under section 102.
 - “(B) Any person who—
 - “(i) violates subparagraph (A)(i) shall be fined under title 18, United States Code, imprisoned for not more than 1 year, or both; and
 - “(ii) violates subparagraph (A)(ii) shall be fined under title 18, United States Code.”.

2 USC 1601 note. **SEC. 703. RULE OF CONSTRUCTION.**

Nothing in this Act or the amendments made by this Act shall be construed to prohibit any expressive conduct protected from legal prohibition by, or any activities protected by the free speech, free exercise, or free association clauses of, the First Amendment to the Constitution.

Approved September 14, 2007.

LEGISLATIVE HISTORY—S. 1:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Jan. 9–12, 16–18, considered and passed Senate.

July 31, considered and passed House, amended.

Aug. 2, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Sept. 14, Presidential statement.



Public Law 110–82
110th Congress

An Act

To require the Secretary of the Treasury to mint and issue coins in commemoration of Native Americans and the important contributions made by Indian tribes and individual Native Americans to the development of the United States and the history of the United States, and for other purposes.

Sept. 20, 2007
[H.R. 2358]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Native American
\$1 Coin Act.
31 USC 5101
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Native American \$1 Coin Act”.

SEC. 2. NATIVE AMERICAN \$1 COIN PROGRAM.

Section 5112 of title 31, United States Code, is amended by adding at the end the following:

“(r) REDESIGN AND ISSUANCE OF CIRCULATING \$1 COINS HONORING NATIVE AMERICANS AND THE IMPORTANT CONTRIBUTIONS MADE BY INDIAN TRIBES AND INDIVIDUAL NATIVE AMERICANS IN UNITED STATES HISTORY.—

“(1) REDESIGN BEGINNING IN 2008.—

“(A) IN GENERAL.—Effective beginning January 1, 2008, notwithstanding subsection (d), in addition to the coins to be issued pursuant to subsection (n), and in accordance with this subsection, the Secretary shall mint and issue \$1 coins that—

“(i) have as the designs on the obverse the so-called ‘Sacagawea design’; and

“(ii) have a design on the reverse selected in accordance with paragraph (2)(A), subject to paragraph (3)(A).

“(B) DELAYED DATE.—If the date of the enactment of the Native American \$1 Coin Act is after August 25, 2007, subparagraph (A) shall be applied by substituting ‘2009’ for ‘2008’.

Applicability.

“(2) DESIGN REQUIREMENTS.—The \$1 coins issued in accordance with paragraph (1) shall meet the following design requirements:

“(A) COIN REVERSE.—The design on the reverse shall bear—

“(i) images celebrating the important contributions made by Indian tribes and individual Native Americans to the development of the United States and the history of the United States;

“(ii) the inscription ‘\$1’; and

“(iii) the inscription ‘United States of America’.

“(B) COIN OBERVERSE.—The design on the obverse shall—

“(i) be chosen by the Secretary, after consultation with the Commission of Fine Arts and review by the Citizens Coinage Advisory Committee; and

“(ii) contain the so-called ‘Sacagawea design’ and the inscription ‘Liberty’.

“(C) EDGE-INCUSED INSCRIPTIONS.—

“(i) IN GENERAL.—The inscription of the year of minting and issuance of the coin and the inscriptions ‘E Pluribus Unum’ and ‘In God We Trust’ shall be edge-incused into the coin.

“(ii) PRESERVATION OF DISTINCTIVE EDGE.—The edge-incusing of the inscriptions under clause (i) on coins issued under this subsection shall be done in a manner that preserves the distinctive edge of the coin so that the denomination of the coin is readily discernible, including by individuals who are blind or visually impaired.

“(D) REVERSE DESIGN SELECTION.—The designs selected for the reverse of the coins described under this subsection—

“(i) shall be chosen by the Secretary after consultation with the Committee on Indian Affairs of the Senate, the Congressional Native American Caucus of the House of Representatives, the Commission of Fine Arts, and the National Congress of American Indians;

“(ii) shall be reviewed by the Citizens Coinage Advisory Committee;

“(iii) may depict individuals and events such as—

“(I) the creation of Cherokee written language;

“(II) the Iroquois Confederacy;

“(III) Wampanoag Chief Massasoit;

“(IV) the ‘Pueblo Revolt’;

“(V) Olympian Jim Thorpe;

“(VI) Ely S. Parker, a general on the staff of General Ulysses S. Grant and later head of the Bureau of Indian Affairs; and

“(VII) code talkers who served the United States Armed Forces during World War I and World War II; and

“(iv) in the case of a design depicting the contribution of an individual Native American to the development of the United States and the history of the United States, shall not depict the individual in a size such that the coin could be considered to be a ‘2-headed’ coin.

“(3) ISSUANCE OF COINS COMMEMORATING 1 NATIVE AMERICAN EVENT DURING EACH YEAR.—

“(A) IN GENERAL.—Each design for the reverse of the \$1 coins issued during each year shall be emblematic of 1 important Native American or Native American contribution each year.

“(B) ISSUANCE PERIOD.—Each \$1 coin minted with a design on the reverse in accordance with this subsection for any year shall be issued during the 1-year period beginning on January 1 of that year and shall be available throughout the entire 1-year period.

“(C) ORDER OF ISSUANCE OF DESIGNS.—Each coin issued under this subsection commemorating Native Americans and their contributions—

“(i) shall be issued, to the maximum extent practicable, in the chronological order in which the Native Americans lived or the events occurred, until the termination of the coin program described in subsection (n); and

“(ii) thereafter shall be issued in any order determined to be appropriate by the Secretary, after consultation with the Committee on Indian Affairs of the Senate, the Congressional Native American Caucus of the House of Representatives, and the National Congress of American Indians.

“(4) ISSUANCE OF NUMISMATIC COINS.—The Secretary may mint and issue such number of \$1 coins of each design selected under this subsection in uncirculated and proof qualities as the Secretary determines to be appropriate.

“(5) QUANTITY.—The number of \$1 coins minted and issued in a year with the Sacagawea-design on the obverse shall be not less than 20 percent of the total number of \$1 coins minted and issued in such year.”.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

Section 5112(n)(1) of title 31, United States Code, is amended—

(1) by striking the paragraph designation and heading and all that follows through “Notwithstanding subsection (d)” and inserting the following:

“(1) REDESIGN BEGINNING IN 2007.—Notwithstanding subsection (d)”;

(2) by striking subparagraph (B); and

(3) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately.

SEC. 4. REMOVAL OF BARRIERS TO CIRCULATION OF \$1 COIN.

(a) IN GENERAL.—In order to remove barriers to circulation, the Secretary of the Treasury shall carry out an aggressive, cost-effective, continuing campaign to encourage commercial enterprises to accept and dispense \$1 coins that have as designs on the obverse the so-called “Sacagawea design”.

31 USC 5112
note.

(b) REPORT.—The Secretary of the Treasury shall submit to Congress an annual report on the success of the efforts described in subsection (a).

Approved September 20, 2007.

LEGISLATIVE HISTORY—H.R. 2358:

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 12, considered and passed House.

Aug. 3, considered and passed Senate, amended.

Sept. 4, House concurred in Senate amendment.



Public Law 110–83
110th Congress

An Act

To establish a United States-Poland parliamentary youth exchange program, and
for other purposes.

Sept. 20, 2007
[S. 377]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “United States-Poland Parliamentary Youth Exchange Program Act of 2007”.

United States-
Poland
Parliamentary
Youth Exchange
Program Act
of 2007.
22 USC 2452
note.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States established diplomatic relations with the newly-formed Polish Republic in April 1919.

(2) The United States and Poland have enjoyed close bilateral relations since 1989.

(3) Poland became a member of the North Atlantic Treaty Organization (NATO) in March 1999.

(4) Poland became a member of the European Union (EU) in May 2004.

(5) Poland has been a strong supporter, both diplomatically and militarily, of efforts led by the United States to combat global terrorism and has contributed troops to the United States-led coalitions in both Afghanistan and Iraq.

(6) Poland cooperates closely with the United States on such issues as democratization, nuclear proliferation, human rights, regional cooperation in Eastern Europe, and reform of the United Nations.

(7) The United States and Poland seek to ensure enduring ties between both governments and societies.

(8) It is important to invest in the youth of the United States and Poland in order to help ensure long-lasting ties between both societies.

(9) It is in the interest of the United States to preserve a United States presence in Europe and to continue to contribute to the development of transatlantic relationships.

(10) Poland for many years received international and United States financial assistance and is now determined to invest its own resources toward attaining its shared desire with the United States to develop international cooperation.

SEC. 3. UNITED STATES-POLAND PARLIAMENTARY YOUTH EXCHANGE PROGRAM.

(a) **AUTHORITY.**—The Secretary of State, in cooperation with the Government of Poland, may establish and carry out a parliamentary exchange program for youth of the United States and Poland.

(b) **DESIGNATION.**—The youth exchange program carried out under this subsection shall be known as the “United States-Poland Parliamentary Youth Exchange Program”.

(c) **PURPOSE.**—The purpose of the youth exchange program is to demonstrate to the youth of the United States and Poland the benefits of friendly cooperation between the United States and Poland based on common political and cultural values.

(d) **ELIGIBLE PARTICIPANTS.**—An individual is eligible for participation in the youth exchange program if the individual—

(1) is a citizen or national of the United States or of Poland;

(2) is under the age of 19 years;

(3) is a student who is enrolled and in good standing at a secondary school in the United States or Poland;

(4) has been accepted for up to one academic year of study in a program of study abroad approved for credit at such school; and

(5) meets any other qualifications that the Secretary of State may establish for purposes of the program.

(e) **PROGRAM ELEMENTS.**—Under the youth exchange program, eligible participants selected for participation in the program shall—

(1) live in and attend a public secondary school in the host country for a period of one academic year;

(2) while attending public school in the host country, undertake academic studies in the host country, with particular emphasis on the history, constitution, and political development of the host country;

(3) be eligible, either during or after the completion of such academic studies, for an internship in an appropriate position in the host country; and

(4) engage in such other activities as the President considers appropriate to achieve the purpose of the program.

SEC. 4. ANNUAL REPORT TO CONGRESS.

The Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives an annual report on the United States-Poland Parliamentary Youth Exchange Program established under this Act. Each annual report shall include—

(1) information on the implementation of the Program during the preceding year;

(2) the number of participants in the Program during such year;

(3) the names and locations of the secondary schools in the United States and Poland attended by such participants;

(4) a description of the areas of study of such participants during their participation in the Program;

(5) a description of any internships taken by such participants during their participation in the Program; and

(6) a description of any other activities such participants carried out during their participation in the Program.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated for the Department of State for fiscal year 2008 such sums as may be necessary to carry out the youth exchange program authorized by this Act.

(b) **AVAILABILITY.**—Amounts authorized to be appropriated by subsection (a) shall remain available until expended.

Approved September 20, 2007.

LEGISLATIVE HISTORY—S. 377:

SENATE REPORTS: No. 110–33 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 15, considered and passed Senate.

Sept. 5, considered and passed House.



Public Law 110–84
110th Congress

An Act

Sept. 27, 2007
[H.R. 2669]

To provide for reconciliation pursuant to section 601 of the concurrent resolution on the budget for fiscal year 2008.

College Cost
Reduction and
Access Act.
20 USC 1001
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) **SHORT TITLE.**—This Act may be cited as the “College Cost Reduction and Access Act”.

(b) **REFERENCES.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

20 USC 1070a
note.

(c) **EFFECTIVE DATE.**—Except as otherwise expressly provided, the amendments made by this Act shall be effective on October 1, 2007.

TITLE I—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

SEC. 101. TUITION SENSITIVITY.

(a) **AMENDMENT.**—Section 401(b) (20 U.S.C. 1070a(b)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) through (9) as paragraphs (3) through (8), respectively.

20 USC 1070a
note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall be effective with respect to determinations of Federal Pell Grant amounts for award years beginning on or after July 1, 2007.

(c) **AUTHORIZATION AND APPROPRIATION OF FUNDS.**—There is authorized to be appropriated, and there is appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Education to carry out the amendment made by subsection (a), \$11,000,000 for fiscal year 2008.

SEC. 102. MANDATORY PELL GRANT INCREASES.

(a) **EXTENSION OF AUTHORITY.**—Section 401(a) (20 U.S.C. 1070a(a)) is amended by striking “fiscal year 2004” and inserting “fiscal year 2017”.

(b) FUNDING FOR INCREASES.—Section 401(b) (20 U.S.C. 1070a(b)) is amended by adding at the end the following new paragraph:

“(9) ADDITIONAL FUNDS.—

“(A) IN GENERAL.—There are authorized to be appropriated, and there are appropriated, to carry out subparagraph (B) of this paragraph (in addition to any other amounts appropriated to carry out this section and out of any money in the Treasury not otherwise appropriated) the following amounts—

- “(i) \$2,030,000,000 for fiscal year 2008;
- “(ii) \$2,090,000,000 for fiscal year 2009;
- “(iii) \$3,030,000,000 for fiscal year 2010;
- “(iv) \$3,090,000,000 for fiscal year 2011;
- “(v) \$5,050,000,000 for fiscal year 2012;
- “(vi) \$105,000,000 for fiscal year 2013;
- “(vii) \$4,305,000,000 for fiscal year 2014;
- “(viii) \$4,400,000,000 for fiscal year 2015;
- “(ix) \$4,600,000,000 for fiscal year 2016; and
- “(x) \$4,900,000,000 for fiscal year 2017.

“(B) INCREASE IN FEDERAL PELL GRANTS.—The amounts made available pursuant to subparagraph (A) of this paragraph shall be used to increase the amount of the maximum Federal Pell Grant for which a student shall be eligible during an award year, as specified in the last enacted appropriation Act applicable to that award year, by—

- “(i) \$490 for each of the award years 2008–2009 and 2009–2010;
- “(ii) \$690 for each of the award years 2010–2011 and 2011–2012; and
- “(iii) \$1,090 for award year 2012–2013.

“(C) ELIGIBILITY.—The Secretary shall only award an increased amount of a Federal Pell Grant under this section for any award year pursuant to the provisions of this paragraph to students who qualify for a Federal Pell Grant award under the maximum grant award enacted in the annual appropriation Act for such award year without regard to the provisions of this paragraph.

“(D) FORMULA OTHERWISE UNAFFECTED.—Except as provided in subparagraphs (B) and (C), nothing in this paragraph shall be construed to alter the requirements of this section, or authorize the imposition of additional requirements, for the determination and allocation of Federal Pell Grants under this section.

“(E) RATABLE INCREASES AND DECREASES.—The amounts specified in subparagraph (B) shall be ratably increased or decreased to the extent that funds available under subparagraph (A) exceed or are less than (respectively) the amount required to provide the amounts specified in subparagraph (B).

“(F) USE OF FISCAL YEAR FUNDS FOR AWARD YEARS.—The amounts made available by subparagraph (A) for any fiscal year shall be available and remain available for use under subparagraph (B) for the award year that begins in such fiscal year.”.

SEC. 103. UPWARD BOUND.20 USC
1070a–13.

Section 402C is further amended by adding at the end the following new subsection:

“(f) **ADDITIONAL FUNDS.**—

“(1) **AUTHORIZATION AND APPROPRIATION.**—There are authorized to be appropriated, and there are appropriated to the Secretary, from funds not otherwise appropriated, \$57,000,000 for each of the fiscal years 2008 through 2011 to carry out paragraph (2), except that any amounts that remain unexpended for such purpose for each of such fiscal years may be available for technical assistance and administration costs for the Upward Bound program. The authority to award grants under this subsection shall expire at the end of fiscal year 2011.

“(2) **USE OF FUNDS.**—The amounts made available by paragraph (1) shall be available to provide assistance to all Upward Bound projects that did not receive assistance in fiscal year 2007 and that have a grant score above 70. Such assistance shall be made available in the form of 4-year grants.”.

SEC. 104. TEACH GRANTS.

Part A of title IV (20 U.S.C. 1070 et seq.) is amended by adding at the end the following new subpart:

“Subpart 9—TEACH Grants

20 USC 1070g.

“SEC. 420L. DEFINITIONS.

“For the purposes of this subpart:

“(1) **ELIGIBLE INSTITUTION.**—The term ‘eligible institution’ means an institution of higher education, as defined in section 102, that the Secretary determines—

“(A) provides high quality teacher preparation and professional development services, including extensive clinical experience as a part of pre-service preparation;

“(B) is financially sound;

“(C) provides pedagogical course work, or assistance in the provision of such coursework, including the monitoring of student performance, and formal instruction related to the theory and practices of teaching; and

“(D) provides supervision and support services to teachers, or assistance in the provision of such services, including mentoring focused on developing effective teaching skills and strategies.

“(2) **POST-BACCALAUREATE.**—The term ‘post-baccalaureate’ means a program of instruction for individuals who have completed a baccalaureate degree, that does not lead to a graduate degree, and that consists of courses required by a State in order for a teacher candidate to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State, except that such term shall not include any program of instruction offered by an eligible institution that offers a baccalaureate degree in education.

“(3) **TEACHER CANDIDATE.**—The term ‘teacher candidate’ means a student or teacher described in subparagraph (A) or (B) of section 420N(a)(2).

“SEC. 420M. PROGRAM ESTABLISHED.

20 USC 1070g–1.

“(a) PROGRAM AUTHORITY.—

“(1) PAYMENTS REQUIRED.—The Secretary shall pay to each eligible institution such sums as may be necessary to pay to each teacher candidate who files an application and agreement in accordance with section 420N, and who qualifies under paragraph (2) of section 420N(a), a TEACH Grant in the amount of \$4,000 for each academic year during which that teacher candidate is in attendance at the institution.

“(2) REFERENCES.—Grants made under paragraph (1) shall be known as ‘Teacher Education Assistance for College and Higher Education Grants’ or ‘TEACH Grants’.

“(b) PAYMENT METHODOLOGY.—

“(1) PREPAYMENT.—Not less than 85 percent of any funds provided to an eligible institution under subsection (a) shall be advanced to the eligible institution prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay teacher candidates until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

Federal Register,
publication.

“(2) DIRECT PAYMENT.—Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to teacher candidates, in advance of the beginning of the academic term, an amount for which teacher candidates are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

“(3) DISTRIBUTION OF GRANTS TO TEACHER CANDIDATES.—Payments under this subpart shall be made, in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this subpart. Any disbursement allowed to be made by crediting the teacher candidate’s account shall be limited to tuition and fees and, in the case of institutionally-owned housing, room and board. The teacher candidate may elect to have the institution provide other such goods and services by crediting the teacher candidate’s account.

“(c) REDUCTIONS IN AMOUNT.—

“(1) PART-TIME STUDENTS.—In any case where a teacher candidate attends an eligible institution on less than a full-time basis (including a teacher candidate who attends an eligible institution on less than a half-time basis) during any academic year, the amount of a grant under this subpart for which that teacher candidate is eligible shall be reduced in proportion to the degree to which that teacher candidate is not attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subpart, computed in accordance with this subpart. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 482 of this Act.

Regulations.
Federal Register,
publication.

“(2) NO EXCEEDING COST.—The amount of a grant awarded under this subpart, in combination with Federal assistance

and other student assistance, shall not exceed the cost of attendance (as defined in section 472) at the eligible institution at which that teacher candidate is in attendance. If, with respect to any teacher candidate for any academic year, it is determined that the amount of a TEACH Grant exceeds the cost of attendance for that year, the amount of the TEACH Grant shall be reduced until such grant does not exceed the cost of attendance at the eligible institution.

“(d) PERIOD OF ELIGIBILITY FOR GRANTS.—

“(1) UNDERGRADUATE AND POST-BACCALAUREATE STUDENTS.—The period during which an undergraduate or post-baccalaureate student may receive grants under this subpart shall be the period required for the completion of the first undergraduate baccalaureate or post-baccalaureate course of study being pursued by the teacher candidate at the eligible institution at which the teacher candidate is in attendance, except that—

“(A) any period during which the teacher candidate is enrolled in a noncredit or remedial course of study as described in paragraph (3) shall not be counted for the purpose of this paragraph; and

“(B) the total amount that a teacher candidate may receive under this subpart for undergraduate or post-baccalaureate study shall not exceed \$16,000.

“(2) GRADUATE STUDENTS.—The period during which a graduate student may receive grants under this subpart shall be the period required for the completion of a master’s degree course of study pursued by the teacher candidate at the eligible institution at which the teacher candidate is in attendance, except that the total amount that a teacher candidate may receive under this subpart for graduate study shall not exceed \$8,000.

“(3) REMEDIAL COURSE; STUDY ABROAD.—Nothing in this section shall be construed to exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language acquisition) which are determined by the eligible institution to be necessary to help the teacher candidate be prepared for the pursuit of a first undergraduate baccalaureate or post-baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the teacher candidate to utilize already existing knowledge, training, or skills. Nothing in this section shall be construed to exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the teacher candidate is enrolled.

20 USC 1070g-2. **“SEC. 420N. APPLICATIONS; ELIGIBILITY.**

“(a) APPLICATIONS; DEMONSTRATION OF ELIGIBILITY.—

“(1) FILING REQUIRED.—The Secretary shall periodically set dates by which teacher candidates shall file applications for grants under this subpart. Each teacher candidate desiring a grant under this subpart for any year shall file an application containing such information and assurances as the Secretary may determine necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

“(2) DEMONSTRATION OF TEACH GRANT ELIGIBILITY.—Each application submitted under paragraph (1) shall contain such information as is necessary to demonstrate that—

“(A) if the applicant is an enrolled student—

“(i) the student is an eligible student for purposes of section 484;

“(ii) the student—

“(I) has a grade point average that is determined, under standards prescribed by the Secretary, to be comparable to a 3.25 average on a zero to 4.0 scale, except that, if the student is in the first year of a program of undergraduate education, such grade point average shall be determined on the basis of the student’s cumulative secondary school grade point average; or

“(II) displayed high academic aptitude by receiving a score above the 75th percentile on at least one of the batteries in an undergraduate, post-baccalaureate, or graduate school admissions test; and

“(iii) the student is completing coursework and other requirements necessary to begin a career in teaching, or plans to complete such coursework and requirements prior to graduating; or

“(B) if the applicant is a current or prospective teacher applying for a grant to obtain a graduate degree—

“(i) the applicant is a teacher or a retiree from another occupation with expertise in a field in which there is a shortage of teachers, such as mathematics, science, special education, English language acquisition, or another high-need subject; or

“(ii) the applicant is or was a teacher who is using high-quality alternative certification routes, such as Teach for America, to get certified.

“(b) AGREEMENTS TO SERVE.—Each application under subsection (a) shall contain or be accompanied by an agreement by the applicant that—

“(1) the applicant will—

“(A) serve as a full-time teacher for a total of not less than 4 academic years within 8 years after completing the course of study for which the applicant received a TEACH Grant under this subpart;

“(B) teach in a school described in section 465(a)(2)(A);

“(C) teach in any of the following fields—

“(i) mathematics;

“(ii) science;

“(iii) a foreign language;

“(iv) bilingual education;

“(v) special education;

“(vi) as a reading specialist; or

“(vii) another field documented as high-need by the Federal Government, State government, or local educational agency, and approved by the Secretary;

“(D) submit evidence of such employment in the form of a certification by the chief administrative officer of the school upon completion of each year of such service; and

Certification.

“(E) comply with the requirements for being a highly qualified teacher as defined in section 9101 of the Elementary and Secondary Education Act of 1965; and
“(2) in the event that the applicant is determined to have failed or refused to carry out such service obligation, the sum of the amounts of any TEACH Grants received by such applicant will be treated as a loan and collected from the applicant in accordance with subsection (c) and the regulations thereunder.

“(C) REPAYMENT FOR FAILURE TO COMPLETE SERVICE.—In the event that any recipient of a grant under this subpart fails or refuses to comply with the service obligation in the agreement under subsection (b), the sum of the amounts of any TEACH Grants received by such recipient shall, upon a determination of such a failure or refusal in such service obligation, be treated as a Federal Direct Unsubsidized Stafford Loan under part D of title IV, and shall be subject to repayment, together with interest thereon accruing from the date of the grant award, in accordance with terms and conditions specified by the Secretary in regulations under this subpart.

20 USC 1070g–3.

“SEC. 4200. PROGRAM PERIOD AND FUNDING.

“Beginning on July 1, 2008, there shall be available to the Secretary to carry out this subpart, from funds not otherwise appropriated, such sums as may be necessary to provide TEACH Grants in accordance with this subpart to each eligible applicant.”.

TITLE II—STUDENT LOAN BENEFITS, TERMS, AND CONDITIONS

SEC. 201. INTEREST RATE REDUCTIONS.

(a) FFEL INTEREST RATES.—

(1) Section 427A(l) (20 U.S.C. 1077a(l)) is amended by adding at the end the following new paragraph:

“(4) REDUCED RATES FOR UNDERGRADUATE SUBSIDIZED LOANS.—Notwithstanding subsection (h) and paragraph (1) of this subsection, with respect to any loan to an undergraduate student made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B, 428C, or 428H) for which the first disbursement is made on or after July 1, 2006, and before July 1, 2012, the applicable rate of interest shall be as follows:

“(A) For a loan for which the first disbursement is made on or after July 1, 2006, and before July 1, 2008, 6.8 percent on the unpaid principal balance of the loan.

“(B) For a loan for which the first disbursement is made on or after July 1, 2008, and before July 1, 2009, 6.0 percent on the unpaid principal balance of the loan.

“(C) For a loan for which the first disbursement is made on or after July 1, 2009, and before July 1, 2010, 5.6 percent on the unpaid principal balance of the loan.

“(D) For a loan for which the first disbursement is made on or after July 1, 2010, and before July 1, 2011, 4.5 percent on the unpaid principal balance of the loan.

“(E) For a loan for which the first disbursement is made on or after July 1, 2011, and before July 1, 2012, 3.4 percent on the unpaid principal balance of the loan.”.

(2) SPECIAL ALLOWANCE CROSS REFERENCE.—Section 438(b)(2)(I)(ii)(II) (20 U.S.C. 1087–1(b)(2)(I)(ii)(II)) is amended by striking “section 427A(l)(1)” and inserting “section 427A(l)(1) or (l)(4)”.

(b) DIRECT LOAN INTEREST RATES.—Section 455(b)(7) (20 U.S.C. 1087e(b)(7)) is amended by adding at the end the following new subparagraph:

“(D) REDUCED RATES FOR UNDERGRADUATE FDSL.—Notwithstanding the preceding paragraphs of this subsection and subparagraph (A) of this paragraph, for Federal Direct Stafford Loans made to undergraduate students for which the first disbursement is made on or after July 1, 2006, and before July 1, 2012, the applicable rate of interest shall be as follows:

“(i) For a loan for which the first disbursement is made on or after July 1, 2006, and before July 1, 2008, 6.8 percent on the unpaid principal balance of the loan.

“(ii) For a loan for which the first disbursement is made on or after July 1, 2008, and before July 1, 2009, 6.0 percent on the unpaid principal balance of the loan.

“(iii) For a loan for which the first disbursement is made on or after July 1, 2009, and before July 1, 2010, 5.6 percent on the unpaid principal balance of the loan.

“(iv) For a loan for which the first disbursement is made on or after July 1, 2010, and before July 1, 2011, 4.5 percent on the unpaid principal balance of the loan.

“(v) For a loan for which the first disbursement is made on or after July 1, 2011, and before July 1, 2012, 3.4 percent on the unpaid principal balance of the loan.”.

SEC. 202. STUDENT LOAN DEFERMENT FOR CERTAIN MEMBERS OF THE ARMED FORCES.

(a) FEDERAL FAMILY EDUCATION LOANS.—Section 428(b)(1)(M)(iii) (20 U.S.C. 1078(b)(1)(M)(iii)) is amended—

(1) in the matter preceding subclause (I), by striking “not in excess of 3 years”;

(2) in subclause (II), by striking “; or” and inserting a comma; and

(3) by adding at the end the following:

“and for the 180-day period following the demobilization date for the service described in subclause (I) or (II); or”.

(b) DIRECT LOANS.—Section 455(f)(2)(C) (20 U.S.C. 1087e(f)(2)(C)) is amended—

(1) in the matter preceding clause (i), by striking “not in excess of 3 years”;

(2) in clause (ii), by striking “; or” and inserting a comma; and

(3) by adding at the end the following:

“and for the 180-day period following the demobilization date for the service described in clause (i) or (ii); or”.

(c) PERKINS LOANS.—Section 464(c)(2)(A)(iii) (20 U.S.C. 1087dd(c)(2)(A)(iii)) is amended—

(1) in the matter preceding subclause (I), by striking “not in excess of 3 years”;

(2) in subclause (II), by striking the semicolon and inserting a comma; and

(3) by adding at the end the following:

“and for the 180-day period following the demobilization date for the service described in subclause (I) or (II);”.

(d) APPLICABILITY.—Section 8007(f) of the Higher Education Reconciliation Act of 2005 (20 U.S.C. 1078 note) is amended by striking “loans for which” and all that follows through the period at the end and inserting “all loans under title IV of the Higher Education Act of 1965.”.

SEC. 203. INCOME-BASED REPAYMENT.

(a) AMENDMENT.—Part G of title IV (20 U.S.C. 1088 et seq.) is amended by adding at the end the following:

20 USC 1098e.

“SEC. 493C. INCOME-BASED REPAYMENT.

“(a) DEFINITIONS.—In this section:

“(1) EXCEPTED PLUS LOAN.—The term ‘excepted PLUS loan’ means a loan under section 428B, or a Federal Direct PLUS Loan, that is made, insured, or guaranteed on behalf of a dependent student.

“(2) EXCEPTED CONSOLIDATION LOAN.—The term ‘excepted consolidation loan’ means a consolidation loan under section 428C, or a Federal Direct Consolidation Loan, if the proceeds of such loan were used to the discharge the liability on an excepted PLUS loan.

“(3) PARTIAL FINANCIAL HARDSHIP.—The term ‘partial financial hardship’, when used with respect to a borrower, means that for such borrower—

“(A) the annual amount due on the total amount of loans made, insured, or guaranteed under part B or D (other than an excepted PLUS loan or excepted consolidation loan) to a borrower as calculated under the standard repayment plan under section 428(b)(9)(A)(i) or 455(d)(1)(A), based on a 10-year repayment period; exceeds

“(B) 15 percent of the result obtained by calculating, on at least an annual basis, the amount by which—

“(i) the borrower’s, and the borrower’s spouse’s (if applicable), adjusted gross income; exceeds

“(ii) 150 percent of the poverty line applicable to the borrower’s family size as determined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

“(b) INCOME-BASED REPAYMENT PROGRAM AUTHORIZED.—Notwithstanding any other provision of this Act, the Secretary shall carry out a program under which—

“(1) a borrower of any loan made, insured, or guaranteed under part B or D (other than an excepted PLUS loan or excepted consolidation loan) who has a partial financial hardship (whether or not the borrower’s loan has been submitted to a guaranty agency for default aversion or is already in default) may elect, during any period the borrower has the

partial financial hardship, to have the borrower's aggregate monthly payment for all such loans not exceed the result described in subsection (a)(3)(B) divided by 12;

"(2) the holder of such a loan shall apply the borrower's monthly payment under this subsection first toward interest due on the loan, next toward any fees due on the loan, and then toward the principal of the loan;

"(3) any interest due and not paid under paragraph (2)—

"(A) shall, on subsidized loans, be paid by the Secretary for a period of not more than 3 years after the date of the borrower's election under paragraph (1), except that such period shall not include any period during which the borrower is in deferment due to an economic hardship described in section 435(o); and

"(B) be capitalized—

"(i) in the case of a subsidized loan, subject to subparagraph (A), at the time the borrower—

"(I) ends the election to make income-based repayment under this subsection; or

"(II) begins making payments of not less than the amount specified in paragraph (6)(A); or

"(ii) in the case of an unsubsidized loan, at the time the borrower—

"(I) ends the election to make income-based repayment under this subsection; or

"(II) begins making payments of not less than the amount specified in paragraph (6)(A);

"(4) any principal due and not paid under paragraph (2) shall be deferred;

"(5) the amount of time the borrower makes monthly payments under paragraph (1) may exceed 10 years;

"(6) if the borrower no longer has a partial financial hardship or no longer wishes to continue the election under this subsection, then—

"(A) the maximum monthly payment required to be paid for all loans made to the borrower under part B or D (other than an excepted PLUS loan or excepted consolidation loan) shall not exceed the monthly amount calculated under section 428(b)(9)(A)(i) or 455(d)(1)(A), based on a 10-year repayment period, when the borrower first made the election described in this subsection; and

"(B) the amount of time the borrower is permitted to repay such loans may exceed 10 years;

"(7) the Secretary shall repay or cancel any outstanding balance of principal and interest due on all loans made under part B or D (other than a loan under section 428B or a Federal Direct PLUS Loan) to a borrower who—

"(A) at any time, elected to participate in income-based repayment under paragraph (1); and

"(B) for a period of time prescribed by the Secretary, not to exceed 25 years, meets 1 or more of the following requirements—

"(i) has made reduced monthly payments under paragraph (1) or paragraph (6);

"(ii) has made monthly payments of not less than the monthly amount calculated under section 428(b)(9)(A)(i) or 455(d)(1)(A), based on a 10-year

repayment period, when the borrower first made the election described in this subsection;

“(iii) has made payments of not less than the payments required under a standard repayment plan under section 428(b)(9)(A)(i) or 455(d)(1)(A) with a repayment period of 10 years;

“(iv) has made payments under an income-contingent repayment plan under section 455(d)(1)(D); or

“(v) has been in deferment due to an economic hardship described in section 435(o);

“(8) a borrower who is repaying a loan made under part B or D pursuant to income-based repayment may elect, at any time, to terminate repayment pursuant to income-based repayment and repay such loan under the standard repayment plan; and

“(9) the special allowance payment to a lender calculated under section 438(b)(2)(I), when calculated for a loan in repayment under this section, shall be calculated on the principal balance of the loan and on any accrued interest unpaid by the borrower in accordance with this section.

Procedures.

“(c) ELIGIBILITY DETERMINATIONS.—The Secretary shall establish procedures for annually determining the borrower’s eligibility for income-based repayment, including verification of a borrower’s annual income and the annual amount due on the total amount of loans made, insured, or guaranteed under part B or D (other than an excepted PLUS loan or excepted consolidation loan), and such other procedures as are necessary to effectively implement income-based repayment under this section. The Secretary shall consider, but is not limited to, the procedures established in accordance with section 455(e)(1) or in connection with income sensitive repayment schedules under section 428(b)(9)(A)(iii) or 428C(b)(1)(E).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 428C (20 U.S.C. 1078–3) is amended—

(A) in subsection (a)(3)(B)(i), by amending subclause (V) to read as follows:

“(V) an individual may obtain a subsequent consolidation loan under section 455(g) only—

“(aa) for the purposes of obtaining an income contingent repayment plan, and only if the loan has been submitted to the guaranty agency for default aversion; or

“(bb) for the purposes of using the public service loan forgiveness program under section 455(m).”;

(B) in the first sentence of subsection (b)(5), by inserting “or chooses to obtain a consolidation loan for the purposes of using the public service loan forgiveness program offered under section 455(m),” after “from such a lender,”; and

(C) in the second sentence of such subsection, by inserting before the period the following: “, except that if a borrower intends to be eligible to use the public service loan forgiveness program under section 455(m), such loan shall be repaid using one of the repayment options described in section 455(m)(1)(A)”.

(2) Section 428C (20 U.S.C. 1078–3) (as amended by paragraph (1) of this subsection) is amended—

(A) in subsection (a)(3)(B)(i)(V)(aa)—

(i) by striking “an income contingent repayment plan,” and inserting “income contingent repayment or income-based repayment,”; and

(ii) by inserting “or if the loan is already in default” before the semicolon;

(B) in the first sentence of subsection (b)(5), by inserting “or income-based repayment terms” after “income-sensitive repayment terms”; and

(C) in the second sentence of such subsection, by inserting “, pursuant to income-based repayment under section 493C,” after “part D of this title”.

(3) Section 455(d)(1)(D) (20 U.S.C. 1087e(d)(1)(D)) is amended by inserting “made on behalf of a dependent student” after “PLUS loan”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective on July 1, 2009.

(2) EXCEPTION.—The amendments made by subsection (b)(1) shall be effective on July 1, 2008.

20 USC 1078–3
note.

SEC. 204. DEFERRAL OF LOAN REPAYMENT FOLLOWING ACTIVE DUTY.

National Guard.
Armed Forces.

Part G of title IV is further amended by adding after section 493C (as added by section 203 of this Act) the following new section:

“SEC. 493D. DEFERRAL OF LOAN REPAYMENT FOLLOWING ACTIVE DUTY.

20 USC 1098f.

“(a) DEFERRAL OF LOAN REPAYMENT FOLLOWING ACTIVE DUTY.—In addition to any deferral of repayment of a loan made under this title pursuant to section 428(b)(1)(M)(iii), 455(f)(2)(C), or 464(c)(2)(A)(iii), a borrower of a loan under this title who is a member of the National Guard or other reserve component of the Armed Forces of the United States, or a member of such Armed Forces in a retired status, is called or ordered to active duty, and is enrolled, or was enrolled within six months prior to the activation, in a program of instruction at an eligible institution, shall be eligible for a deferment during the 13 months following the conclusion of such service, except that a deferment under this subsection shall expire upon the borrower’s return to enrolled student status.

“(b) ACTIVE DUTY.—Notwithstanding section 481(d), in this section, the term ‘active duty’ has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term—

“(1) does not include active duty for training or attendance at a service school; but

“(2) includes, in the case of members of the National Guard, active State duty.”.

SEC. 205. MAXIMUM REPAYMENT PERIOD.

Section 455(e) (20 U.S.C. 1087e(e)) is amended by adding at the end the following:

“(7) **MAXIMUM REPAYMENT PERIOD.**—In calculating the extended period of time for which an income contingent repayment plan under this subsection may be in effect for a borrower, the Secretary shall include all time periods during which a borrower of loans under part B, part D, or part E—

“(A) is not in default on any loan that is included in the income contingent repayment plan; and

“(B)(i) is in deferment due to an economic hardship described in section 435(o);

“(ii) makes monthly payments under paragraph (1) or (6) of section 493C(b);

“(iii) makes monthly payments of not less than the monthly amount calculated under section 428(b)(9)(A)(i) or subsection (d)(1)(A), based on a 10-year repayment period, when the borrower first made the election described in section 493C(b)(1);

“(iv) makes payments of not less than the payments required under a standard repayment plan under section 428(b)(9)(A)(i) or subsection (d)(1)(A) with a repayment period of 10 years; or

“(v) makes payments under an income contingent repayment plan under subsection (d)(1)(D).”.

TITLE III—FEDERAL FAMILY EDUCATION LOAN PROGRAM

SEC. 301. GUARANTY AGENCY COLLECTION RETENTION.

Clause (ii) of section 428(c)(6)(A) (20 U.S.C. 1078(c)(6)(A)(ii)) is amended to read as follows:

Applicability.

“(ii) an amount equal to 24 percent of such payments for use in accordance with section 422B, except that—

“(I) beginning October 1, 2003 and ending September 30, 2007, this clause shall be applied by substituting ‘23 percent’ for ‘24 percent’; and

“(II) beginning October 1, 2007, this clause shall be applied by substituting ‘16 percent’ for ‘24 percent’.”.

SEC. 302. ELIMINATION OF EXCEPTIONAL PERFORMER STATUS FOR LENDERS.

(a) **ELIMINATION OF STATUS.**—Part B of title IV (20 U.S.C. 1071 et seq.) is amended by striking section 428I (20 U.S.C. 1078–9).

(b) **CONFORMING AMENDMENTS.**—Part B of title IV is further amended—

(1) in section 428(c)(1) (20 U.S.C. 1078(c)(1))—

(A) by striking subparagraph (D); and

(B) by redesignating subparagraphs (E) through (H) as subparagraphs (D) through (G), respectively; and

(2) in section 438(b)(5) (20 U.S.C. 1087–1(b)(5)), by striking the matter following subparagraph (B).

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall be effective on October 1, 2007, except that section 428I of the Higher Education Act of 1965 (as in effect on the day before the date of enactment of this Act) shall apply to eligible

Applicability.
20 USC 1078
note.

lenders that received a designation under subsection (a) of such section prior to October 1, 2007, for the remainder of the year for which the designation was made.

SEC. 303. REDUCTION OF LENDER INSURANCE PERCENTAGE.

(a) **AMENDMENT.**—Subparagraph (G) of section 428(b)(1) (20 U.S.C. 1078(b)(1)(G)) is amended to read as follows:

“(G) insures 95 percent of the unpaid principal of loans insured under the program, except that—

“(i) such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to section 428(j) or 439(q); and

“(ii) notwithstanding the preceding provisions of this subparagraph, such program shall insure 100 percent of the unpaid principal amount of exempt claims as defined in subsection (c)(1)(G);”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall be effective on October 1, 2012, and shall apply with respect to loans made on or after such date. 20 USC 1078 note.

SEC. 304. DEFINITIONS.

Section 435 (20 U.S.C. 1085) is amended—

(1) in subsection (o)(1)—

(A) in subparagraph (A)(ii)—

(i) by striking “100 percent of the poverty line for a family of 2” and inserting “150 percent of the poverty line applicable to the borrower’s family size”; and

(ii) by inserting “or” after the semicolon;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B);

(2) in subsection (o)(2), by striking “(1)(C)” and inserting “(1)(B)”; and

(3) by adding at the end the following:

“(p) **ELIGIBLE NOT-FOR-PROFIT HOLDER.**—

“(1) **DEFINITION.**—Subject to the limitations in paragraph (2) and the prohibition in paragraph (3), the term ‘eligible not-for-profit holder’ means an eligible lender under subsection (d) (except for an eligible lender described in subsection (d)(1)(E)) that requests a special allowance payment under section 438(b)(2)(I)(vi)(II) or a payment under section 771 and that is—

“(A) a State, or a political subdivision, authority, agency, or other instrumentality thereof, including such entities that are eligible to issue bonds described in section 1.103–1 of title 26, Code of Federal Regulations, or section 144(b) of the Internal Revenue Code of 1986;

“(B) an entity described in section 150(d)(2) of such Code that has not made the election described in section 150(d)(3) of such Code;

“(C) an entity described in section 501(c)(3) of such Code; or

“(D) a trustee acting as an eligible lender on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C).

“(2) **LIMITATIONS.**—

“(A) EXISTING ON DATE OF ENACTMENT.—

“(i) IN GENERAL.—An eligible lender shall not be an eligible not-for-profit holder under this Act unless such lender—

“(I) was a State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) that was, on the date of the enactment of the College Cost Reduction and Access Act, acting as an eligible lender under subsection (d) (other than an eligible lender described in subsection (d)(1)(E)); or

“(II) is a trustee acting as an eligible lender under this Act on behalf of such a State, political subdivision, authority, agency, instrumentality, or other entity described in subclause (I) of this clause.

“(ii) EXCEPTION.—Notwithstanding clause (i), a State may elect, in accordance with regulations of the Secretary, to waive the requirements this subparagraph for a new not-for-profit holder determined by the State to be necessary to carry out a public purpose of such State, except that a State may not make such election with respect the requirements of clause (i)(II).

“(B) NO FOR-PROFIT OWNERSHIP OR CONTROL.—No political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) shall be an eligible not-for-profit holder under this Act if such entity is owned or controlled, in whole or in part, by a for-profit entity.

“(C) SOLE OWNERSHIP OF LOANS AND INCOME.—No State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) shall be an eligible not-for-profit holder under this Act with respect to any loan, or income from any loan, unless the State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) is the sole owner of the beneficial interest in such loan and the income from such loan.

“(D) TRUSTEE COMPENSATION LIMITATIONS.—A trustee described in paragraph (1)(D) shall not receive compensation as consideration for acting as an eligible lender on behalf of an entity described in described in paragraph (1)(A), (B), or (C) in excess of reasonable and customary fees.

“(E) RULE OF CONSTRUCTION.—For purposes of subparagraphs (B), (C), and (D) of this paragraph, a State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) shall not—

“(i) be deemed to be owned or controlled, in whole or in part, by a for-profit entity, or

“(ii) lose its status as the sole owner of a beneficial interest in a loan and the income from a loan by that political subdivision, authority, agency, instrumentality, or other entity, by granting a security interest in, or otherwise pledging as collateral, such loan, or the income from such loan,

to secure a debt obligation in the operation of an arrangement described in paragraph (1)(D).

“(3) PROHIBITION.—In the case of a loan for which the special allowance payment is calculated under section 438(b)(2)(I)(vi)(II) and that is sold by the eligible not-for-profit holder holding the loan to an entity that is not an eligible not-for-profit holder under this Act, the special allowance payment for such loan shall, beginning on the date of the sale, no longer be calculated under section 438(b)(2)(I)(vi)(II) and shall be calculated under section 438(b)(2)(I)(vi)(I) instead.

“(4) REGULATIONS.—Not later than 1 year after the date of enactment of the College Cost Reduction and Access Act, the Secretary shall promulgate regulations in accordance with the provisions of this subsection.”. Deadline.

SEC. 305. SPECIAL ALLOWANCES.

(a) REDUCTION OF LENDER SPECIAL ALLOWANCE PAYMENTS.—Section 438(b)(2)(I) (20 U.S.C. 1087–1(b)(2)(I)) is amended—

(1) in clause (i), by striking “clauses (ii), (iii), and (iv)” and inserting “the following clauses”;

(2) in clause (v)(III), by striking “clauses (ii), (iii), and (iv)” and inserting “clauses (ii), (iii), (iv), and (vi)”;

(3) by adding at the end the following:

“(vi) REDUCTION FOR LOANS DISBURSED ON OR AFTER OCTOBER 1, 2007.—With respect to a loan on which the applicable interest rate is determined under section 427A(l) and for which the first disbursement of principal is made on or after October 1, 2007, the special allowance payment computed pursuant to this subparagraph shall be computed—

“(I) for loans held by an eligible lender not described in subclause (II)—

“(aa) by substituting ‘1.79 percent’ for ‘2.34 percent’ each place the term appears in this subparagraph;

“(bb) by substituting ‘1.19 percent’ for ‘1.74 percent’ in clause (ii);

“(cc) by substituting ‘1.79 percent’ for ‘2.64 percent’ in clause (iii); and

“(dd) by substituting ‘2.09 percent’ for ‘2.64 percent’ in clause (iv); and

“(II) for loans held by an eligible not-for-profit holder—

“(aa) by substituting ‘1.94 percent’ for ‘2.34 percent’ each place the term appears in this subparagraph;

“(bb) by substituting ‘1.34 percent’ for ‘1.74 percent’ in clause (ii);

“(cc) by substituting ‘1.94 percent’ for ‘2.64 percent’ in clause (iii); and

“(dd) by substituting ‘2.24 percent’ for ‘2.64 percent’ in clause (iv).”.

(b) INCREASED LOAN FEES FROM LENDERS.—Paragraph (2) of section 438(d) (20 U.S.C. 1087–1(d)(2)) is amended to read as follows:

“(2) AMOUNT OF LOAN FEES.—The amount of the loan fee which shall be deducted under paragraph (1), but which may not be collected from the borrower, shall be equal to—

“(A) except as provided in subparagraph (B), 0.50 percent of the principal amount of the loan with respect to any loan under this part for which the first disbursement was made on or after October 1, 1993; and

“(B) 1.0 percent of the principal amount of the loan with respect to any loan under this part for which the first disbursement was made on or after October 1, 2007.”.

SEC. 306. ACCOUNT MAINTENANCE FEES.

Section 458(b) (20 U.S.C. 1087h(b)) is amended by striking “0.10 percent” and inserting “0.06 percent”.

TITLE IV—LOAN FORGIVENESS

SEC. 401. LOAN FORGIVENESS FOR PUBLIC SERVICE EMPLOYEES.

Section 455 (20 U.S.C. 1087e) is further amended by adding at the end the following:

“(m) REPAYMENT PLAN FOR PUBLIC SERVICE EMPLOYEES.—

“(1) IN GENERAL.—The Secretary shall cancel the balance of interest and principal due, in accordance with paragraph (2), on any eligible Federal Direct Loan not in default for a borrower who—

“(A) has made 120 monthly payments on the eligible Federal Direct Loan after October 1, 2007, pursuant to any one or a combination of the following—

“(i) payments under an income-based repayment plan under section 493C;

“(ii) payments under a standard repayment plan under subsection (d)(1)(A), based on a 10-year repayment period;

“(iii) monthly payments under a repayment plan under subsection (d)(1) or (g) of not less than the monthly amount calculated under subsection (d)(1)(A), based on a 10-year repayment period; or

“(iv) payments under an income contingent repayment plan under subsection (d)(1)(D); and

“(B)(i) is employed in a public service job at the time of such forgiveness; and

“(ii) has been employed in a public service job during the period in which the borrower makes each of the 120 payments described in subparagraph (A).

“(2) LOAN CANCELLATION AMOUNT.—After the conclusion of the employment period described in paragraph (1), the Secretary shall cancel the obligation to repay the balance of principal and interest due as of the time of such cancellation, on the eligible Federal Direct Loans made to the borrower under this part.

“(3) DEFINITIONS.—In this subsection:

“(A) ELIGIBLE FEDERAL DIRECT LOAN.—The term ‘eligible Federal Direct Loan’ means a Federal Direct Stafford Loan, Federal Direct PLUS Loan, or Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan.

“(B) PUBLIC SERVICE JOB.—The term ‘public service job’ means—

“(i) a full-time job in emergency management, government, military service, public safety, law enforcement, public health, public education (including early childhood education), social work in a public child or family service agency, public interest law services (including prosecution or public defense or legal advocacy in low-income communities at a nonprofit organization), public child care, public service for individuals with disabilities, public service for the elderly, public library sciences, school-based library sciences and other school-based services, or at an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

“(ii) teaching as a full-time faculty member at a Tribal College or University as defined in section 316(b) and other faculty teaching in high-needs areas, as determined by the Secretary.”.

TITLE V—FEDERAL PERKINS LOANS

SEC. 501. DISTRIBUTION OF LATE COLLECTIONS.

Section 466(b) (20 U.S.C. 1087ff(b)) is amended by striking “March 31, 2012” and inserting “October 1, 2012”.

TITLE VI—NEED ANALYSIS

SEC. 601. SUPPORT FOR WORKING STUDENTS.

(a) DEPENDENT STUDENTS.—Subparagraph (D) of section 475(g)(2) (20 U.S.C. 1087oo(g)(2)(D)) is amended to read as follows:

“(D) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 478)—

“(i) for academic year 2009–2010, \$3,750;

“(ii) for academic year 2010–2011, \$4,500;

“(iii) for academic year 2011–2012, \$5,250; and

“(iv) for academic year 2012–2013, \$6,000;”.

(b) INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—Clause (iv) of section 476(b)(1)(A) (20 U.S.C. 1087pp(b)(1)(A)) is amended to read as follows:

“(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 478)—

“(I) for single or separated students, or married students where both are enrolled pursuant to subsection (a)(2)—

“(aa) for academic year 2009–2010, \$7,000;

“(bb) for academic year 2010–2011, \$7,780;

“(cc) for academic year 2011–2012, \$8,550;

and

“(dd) for academic year 2012–2013, \$9,330;

and

“(II) for married students where 1 is enrolled pursuant to subsection (a)(2)—

“(aa) for academic year 2009–2010, \$11,220;

“(bb) for academic year 2010–2011, \$12,460;

“(cc) for academic year 2011–2012, \$13,710; and

“(dd) for academic year 2012–2013, \$14,960.”.

(c) INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.—Paragraph (4) of section 477(b) (20 U.S.C. 1087qq(b)) is amended to read as follows:

“(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the tables described in subparagraphs (A) through (D) (or a successor table prescribed by the Secretary under section 478).

“(A) ACADEMIC YEAR 2009–2010.—For academic year 2009–2010, the income protection allowance is determined by the following table:

“Income Protection Allowance

Family Size (including student)	Number in College					For each additional subtract:
	1	2	3	4	5	
2	\$17,720	\$14,690				
3	22,060	19,050	\$16,020			
4	27,250	24,220	21,210	\$18,170		
5	32,150	29,120	26,100	23,070	\$20,060	
6	37,600	34,570	31,570	28,520	25,520	\$3,020
For each additional add:	4,240	4,240	4,240	4,240	4,240	

“(B) ACADEMIC YEAR 2010–2011.—For academic year 2010–2011, the income protection allowance is determined by the following table:

“Income Protection Allowance

Family Size (including student)	Number in College					For each additional subtract:
	1	2	3	4	5	
2	\$19,690	\$16,330				
3	24,510	21,160	\$17,800			
4	30,280	26,910	23,560	\$20,190		
5	35,730	32,350	29,000	25,640	\$22,290	
6	41,780	38,410	35,080	31,690	28,350	\$3,350
For each additional add:	4,710	4,710	4,710	4,710	4,710	

“(C) ACADEMIC YEAR 2011–2012.—For academic year 2011–2012, the income protection allowance is determined by the following table:

“Income Protection Allowance						
Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	\$21,660	\$17,960				
3	26,960	23,280	\$19,580			
4	33,300	29,600	25,920	\$22,210		
5	39,300	35,590	31,900	28,200	\$24,520	
6	45,950	42,250	38,580	34,860	31,190	\$3,690
For each additional add:	5,180	5,180	5,180	5,180	5,180	

“(D) ACADEMIC YEAR 2012–2013.—For academic year 2012–2013, the income protection allowance is determined by the following table:

“Income Protection Allowance						
Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	\$23,630	\$19,590				
3	29,420	25,400	\$21,360			
4	36,330	32,300	28,280	\$24,230		
5	42,870	38,820	34,800	30,770	\$26,750	
6	50,130	46,100	42,090	38,030	34,020	\$4,020
For each additional add:	5,660	5,660	5,660	5,660	5,660	”.

(d) UPDATED TABLES AND AMOUNTS.—Section 478(b) (20 U.S.C. 1087rr(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) REVISED TABLES.—

“(A) IN GENERAL.—For each academic year after academic year 2008–2009, the Secretary shall publish in the Federal Register a revised table of income protection allowances for the purpose of sections 475(c)(4) and 477(b)(4), subject to subparagraphs (B) and (C).

“(B) TABLE FOR INDEPENDENT STUDENTS.—

“(i) ACADEMIC YEARS 2009–2010 THROUGH 2012–2013.—For each of the academic years 2009–2010 through 2012–2013, the Secretary shall not develop a revised table of income protection allowances under section 477(b)(4) and the table specified for such academic year under subparagraphs (A) through (D) of such section shall apply.

“(ii) OTHER ACADEMIC YEARS.—For each academic year after academic year 2012–2013, the Secretary

Federal Register,
publication.

shall develop the revised table of income protection allowances by increasing each of the dollar amounts contained in the table of income protection allowances under section 477(b)(4)(D) by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2011 and the December next preceding the beginning of such academic year, and rounding the result to the nearest \$10.

“(C) TABLE FOR PARENTS.—For each academic year after academic year 2008–2009, the Secretary shall develop the revised table of income protection allowances under section 475(c)(4) by increasing each of the dollar amounts contained in the table by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, and rounding the result to the nearest \$10.”; and

(2) in paragraph (2), by striking “shall be developed” and all that follows through the period at the end and inserting “shall be developed for each academic year after academic year 2012–2013, by increasing each of the dollar amounts contained in such section for academic year 2012–2013 by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2011 and the December next preceding the beginning of such academic year, and rounding the result to the nearest \$10.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective on July 1, 2009.

20 USC 1087oo
note.

SEC. 602. SIMPLIFIED NEEDS TEST AND AUTOMATIC ZERO IMPROVEMENTS.

(a) SIMPLIFIED NEEDS TEST.—Section 479 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)(i)—

(i) in subclause (II), by striking “or” after the semicolon;

(ii) by redesignating subclause (III) as subclause (IV);

(iii) by inserting after subclause (II) the following:
“(III) 1 of whom is a dislocated worker; or”;

and

(iv) in subclause (IV) (as redesignated by clause (ii)), by striking “12-month” and inserting “24-month”;

and

(B) in paragraph (1)(B)(i)—

(i) in subclause (II), by striking “or” after the semicolon;

(ii) by redesignating subclause (III) as subclause (IV);

(iii) by inserting after subclause (II) the following:
“(III) 1 of whom is a dislocated worker; or”;

and

(iv) in subclause (IV) (as redesignated by clause (ii)), by striking “12-month” and inserting “24-month”;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clause (ii), by striking “or” after the semicolon;

(II) by redesignating clause (iii) as clause (iv);

(III) by inserting after clause (ii) the following:

“(iii) 1 of whom is a dislocated worker; or”; and

(IV) in clause (iv) (as redesignated by subclause (II)), by striking “12-month” and inserting “24-month”; and

(ii) in subparagraph (B), by striking “\$20,000” and inserting “\$30,000”; and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clause (ii), by striking “or” after the semicolon;

(II) by redesignating clause (iii) as clause (iv);

(III) by inserting after clause (ii) the following:

“(iii) 1 of whom is a dislocated worker; or”; and

(IV) in clause (iv) (as redesignated by subclause (II)), by striking “12-month” and inserting “24-month”; and

(ii) in subparagraph (B), by striking “\$20,000” and inserting “\$30,000”; and

(C) in the flush matter following paragraph (2)(B), by adding at the end the following: “The Secretary shall annually adjust the income level necessary to qualify an applicant for the zero expected family contribution. The income level shall be adjusted according to increases in the Consumer Price Index, as defined in section 478(f).”; and

(3) in subsection (d)—

(A) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively and moving the margins of such subparagraphs 2 ems to the right; and

(B) by striking “(d) DEFINITION” and all that follows through “the term” and inserting the following:

“(d) DEFINITIONS.—In this section:

“(1) DISLOCATED WORKER.—The term ‘dislocated worker’ has the meaning given the term in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801).

“(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term”.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on July 1, 2009.

20 USC 1087ss
note.

SEC. 603. DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.

(a) AMENDMENTS.—The third sentence of section 479A(a) (20 U.S.C. 1087tt(a)) is amended—

(1) by inserting “or an independent student” after “family member”;

(2) by inserting “a family member who is a dislocated worker (as defined in section 101 of the Workforce Investment Act of 1998),” before “the number of parents”; and

(3) by inserting “a change in housing status that results in an individual being homeless (as defined in section 103 of the McKinney-Vento Homeless Assistance Act),” after “under section 487,”.

20 USC 1087tt
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2009.

SEC. 604. DEFINITIONS.

(a) IN GENERAL.—Section 480 (20 U.S.C. 1087vv) is amended—
(1) in subsection (a)(2)—

(A) by striking “and no portion” and inserting “no portion”; and

(B) by inserting “and no distribution from any qualified education benefit described in subsection (f)(3) that is not subject to Federal income tax,” after “1986,”;

(2) by striking subsection (b) and inserting the following:

“(b) UNTAXED INCOME AND BENEFITS.—

“(1) The term ‘untaxed income and benefits’ means—

“(A) child support received;

“(B) workman’s compensation;

“(C) veteran’s benefits such as death pension, dependency, and indemnity compensation, but excluding veterans’ education benefits as defined in subsection (c);

“(D) interest on tax-free bonds;

“(E) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

“(F) cash support or any money paid on the student’s behalf, except, for dependent students, funds provided by the student’s parents;

“(G) untaxed portion of pensions;

“(H) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

“(I) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, or railroad retirement benefits, or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

“(2) The term ‘untaxed income and benefits’ shall not include the amount of additional child tax credit claimed for Federal income tax purposes.”;

(3) in subsection (d)—

(A) by redesignating paragraphs (1), (2), (3) through (6), and (7) as subparagraphs (A), (B), (D) through (G), and (I), respectively, and indenting appropriately;

(B) by striking “The term” and inserting the following:

“(1) DEFINITION.—The term”;

(C) by striking subparagraph (B) (as redesignated by subparagraph (A)) and inserting the following:

“(B) is an orphan, in foster care, or a ward of the court, at any time when the individual is 13 years of age or older;

“(C) is an emancipated minor or is in legal guardianship as determined by a court of competent jurisdiction in the individual’s State of legal residence.”;

(D) in subparagraph (G) (as redesignated by subparagraph (A)), by striking “or” after the semicolon;

(E) by inserting after subparagraph (G) (as redesignated by subparagraph (A)) the following:

“(H) has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act), or as unaccompanied, at risk of homelessness, and self-supporting, by—

“(i) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;

“(ii) the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;

“(iii) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or

“(iv) a financial aid administrator; or”; and

(F) by adding at the end the following:

“(2) SIMPLIFYING THE DEPENDENCY OVERRIDE PROCESS.—

A financial aid administrator may make a determination of independence under paragraph (1)(I) based upon a documented determination of independence that was previously made by another financial aid administrator under such paragraph in the same award year.”;

(4) in subsection (e)—

(A) in paragraph (3), by striking “and” after the semicolon;

(B) in paragraph (4), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(5) special combat pay.”;

(5) in subsection (f), by striking paragraph (3) and inserting the following:

“(3) A qualified education benefit shall be considered an asset of—

“(A) the student if the student is an independent student; or

“(B) the parent if the student is a dependent student, regardless of whether the owner of the account is the student or the parent.”;

(6) in subsection (j)—

(A) in paragraph (2), by inserting “, or a distribution that is not includable in gross income under section 529 of such Code, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such Code,” after “1986”; and

(B) by adding at the end the following:

“(4) Notwithstanding paragraph (1), special combat pay shall not be treated as estimated financial assistance for purposes of section 471(3).”; and

(7) by adding at the end the following:

“(n) SPECIAL COMBAT PAY.—The term ‘special combat pay’ means pay received by a member of the Armed Forces because of exposure to a hazardous situation.”

20 USC 1087vv
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on July 1, 2009.

TITLE VII—COMPETITIVE LOAN AUCTION PILOT PROGRAM

SEC. 701. COMPETITIVE LOAN AUCTION PILOT PROGRAM.

Title IV (20 U.S.C. 1070 et seq.) is further amended by adding at the end the following:

“PART I—COMPETITIVE LOAN AUCTION PILOT PROGRAM

20 USC 1099d.

“SEC. 499. COMPETITIVE LOAN AUCTION PILOT PROGRAM.

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE FEDERAL PLUS LOAN.—The term ‘eligible Federal PLUS Loan’ means a loan described in section 428B made to a parent of a dependent student who is a new borrower on or after July 1, 2009.

“(2) ELIGIBLE LENDER.—The term ‘eligible lender’ has the meaning given the term in section 435.

“(b) PILOT PROGRAM.—The Secretary shall carry out a pilot program under which the Secretary establishes a mechanism for an auction of eligible Federal PLUS Loans in accordance with this subsection. The pilot program shall meet the following requirements:

Effective date.
Termination
date.

“(1) PLANNING AND IMPLEMENTATION.—During the period beginning on the date of enactment of this section and ending on June 30, 2009, the Secretary shall plan and implement the pilot program under this subsection. During the planning and implementation, the Secretary shall consult with other Federal agencies with knowledge of, and experience with, auction programs, including the Federal Communication Commission and the Department of the Treasury.

Effective date.

“(2) ORIGINATION AND DISBURSEMENT; APPLICABILITY OF SECTION 428B.—Beginning on July 1, 2009, the Secretary shall arrange for the origination and disbursement of all eligible Federal PLUS Loans in accordance with the provisions of this subsection and the provisions of section 428B that are not inconsistent with this subsection.

“(3) LOAN ORIGINATION MECHANISM.—The Secretary shall establish a loan origination auction mechanism that meets the following requirements:

“(A) AUCTION FOR EACH STATE.—The Secretary administers an auction under this paragraph for each State, under which eligible lenders compete to originate eligible Federal PLUS Loans under this paragraph at all institutions of higher education within such State.

“(B) PREQUALIFICATION PROCESS.—The Secretary establishes a prequalification process for eligible lenders desiring to participate in an auction under this paragraph that contains, at a minimum—

“(i) a set of borrower benefits and servicing requirements each eligible lender shall meet in order to participate in such an auction; and

“(ii) an assessment of each such eligible lender’s capacity, including capital capacity, to participate effectively.

“(C) TIMING AND ORIGINATION.—Each State auction takes place every 2 years, and the eligible lenders with the winning bids for the State are the only eligible lenders permitted to originate eligible Federal PLUS Loans made under this paragraph for the cohort of students at the institutions of higher education within the State until the students graduate from or leave the institutions of higher education.

“(D) BIDS.—Each eligible lender’s bid consists of the amount of the special allowance payment (after the application of section 438(b)(2)(I)(v)) the eligible lender proposes to accept from the Secretary with respect to the eligible Federal PLUS Loans made under this paragraph in lieu of the amount determined under section 438(b)(2)(I).

“(E) MAXIMUM BID.—The maximum bid allowable under this paragraph shall not exceed the amount of the special allowance payable on eligible Federal PLUS Loans made under this paragraph computed under section 438(b)(2)(I) (other than clauses (ii), (iii), (iv), and (vi) of such section), except that for purposes of the computation under this subparagraph, section 438(b)(2)(I)(i)(III) shall be applied by substituting ‘1.79 percent’ for ‘2.34 percent’.

“(F) WINNING BIDS.—The winning bids for each State auction shall be the 2 bids containing the lowest and the second lowest proposed special allowance payments, subject to subparagraph (E).

“(G) AGREEMENT WITH SECRETARY.—Each eligible lender having a winning bid under subparagraph (F) enters into an agreement with the Secretary under which the eligible lender—

“(i) agrees to originate eligible Federal PLUS Loans under this paragraph to each borrower who—

“(I) seeks an eligible Federal PLUS Loan under this paragraph to enable a dependent student to attend an institution of higher education within the State;

“(II) is eligible for an eligible Federal PLUS Loan; and

“(III) elects to borrow from the eligible lender; and

“(ii) agrees to accept a special allowance payment (after the application of section 438(b)(2)(I)(v)) from the Secretary with respect to the eligible Federal PLUS Loans originated under clause (i) in the amount proposed in the second lowest winning bid described in subparagraph (F) for the applicable State auction.

“(H) SEALED BIDS; CONFIDENTIALITY.—All bids are sealed and the Secretary keeps the bids confidential, including following the announcement of the winning bids.

“(I) ELIGIBLE LENDER OF LAST RESORT.—

“(i) IN GENERAL.—In the event that there is no winning bid under subparagraph (F), the students at the institutions of higher education within the State that was the subject of the auction shall be served by an eligible lender of last resort, as determined by the Secretary.

“(ii) DETERMINATION OF ELIGIBLE LENDER OF LAST RESORT.—Prior to the start of any auction under this paragraph, eligible lenders that desire to serve as an eligible lender of last resort shall submit an application to the Secretary at such time and in such manner as the Secretary may determine. Such application shall include an assurance that the eligible lender will meet the prequalification requirements described in subparagraph (B).

“(iii) GEOGRAPHIC LOCATION.—The Secretary shall identify an eligible lender of last resort for each State.

“(iv) NOTIFICATION TIMING.—The Secretary shall not identify any eligible lender of last resort until after the announcement of all the winning bids for a State auction for any year.

“(v) MAXIMUM SPECIAL ALLOWANCE.—The Secretary is authorized to set a special allowance payment that shall be payable to a lender of last resort for a State under this subparagraph, which special allowance payment shall be kept confidential, including following the announcement of winning bids. The Secretary shall set such special allowance payment so that it incurs the lowest possible cost to the Federal Government, taking into consideration the lowest bid that was submitted in an auction for such State and the lowest bid submitted in a similar State, as determined by the Secretary.

“(J) GUARANTEE AGAINST LOSSES.—The Secretary guarantees the eligible Federal PLUS Loans made under this paragraph against losses resulting from the default of a parent borrower in an amount equal to 99 percent of the unpaid principal and interest due on the loan.

“(K) LOAN FEES.—The Secretary shall not collect a loan fee under section 438(d) with respect to an eligible Federal Plus Loan originated under this paragraph.

“(L) CONSOLIDATION.—

“(i) IN GENERAL.—An eligible lender who is permitted to originate eligible Federal PLUS Loans for a borrower under this paragraph shall have the option to consolidate such loans into 1 loan.

“(ii) NOTIFICATION.—In the event a borrower with eligible Federal PLUS Loans made under this paragraph wishes to consolidate the loans, the borrower shall notify the eligible lender who originated the loans under this paragraph.

“(iii) LIMITATION ON ELIGIBLE LENDER OPTION TO CONSOLIDATE.—The option described in clause (i) shall not apply if—

“(I) the borrower includes in the notification in clause (ii) verification of consolidation terms and conditions offered by an eligible lender other

than the eligible lender described in clause (i); and

“(II) not later than 10 days after receiving such notification from the borrower, the eligible lender described in clause (i) does not agree to match such terms and conditions, or provide more favorable terms and conditions to such borrower than the offered terms and conditions described in subclause (I).” Deadline.

“(iv) CONSOLIDATION OF ADDITIONAL LOANS.—If a borrower has a Federal Direct PLUS Loan or a loan made on behalf of a dependent student under section 428B and seeks to consolidate such loan with an eligible Federal PLUS Loan made under this paragraph, then the eligible lender that originated the borrower’s loan under this paragraph may include in the consolidation under this subparagraph a Federal Direct PLUS Loan or a loan made on behalf of a dependent student under section 428B, but only if—

“(I) in the case of a Federal Direct PLUS Loan, the eligible lender agrees, not later than 10 days after the borrower requests such consolidation from the lender, to match the consolidation terms and conditions that would otherwise be available to the borrower if the borrower consolidated such loans in the loan program under part D; or Deadline.

“(II) in the case of a loan made on behalf of a dependent student under section 428B, the eligible lender agrees, not later than 10 days after the borrower requests such consolidation from the lender, to match the consolidation terms and conditions offered by an eligible lender other than the eligible lender that originated the borrower’s loans under this paragraph. Deadline.

“(v) SPECIAL ALLOWANCE ON CONSOLIDATION LOANS THAT INCLUDE LOANS MADE UNDER THIS PARAGRAPH.—The applicable special allowance payment for loans consolidated under this paragraph shall be equal to the lesser of—

“(I) the weighted average of the special allowance payment on such loans, except that in calculating such weighted average the Secretary shall exclude any Federal Direct PLUS Loan included in the consolidation; or

“(II) the result of—

“(aa) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period; plus

“(bb) 1.59 percent.

“(vi) INTEREST PAYMENT REBATE FEE.—Any loan under section 428C consolidated under this paragraph shall not be subject to the interest payment rebate fee under section 428C(f).”.

TITLE VIII—PARTNERSHIP GRANTS

SEC. 801. COLLEGE ACCESS CHALLENGE GRANT PROGRAM.

Title VII (20 U.S.C. 1133 et seq.) is amended by adding at the end the following new part:

“PART E—COLLEGE ACCESS CHALLENGE GRANT PROGRAM

20 USC 1141.

“SEC. 771. COLLEGE ACCESS CHALLENGE GRANT PROGRAM.

Expiration date.

“(a) **AUTHORIZATION AND APPROPRIATION.**—There are authorized to be appropriated, and there are appropriated, to carry out this section \$66,000,000 for each of the fiscal years 2008 and 2009. The authority to award grants under this section shall expire at the end of fiscal year 2009.

“(b) **PROGRAM AUTHORIZED.**—

“(1) **GRANTS AUTHORIZED.**—From amounts appropriated under subsection (a), the Secretary shall award grants, from allotments under subsection (c), to States (and to philanthropic organization, as appropriate under paragraph (3)) having applications approved under subsection (d), to enable the State (or philanthropic organization) to pay the Federal share of the costs of carrying out the activities and services described in subsection (f).

“(2) **FEDERAL SHARE; NON-FEDERAL SHARE.**—

“(A) **FEDERAL SHARE.**—The amount of the Federal share under this section for a fiscal year shall be equal to $\frac{2}{3}$ of the costs of the activities and services described in subsection (f) that are carried out under the grant.

“(B) **NON-FEDERAL SHARE.**—The amount of the non-Federal share under this section shall be equal to $\frac{1}{3}$ of the costs of the activities and services described in subsection (f). The non-Federal share may be in cash or in-kind, and may be provided from State resources, contributions from private organizations, or both.

“(3) **REDUCTION FOR FAILURE TO PAY NON-FEDERAL SHARE.**—If a State fails to provide the full non-Federal share required under this subsection, the Secretary shall reduce the amount of the grant payment under this section proportionately, and may award the proportionate reduction amount of the grant directly to a philanthropic organization, as defined in subsection (i), to carry out this section.

“(4) **TEMPORARY INELIGIBILITY FOR SUBSEQUENT PAYMENTS.**—

“(A) **IN GENERAL.**—The Secretary shall determine a grantee to be temporarily ineligible to receive a grant payment under this section for a fiscal year if—

“(i) the grantee fails to submit an annual report pursuant to subsection (h) for the preceding fiscal year; or

“(ii) the Secretary determines, based on information in such annual report, that the grantee is not effectively meeting the conditions described under subsection (g) and the goals of the application under subsection (d).

“(B) REINSTATEMENT.—If the Secretary determines that a grantee is ineligible under subparagraph (A), the Secretary may enter into an agreement with the grantee setting forth the terms and conditions under which the grantee may regain eligibility to receive payments under this section.

“(c) DETERMINATION OF ALLOTMENT.—

“(1) AMOUNT OF ALLOTMENT.—Subject to paragraph (2), in making grant payments to grantees under this section, the allotment to each grantee for a fiscal year shall be equal to the sum of—

“(A) the amount that bears the same relation to 50 percent of the amount appropriated under subsection (a) for such fiscal year as the number of residents in the State aged 5 through 17 who are living below the poverty line applicable to the resident’s family size (as determined under section 673(2) of the Community Service Block Grant Act) bears to the total number of such residents in all States; and

“(B) the amount that bears the same relation to 50 percent of the amount appropriated under subsection (a) for such fiscal year as the number of residents in the State aged 15 through 44 who are living below the poverty line applicable to the individual’s family size (as determined under section 673(2) of the Community Service Block Grant Act) bears to the total number of such residents in all States.

“(2) MINIMUM AMOUNT.—The allotment for each State under this section for a fiscal year shall not be an amount that is less than 0.5 percent of the total amount appropriated under subsection (a) for such fiscal year.

“(d) SUBMISSION AND CONTENTS OF APPLICATION.—

“(1) IN GENERAL.—For each fiscal year for which a grantee desires a grant payment under subsection (b), the State agency with jurisdiction over higher education, or another agency designated by the Governor or chief executive of the State to administer the program under this section, or a philanthropic organization, in accordance with subsection (b)(3), shall submit an application to the Secretary at such time, in such manner, and containing the information described in paragraph (2).

“(2) APPLICATION.—An application submitted under paragraph (1) shall include the following:

“(A) A description of the grantee’s capacity to administer the grant under this section and report annually to the Secretary on the activities and services described in subsection (f).

“(B) A description of the grantee’s plan for using the grant funds to meet the requirements of subsections (f) and (g), including plans for how the grantee will make special efforts to—

“(i) provide such benefits to students in the State that are underrepresented in postsecondary education; or

“(ii) in the case of a philanthropic organization that operates in more than one State, provide benefits to such students in each such State for which the

philanthropic organization is receiving grant funds under this section.

“(C) A description of how the grantee will provide or coordinate the provision of the non-Federal share from State resources or private contributions.

“(D) A description of—

“(i) the structure that the grantee has in place to administer the activities and services described in subsection (f); or

“(ii) the plan to develop such administrative capacity.

“(e) SUBGRANTS TO NONPROFIT ORGANIZATIONS.—A State receiving a payment under this section may elect to make a subgrant to one or more nonprofit organizations in the State, including an eligible not-for-profit holder (as defined in section 435(p) of the Higher Education Act of 1965, as amended by section 303 of this Act), or a partnership of such organizations, to carry out activities or services described in subsection (f), if the nonprofit organization or partnership—

“(1) was in existence on the day before the date of the enactment of this Act; and

“(2) as of such day, was participating in activities and services related to increasing access to higher education, such as those activities and services described in subsection (f).

“(f) ALLOWABLE USES.—

“(1) IN GENERAL.—Subject to paragraph (3), a grantee may use a grant payment under this section only for the following activities and services, pursuant to the conditions under subsection (g):

“(A) Information for students and families regarding—

“(i) the benefits of a postsecondary education;

“(ii) postsecondary education opportunities;

“(iii) planning for postsecondary education; and

“(iv) career preparation.

“(B) Information on financing options for postsecondary education and activities that promote financial literacy and debt management among students and families.

“(C) Outreach activities for students who may be at risk of not enrolling in or completing postsecondary education.

“(D) Assistance in completion of the Free Application for Federal Student Aid or other common financial reporting form under section 483(a) of the Higher Education Act of 1965.

“(E) Need-based grant aid for students.

“(F) Professional development for guidance counselors at middle schools and secondary schools, and financial aid administrators and college admissions counselors at institutions of higher education, to improve such individuals’ capacity to assist students and parents with—

“(i) understanding—

“(I) entrance requirements for admission to institutions of higher education; and

“(II) State eligibility requirements for Academic Competitiveness Grants or National SMART Grants under section 401A, and other financial

assistance that is dependent upon a student's coursework;

“(ii) applying to institutions of higher education;

“(iii) applying for Federal student financial assistance and other State, local, and private student financial assistance and scholarships;

“(iv) activities that increase students' ability to successfully complete the coursework required for a postsecondary degree, including activities such as tutoring or mentoring; and

“(v) activities to improve secondary school students' preparedness for postsecondary entrance examinations.

“(G) Student loan cancellation or repayment (as applicable), or interest rate reductions, for borrowers who are employed in a high-need geographical area or a high-need profession in the State, as determined by the State.

“(2) PROHIBITED USES.—Funds made available under this section shall not be used to promote any lender's loans.

“(3) USE OF FUNDS FOR ADMINISTRATIVE PURPOSES.—A grantee may use not more than 6 percent of the total amount of the sum of the Federal share provided under this section and the non-Federal share required under this section for administrative purposes relating to the grant under this section.

“(g) SPECIAL CONDITIONS.—

“(1) AVAILABILITY TO STUDENTS AND FAMILIES.—A grantee receiving a grant payment under this section shall—

“(A) make the activities and services described in subparagraphs (A) through (F) of subsection (f)(1) that are funded under the payment available to all qualifying students and families in the State;

“(B) allow students and families to participate in the activities and services without regard to—

“(i) the postsecondary institution in which the student enrolls;

“(ii) the type of student loan the student receives;

“(iii) the servicer of such loan; or

“(iv) the student's academic performance;

“(C) not charge any student or parent a fee or additional charge to participate in the activities or services; and

“(D) in the case of an activity providing grant aid, not require a student to meet any condition other than eligibility for Federal financial assistance under title IV of the Higher Education Act of 1965, except as provided for in the loan cancellation or repayment or interest rate reductions described in subsection (f)(1)(G).

“(2) PRIORITY.—A grantee receiving a grant payment under this section shall, in carrying out any activity or service described in subsection (f)(1) with the grant funds, prioritize students and families who are living below the poverty line applicable to the individual's family size (as determined under section 673(2) of the Community Service Block Grant Act).

“(3) DISCLOSURES.—

“(A) ORGANIZATIONAL DISCLOSURES.—In the case of a State that has chosen to make a payment to an eligible not-for-profit holder in the State in accordance with subsection (e), the holder shall clearly and prominently indicate

the name of the holder and the nature of the holder's work in connection with any of the activities carried out, or any information or services provided, with such funds.

“(B) INFORMATIONAL DISCLOSURES.—Any information about financing options for higher education provided through an activity or service funded under this section shall—

“(i) include information to students and the students' parents of the availability of Federal, State, local, institutional, and other grants and loans for postsecondary education; and

“(ii) present information on financial assistance for postsecondary education that is not provided under title IV of the Higher Education Act of 1965 in a manner that is clearly distinct from information on student financial assistance under such title.

“(4) COORDINATION.—A grantee receiving a grant payment under this section shall attempt to coordinate the activities carried out with the grant payment with any existing activities that are similar to such activities, and with any other entities that support the existing activities in the State.

“(h) REPORT.—A grantee receiving a payment under this section shall prepare and submit an annual report to the Secretary on the activities and services carried out under this section, and on the implementation of such activities and services. The report shall include—

“(1) each activity or service that was provided to students and families over the course of the year;

“(2) the cost of providing each activity or service;

“(3) the number, and percentage, if feasible and applicable, of students who received each activity or service; and

“(4) the total contributions from private organizations included in the grantee's non-Federal share for the fiscal year.

“(i) DEFINITIONS.—In this section:

“(1) PHILANTHROPIC ORGANIZATION.—The term ‘philanthropic organization’ means a non-profit organization—

“(A) that does not receive funds under title IV of the Higher Education Act of 1965 or under the Elementary and Secondary Education Act of 1965;

“(B) that is not a local educational agency or an institution of higher education;

“(C) that has a demonstrated record of dispersing grant aid to underserved populations to ensure access to, and participation in, higher education;

“(D) that is affiliated with an eligible consortia (as defined in paragraph (2)) to carry out this section; and

“(E) the primary purpose of which is to provide financial aid and support services to students from underrepresented populations to increase the number of such students who enter and remain in college.

“(2) ELIGIBLE CONSORTIA.—The term ‘eligible consortia’ means a partnership of 2 or more entities that have agreed to work together to carry out this section that—

“(A) includes—

“(i) a philanthropic organization, which serves as the manager of the consortia;

“(ii) a State that demonstrates a commitment to ensuring the creation of a Statewide system to address the issues of early intervention and financial support for eligible students to enter and remain in college; and

“(iii) at the discretion of the philanthropic organization described in clause (i), additional partners, including other non-profit organizations, government entities (including local municipalities, school districts, cities, and counties), institutions of higher education, and other public or private programs that provide mentoring or outreach programs; and

“(B) conducts activities to assist students with entering and remaining in college, which may include—

“(i) providing need-based grants to students;

“(ii) providing early notification to low-income students of their potential eligibility for Federal financial aid (which may include assisting students and families with filling out FAFSA forms), as well as other financial aid and other support available from the eligible consortia;

“(iii) encouraging increased student participation in higher education through mentoring or outreach programs; and

“(iv) conducting marketing and outreach efforts that are designed to—

“(I) encourage full participation of students in the activities of the consortia that carry out this section; and

“(II) provide the communities impacted by the activities of the consortia with a general knowledge about the efforts of the consortia.

“(3) GRANTEE.—The term ‘grantee’ means—

“(A) a State awarded a grant under this section; or

“(B) with respect to such a State that has failed to meet the non-Federal share requirement of subsection (b), a philanthropic organization awarded the proportionate reduction amount of such a grant under subsection (b)(3).”.

SEC. 802. INVESTMENT IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND MINORITY-SERVING INSTITUTIONS.

Title IV (20 U.S.C. 1070 et seq.) is further amended by adding after part I (as added by section 701 of this Act) the following new part:

“PART J—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS

“SEC. 499A. INVESTMENT IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS.

20 USC 1099e.

“(a) ELIGIBLE INSTITUTION.—An institution of higher education is eligible to receive funds from the amounts made available under this section if such institution is—

“(1) a part B institution (as defined in section 322 (20 U.S.C. 1061));

“(2) a Hispanic-serving institution (as defined in section 502 (20 U.S.C. 1101a));

“(3) a Tribal College or University (as defined in section 316 (20 U.S.C. 1059c));

“(4) an Alaska Native-serving institution or a Native Hawaiian-serving institution (as defined in section 317(b) (20 U.S.C. 1059d(b)));

“(5) a Predominantly Black Institution (as defined in subsection (c));

“(6) an Asian American and Native American Pacific Islander-serving institution (as defined in subsection (c)); or

“(7) a Native American-serving nontribal institution (as defined in subsection (c)).

“(b) NEW INVESTMENT OF FUNDS.—

“(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from funds not otherwise appropriated, \$255,000,000 for each of the fiscal years 2008 and 2009. The authority to award grants under this section shall expire at the end of fiscal year 2009.

“(2) ALLOCATION AND ALLOTMENT.—

“(A) IN GENERAL.—Of the amounts made available under paragraph (1) for each fiscal year—

“(i) \$100,000,000 shall be available for allocation under subparagraph (B);

“(ii) \$100,000,000 shall be available for allocation under subparagraph (C); and

“(iii) \$55,000,000 shall be available for allocation under subparagraph (D).

“(B) HSI STEM AND ARTICULATION PROGRAMS.—The amount made available for allocation under this subparagraph by subparagraph (A)(i) for any fiscal year shall be available for Hispanic-serving Institutions for activities described in section 503, with a priority given to applications that propose—

“(i) to increase the number of Hispanic and other low income students attaining degrees in the fields of science, technology, engineering, or mathematics; and

“(ii) to develop model transfer and articulation agreements between 2-year Hispanic-serving institutions and 4-year institutions in such fields.

“(C) ALLOCATION AND ALLOTMENT HBCUS AND PBIS.—From the amount made available for allocation under this subparagraph by subparagraph (A)(ii) for any fiscal year—

“(i) 85 percent shall be available to eligible institutions described in subsection (a)(1) and shall be made available as grants under section 323 and allotted among such institutions under section 324, treating such amount, plus the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out part B of title III, as the amount appropriated to carry out part B of title III for purposes of allotments under section 324, for use by such institutions with a priority for—

Expiration date.

“(I) activities described in paragraphs (1), (2), (4), (5), and (10) of section 323(a); and

“(II) other activities, consistent with the institution’s comprehensive plan and designed to increase the institution’s capacity to prepare students for careers in the physical or natural sciences, mathematics, computer science or information technology or sciences, engineering, language instruction in the less-commonly taught languages or international affairs, or nursing or allied health professions; and

“(ii) 15 percent shall be available to eligible institutions described in subsection (a)(5) and shall be available for a competitive grant program to award 25 grants of \$600,000 annually for programs in any of the following areas:

“(I) science, technology, engineering, or mathematics (STEM);

“(II) health education;

“(III) internationalization or globalization;

“(IV) teacher preparation; or

“(V) improving educational outcomes of African American males.

“(D) ALLOCATION AND ALLOTMENT TO OTHER MINORITY-SERVING INSTITUTIONS.—From the amount made available for allocation under this subparagraph by subparagraph (A)(iii) for any fiscal year—

“(i) \$30,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(3) and shall be made available as grants under section 316, treating such \$30,000,000 as part of the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out such section, and using such \$30,000,000 for purposes described in subsection (c) of such section;

“(ii) \$15,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(4) and shall be made available as grants under section 317, treating such \$15,000,000 as part of the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out such section and using such \$15,000,000 for purposes described in subsection (c) of such section;

“(iii) \$5,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(6) for activities described in section 311(c); and

“(iv) \$5,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(7)—

“(I) to plan, develop, undertake, and carry out activities to improve and expand such institutions’ capacity to serve Native Americans, which may include—

“(aa) the purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

“(bb) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

“(cc) support of faculty exchanges, faculty development, and faculty fellowships to assist faculty in attaining advanced degrees in the faculty’s field of instruction;

“(dd) curriculum development and academic instruction;

“(ee) the purchase of library books, periodicals, microfilm, and other educational materials;

“(ff) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

“(gg) the joint use of facilities such as laboratories and libraries; and

“(hh) academic tutoring and counseling programs and student support services; and

“(II) to which the Secretary, to the extent possible and consistent with a competitive process under which such grants are awarded, allocates funds under this clause to ensure maximum and equitable distribution among all such eligible institutions.

“(c) DEFINITIONS.—

“(1) ASIAN AMERICAN.—The term ‘Asian American’ has the meaning given the term ‘Asian’ in the Office of Management and Budget’s Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as published on October 30, 1997 (62 Fed. Reg. 58789).

“(2) ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTION.—The term ‘Asian American and Native American Pacific Islander-serving institution’ means an institution of higher education that—

“(A) is an eligible institution under section 312(b); and

“(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Asian American and Native American Pacific Islander students.

“(3) ENROLLMENT OF NEEDY STUDENTS.—The term ‘enrollment of needy students’ means the enrollment at an institution of higher education with respect to which not less than 50 percent of the undergraduate students enrolled in an academic program leading to a degree—

“(A) in the second fiscal year preceding the fiscal year for which the determination is made, were Federal Pell Grant recipients for such year;

“(B) come from families that receive benefits under a means-tested Federal benefit program (as defined in paragraph (5));

“(C) attended a public or nonprofit private secondary school—

“(i) that is in the school district of a local educational agency that was eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965 for any year during which the student attended such secondary school; and

“(ii) which for the purpose of this paragraph and for that year was determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under a measure of poverty described in section 1113(a)(5) of such Act exceeds 30 percent of the total enrollment of such school; or

“(D) are first-generation college students (as that term is defined in section 402A(g)), and a majority of such first-generation college students are low-income individuals.

“(4) LOW-INCOME INDIVIDUAL.—The term ‘low-income individual’ has the meaning given such term in section 402A(g).

“(5) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term ‘means-tested Federal benefit program’ means a program of the Federal Government, other than a program under title IV, in which eligibility for the programs’ benefits or the amount of such benefits are determined on the basis of income or resources of the individual or family seeking the benefit.

“(6) NATIVE AMERICAN.—The term ‘Native American’ means an individual who is of a tribe, people, or culture that is indigenous to the United States.

“(7) NATIVE AMERICAN PACIFIC ISLANDER.—The term ‘Native American Pacific Islander’ means any descendant of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

“(8) NATIVE AMERICAN-SERVING NONTRIBAL INSTITUTION.—The term ‘Native American-serving nontribal institution’ means an institution of higher education that—

“(A) at the time of application—

“(i) has an enrollment of undergraduate students that is not less than 10 percent Native American students; and

“(ii) is not a Tribal College or University (as defined in section 316); and

“(B) submits to the Secretary such enrollment data as may be necessary to demonstrate that the institution is described in subparagraph (A), along with such other information and data as the Secretary may by regulation require.

“(9) PREDOMINANTLY BLACK INSTITUTION.—The term ‘Predominantly Black institution’ means an institution of higher education that—

“(A) has an enrollment of needy students as defined by paragraph (3);

“(B) has an average educational and general expenditure which is low, per full-time equivalent undergraduate student in comparison with the average educational and general expenditure per full-time equivalent undergraduate student of institutions of higher education that offer similar instruction, except that the Secretary may apply the waiver requirements described in section 392(b) to this subparagraph in the same manner as the Secretary applies the waiver requirements to section 312(b)(1)(B);

“(C) has an enrollment of undergraduate students—

“(i) that is at least 40 percent Black American students;

“(ii) that is at least 1,000 undergraduate students;

“(iii) of which not less than 50 percent of the undergraduate students enrolled at the institution are low-income individuals or first-generation college students (as that term is defined in section 402A(g)); and

“(iv) of which not less than 50 percent of the undergraduate students are enrolled in an educational program leading to a bachelor’s or associate’s degree that the institution is licensed to award by the State in which the institution is located;

“(D) is legally authorized to provide, and provides within the State, an educational program for which the institution of higher education awards a bachelor’s degree, or in the case of a junior or community college, an associate’s degree;

“(E) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered, or is, according to such an agency or association, making reasonable progress toward accreditation; and

“(F) is not receiving assistance under part B of title III.”.

Approved September 27, 2007.

LEGISLATIVE HISTORY—H.R. 2669:

HOUSE REPORTS: Nos. 110–210 (Comm. on Education and Labor) and 110–317 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 11, considered and passed House.

July 17, 19, considered and passed Senate, amended.

Sept. 6, Senate considered conference report.

Sept. 7, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Sept. 27, Presidential remarks.



Public Law 110–85
110th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to revise and extend the user-fee programs for prescription drugs and for medical devices, to enhance the postmarket authorities of the Food and Drug Administration with respect to the safety of drugs, and for other purposes.

Sept. 27, 2007
[H.R. 3580]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Food and Drug Administration Amendments Act of 2007”.

Food and Drug
Administration
Amendments Act
of 2007.
21 USC 301 note.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—PRESCRIPTION DRUG USER FEE AMENDMENTS OF 2007

- Sec. 101. Short title; references in title; finding.
- Sec. 102. Definitions.
- Sec. 103. Authority to assess and use drug fees.
- Sec. 104. Fees relating to advisory review of prescription-drug television advertising.
- Sec. 105. Reauthorization; reporting requirements.
- Sec. 106. Sunset dates.
- Sec. 107. Effective date.
- Sec. 108. Savings clause.
- Sec. 109. Technical amendment; conforming amendment.

TITLE II—MEDICAL DEVICE USER FEE AMENDMENTS OF 2007

- Sec. 201. Short title; references in title; finding.

Subtitle A—Fees Related to Medical Devices

- Sec. 211. Definitions.
- Sec. 212. Authority to assess and use device fees.
- Sec. 213. Reauthorization; reporting requirements.
- Sec. 214. Savings clause.
- Sec. 215. Additional authorization of appropriations for postmarket safety information.
- Sec. 216. Effective date.
- Sec. 217. Sunset clause.

Subtitle B—Amendments Regarding Regulation of Medical Devices

- Sec. 221. Extension of authority for third party review of premarket notification.
- Sec. 222. Registration.
- Sec. 223. Filing of lists of drugs and devices manufactured, prepared, propagated, and compounded by registrants; statements; accompanying disclosures.
- Sec. 224. Electronic registration and listing.
- Sec. 225. Report by Government Accountability Office.
- Sec. 226. Unique device identification system.
- Sec. 227. Frequency of reporting for certain devices.

- Sec. 228. Inspections by accredited persons.
- Sec. 229. Study of nosocomial infections relating to medical devices.
- Sec. 230. Report by the Food and Drug Administration regarding labeling information on the relationship between the use of indoor tanning devices and development of skin cancer or other skin damage.

TITLE III—PEDIATRIC MEDICAL DEVICE SAFETY AND IMPROVEMENT ACT
OF 2007

- Sec. 301. Short title.
- Sec. 302. Tracking pediatric device approvals.
- Sec. 303. Modification to humanitarian device exemption.
- Sec. 304. Encouraging pediatric medical device research.
- Sec. 305. Demonstration grants for improving pediatric device availability.
- Sec. 306. Amendments to office of pediatric therapeutics and pediatric advisory committee.
- Sec. 307. Postmarket surveillance.

TITLE IV—PEDIATRIC RESEARCH EQUITY ACT OF 2007

- Sec. 401. Short title.
- Sec. 402. Reauthorization of Pediatric Research Equity Act.
- Sec. 403. Establishment of internal committee.
- Sec. 404. Government Accountability Office report.

TITLE V—BEST PHARMACEUTICALS FOR CHILDREN ACT OF 2007

- Sec. 501. Short title.
- Sec. 502. Reauthorization of Best Pharmaceuticals for Children Act.
- Sec. 503. Training of pediatric pharmacologists.

TITLE VI—REAGAN-UDALL FOUNDATION

- Sec. 601. The Reagan-Udall Foundation for the Food and Drug Administration.
- Sec. 602. Office of the Chief Scientist.
- Sec. 603. Critical path public-private partnerships.

TITLE VII—CONFLICTS OF INTEREST

- Sec. 701. Conflicts of interest.

TITLE VIII—CLINICAL TRIAL DATABASES

- Sec. 801. Expanded clinical trial registry data bank.

TITLE IX—ENHANCED AUTHORITIES REGARDING POSTMARKET SAFETY
OF DRUGS

Subtitle A—Postmarket Studies and Surveillance

- Sec. 901. Postmarket studies and clinical trials regarding human drugs; risk evaluation and mitigation strategies.
- Sec. 902. Enforcement.
- Sec. 903. No effect on withdrawal or suspension of approval.
- Sec. 904. Benefit-risk assessments.
- Sec. 905. Active postmarket risk identification and analysis.
- Sec. 906. Statement for inclusion in direct-to-consumer advertisements of drugs.
- Sec. 907. No effect on veterinary medicine.
- Sec. 908. Authorization of appropriations.
- Sec. 909. Effective date and applicability.

Subtitle B—Other Provisions to Ensure Drug Safety and Surveillance

- Sec. 911. Clinical trial guidance for antibiotic drugs.
- Sec. 912. Prohibition against food to which drugs or biological products have been added.
- Sec. 913. Assuring pharmaceutical safety.
- Sec. 914. Citizen petitions and petitions for stay of agency action.
- Sec. 915. Postmarket drug safety information for patients and providers.
- Sec. 916. Action package for approval.
- Sec. 917. Risk communication.
- Sec. 918. Referral to advisory committee.
- Sec. 919. Response to the institute of medicine.
- Sec. 920. Database for authorized generic drugs.
- Sec. 921. Adverse drug reaction reports and postmarket safety.

TITLE X—FOOD SAFETY

- Sec. 1001. Findings.

- Sec. 1002. Ensuring the safety of pet food.
- Sec. 1003. Ensuring efficient and effective communications during a recall.
- Sec. 1004. State and Federal Cooperation.
- Sec. 1005. Reportable Food Registry.
- Sec. 1006. Enhanced aquaculture and seafood inspection.
- Sec. 1007. Consultation regarding genetically engineered seafood products.
- Sec. 1008. Sense of Congress.
- Sec. 1009. Annual report to Congress.
- Sec. 1010. Publication of annual reports.
- Sec. 1011. Rule of construction.

TITLE XI—OTHER PROVISIONS

Subtitle A—In General

- Sec. 1101. Policy on the review and clearance of scientific articles published by FDA employees.
- Sec. 1102. Priority review to encourage treatments for tropical diseases.
- Sec. 1103. Improving genetic test safety and quality.
- Sec. 1104. NIH Technical amendments.
- Sec. 1105. Severability clause.

Subtitle B—Antibiotic Access and Innovation

- Sec. 1111. Identification of clinically susceptible concentrations of antimicrobials.
- Sec. 1112. Orphan antibiotic drugs.
- Sec. 1113. Exclusivity of certain drugs containing single enantiomers.
- Sec. 1114. Report.

TITLE I—PRESCRIPTION DRUG USER FEE AMENDMENTS OF 2007

Prescription
Drug User Fee
Amendments of
2007.

SEC. 101. SHORT TITLE; REFERENCES IN TITLE; FINDING.

(a) **SHORT TITLE.**—This title may be cited as the “Prescription Drug User Fee Amendments of 2007”. 21 USC 301 note.

(b) **REFERENCES IN TITLE.**—Except as otherwise specified, amendments made by this title to a section or other provision of law are amendments to such section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) **FINDING.**—The Congress finds that the fees authorized by the amendments made in this title will be dedicated toward expediting the drug development process and the process for the review of human drug applications, including postmarket drug safety activities, as set forth in the goals identified for purposes of part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record. 21 USC 379g note.

SEC. 102. DEFINITIONS.

Section 735 (21 U.S.C. 379g) is amended—

(1) in the matter before paragraph (1), by striking “For purposes of this subchapter” and inserting “For purposes of this part”;

(2) in paragraph (1)—

(A) in subparagraph (A), by striking “505(b)(1),” and inserting “505(b), or”;

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (B); and

(D) in the matter following subparagraph (B), as so redesignated, by striking “subparagraph (C)” and inserting “subparagraph (B)”;

(3) in paragraph (3)(C)—

(A) by striking “505(j)(7)(A)” and inserting “505(j)(7)(A) (not including the discontinued section of such list)”; and

(B) by inserting before the period “(not including the discontinued section of such list)”;

(4) in paragraph (4), by inserting before the period at the end the following: “(such as capsules, tablets, or lyophilized products before reconstitution)”;

(5) by amending paragraph (6)(F) to read as follows:

“(F) Postmarket safety activities with respect to drugs approved under human drug applications or supplements, including the following activities:

“(i) Collecting, developing, and reviewing safety information on approved drugs, including adverse event reports.

“(ii) Developing and using improved adverse-event data-collection systems, including information technology systems.

“(iii) Developing and using improved analytical tools to assess potential safety problems, including access to external data bases.

“(iv) Implementing and enforcing section 505(o) (relating to postapproval studies and clinical trials and labeling changes) and section 505(p) (relating to risk evaluation and mitigation strategies).

“(v) Carrying out section 505(k)(5) (relating to adverse event reports and postmarket safety activities).”;

(6) in paragraph (8)—

(A) by striking “April of the preceding fiscal year” and inserting “October of the preceding fiscal year”; and

(B) by striking “April 1997” and inserting “October 1996”;

(7) by redesignating paragraph (9) as paragraph (11); and

(8) by inserting after paragraph (8) the following paragraphs:

“(9) The term ‘person’ includes an affiliate thereof.

“(10) The term ‘active’, with respect to a commercial investigational new drug application, means such an application to which information was submitted during the relevant period.”.

SEC. 103. AUTHORITY TO ASSESS AND USE DRUG FEES.

(a) TYPES OF FEES.—Section 736(a) (21 U.S.C. 379h(a)) is amended—

(1) in the matter preceding paragraph (1), by striking “2003” and inserting “2008”;

(2) in paragraph (1)—

(A) in subparagraph (D)—

(i) in the heading, by inserting “OR WITHDRAWN BEFORE FILING” after “REFUSED FOR FILING”; and

(ii) by inserting before the period at the end the following: “or withdrawn without a waiver before filing”;

(B) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(C) by inserting after subparagraph (D) the following:

“(E) FEES FOR APPLICATIONS PREVIOUSLY REFUSED FOR FILING OR WITHDRAWN BEFORE FILING.—A human drug application or supplement that was submitted but was refused for filing, or was withdrawn before being accepted or refused for filing, shall be subject to the full fee under subparagraph (A) upon being resubmitted or filed over protest, unless the fee is waived or reduced under subsection (d).”; and

(3) in paragraph (2)—

(A) in subparagraph (A), by striking “subparagraph (B)” and inserting “subparagraphs (B) and (C)”; and

(B) by adding at the end the following:

“(C) SPECIAL RULES FOR POSITRON EMISSION TOMOGRAPHY DRUGS.—

“(i) IN GENERAL.—Except as provided in clause (ii), each person who is named as the applicant in an approved human drug application for a positron emission tomography drug shall be subject under subparagraph (A) to one-sixth of an annual establishment fee with respect to each such establishment identified in the application as producing positron emission tomography drugs under the approved application.

“(ii) EXCEPTION FROM ANNUAL ESTABLISHMENT FEE.—Each person who is named as the applicant in an application described in clause (i) shall not be assessed an annual establishment fee for a fiscal year if the person certifies to the Secretary, at a time specified by the Secretary and using procedures specified by the Secretary, that—

“(I) the person is a not-for-profit medical center that has only 1 establishment for the production of positron emission tomography drugs; and

“(II) at least 95 percent of the total number of doses of each positron emission tomography drug produced by such establishment during such fiscal year will be used within the medical center.

“(iii) DEFINITION.—For purposes of this subparagraph, the term ‘positron emission tomography drug’ has the meaning given to the term ‘compounded positron emission tomography drug’ in section 201(ii), except that paragraph (1)(B) of such section shall not apply.”.

(b) FEE REVENUE AMOUNTS.—Section 736(b) (21 U.S.C. 379h(b)) is amended to read as follows:

“(b) FEE REVENUE AMOUNTS.—

“(1) IN GENERAL.—For each of the fiscal years 2008 through 2012, fees under subsection (a) shall, except as provided in subsections (c), (d), (f), and (g), be established to generate a total revenue amount under such subsection that is equal to the sum of—

“(A) \$392,783,000; and

“(B) an amount equal to the modified workload adjustment factor for fiscal year 2007 (as determined under paragraph (3)).

“(2) TYPES OF FEES.—Of the total revenue amount determined for a fiscal year under paragraph (1)—

“(A) one-third shall be derived from fees under subsection (a)(1) (relating to human drug applications and supplements);

“(B) one-third shall be derived from fees under subsection (a)(2) (relating to prescription drug establishments); and

“(C) one-third shall be derived from fees under subsection (a)(3) (relating to prescription drug products).

“(3) MODIFIED WORKLOAD ADJUSTMENT FACTOR FOR FISCAL YEAR 2007.—For purposes of paragraph (1)(B), the Secretary shall determine the modified workload adjustment factor by determining the dollar amount that results from applying the methodology that was in effect under subsection (c)(2) for fiscal year 2007 to the amount \$354,893,000, except that, with respect to the portion of such determination that is based on the change in the total number of commercial investigational new drug applications, the Secretary shall count the number of such applications that were active during the most recent 12-month period for which data on such submissions is available.

“(4) ADDITIONAL FEE REVENUES FOR DRUG SAFETY.—

“(A) IN GENERAL.—For each of the fiscal years 2008 through 2012, paragraph (1)(A) shall be applied by substituting the amount determined under subparagraph (B) for ‘\$392,783,000’.

“(B) AMOUNT DETERMINED.—For each of the fiscal years 2008 through 2012, the amount determined under this subparagraph is the sum of—

“(i) \$392,783,000; plus

“(ii)(I) for fiscal year 2008, \$25,000,000;

“(II) for fiscal year 2009, \$35,000,000;

“(III) for fiscal year 2010, \$45,000,000;

“(IV) for fiscal year 2011, \$55,000,000; and

“(V) for fiscal year 2012, \$65,000,000.”.

(c) ADJUSTMENTS TO FEES.—

(1) INFLATION ADJUSTMENT.—Section 736(c)(1) (21 U.S.C. 379h(c)(1)) is amended—

(A) in the matter preceding subparagraph (A), by striking “The revenues established in subsection (b)” and inserting “For fiscal year 2009 and subsequent fiscal years, the revenues established in subsection (b)”;

(B) in subparagraph (A), by striking “or” at the end;

(C) in subparagraph (B), by striking the period at the end and inserting “, or”;

(D) by inserting after subparagraph (B) the following:

“(C) the average annual change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions for the first 5 years of the preceding 6 fiscal years.”; and

(E) in the matter following subparagraph (C) (as added by subparagraph (D)), by striking “fiscal year 2003” and inserting “fiscal year 2008”.

Applicability.

(2) WORKLOAD ADJUSTMENT.—Section 736(c)(2) (21 U.S.C. 379h(c)(2)) is amended—

(A) in the matter preceding subparagraph (A), by striking “Beginning with fiscal year 2004,” and inserting “For fiscal year 2009 and subsequent fiscal years,”;

(B) in subparagraph (A), in the first sentence—

(i) by striking “human drug applications,” and inserting “human drug applications (adjusted for changes in review activities, as described in the notice that the Secretary is required to publish in the Federal Register under this subparagraph),”;

(ii) by striking “commercial investigational new drug applications,”; and

(iii) by inserting before the period the following: “, and the change in the total number of active commercial investigational new drug applications (adjusted for changes in review activities, as so described) during the most recent 12-month period for which data on such submissions is available”;

(C) in subparagraph (B), by adding at the end the following: “Any adjustment for changes in review activities made in setting fees and revenue amounts for fiscal year 2009 may not result in the total workload adjustment being more than 2 percentage points higher than it would have been in the absence of the adjustment for changes in review activities.”; and

(D) by adding at the end the following:

“(C) The Secretary shall contract with an independent accounting firm to study the adjustment for changes in review activities applied in setting fees and revenue amounts for fiscal year 2009 and to make recommendations, if warranted, for future changes in the methodology for calculating the adjustment. After review of the recommendations, the Secretary shall, if warranted, make appropriate changes to the methodology, and the changes shall be effective for each of the fiscal years 2010 through 2012. The Secretary shall not make any adjustment for changes in review activities for any fiscal year after 2009 unless such study has been completed.”

Contracts.
Study.

Effective date.

(3) RENT AND RENT-RELATED COST ADJUSTMENT.—Section 736(c) (21 U.S.C. 379h(c)) is amended—

(A) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(B) by inserting after paragraph (2) the following:

“(3) RENT AND RENT-RELATED COST ADJUSTMENT.—For fiscal year 2010 and each subsequent fiscal year, the Secretary shall, before making adjustments under paragraphs (1) and (2), decrease the fee revenue amount established in subsection (b) if actual costs paid for rent and rent-related expenses for the preceding fiscal year are less than estimates made for such year in fiscal year 2006. Any reduction made under this paragraph shall not exceed the amount by which such costs fall below the estimates made in fiscal year 2006 for such fiscal year, and shall not exceed \$11,721,000 for any fiscal year.”

(4) FINAL YEAR ADJUSTMENT.—Paragraph (4) of section 736(c) (21 U.S.C. 379h(c)), as redesignated by paragraph (3)(A), is amended to read as follows:

“(4) FINAL YEAR ADJUSTMENT.—

“(A) INCREASE IN FEES.—For fiscal year 2012, the Secretary may, in addition to adjustments under this paragraph and paragraphs (1), (2), and (3), further increase the fee revenues and fees established in subsection (b) if such an adjustment is necessary to provide for not more than 3 months of operating reserves of carryover user fees for the process for the review of human drug applications for the first 3 months of fiscal year 2013. If such an adjustment is necessary, the rationale for the amount of the increase shall be contained in the annual notice establishing fee revenues and fees for fiscal year 2012. If the Secretary has carryover balances for such process in excess of 3 months of such operating reserves, the adjustment under this subparagraph shall not be made.

“(B) DECREASE IN FEES.—

“(i) IN GENERAL.—For fiscal year 2012, the Secretary may, in addition to adjustments under this paragraph and paragraphs (1), (2), and (3), decrease the fee revenues and fees established in subsection (b) by the amount determined in clause (ii), if, for fiscal year 2009 or 2010—

“(I) the amount of the total appropriations for the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) exceeds the amount of the total appropriations for the Food and Drug Administration for fiscal year 2008 (excluding the amount of fees appropriated for such fiscal year), adjusted as provided under paragraph (1); and

“(II) the amount of the total appropriations expended for the process for the review of human drug applications at the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) exceeds the amount of appropriations expended for the process for the review of human drug applications at the Food and Drug Administration for fiscal year 2008 (excluding the amount of fees appropriated for such fiscal year), adjusted as provided under paragraph (1).

“(ii) AMOUNT OF DECREASE.—The amount determined in this clause is the lesser of—

“(I) the amount equal to the sum of the amounts that, for each of fiscal years 2009 and 2010, is the lesser of—

“(aa) the excess amount described in clause (i)(II) for such fiscal year; or

“(bb) the amount specified in subsection (b)(4)(B)(ii) for such fiscal year; or

“(II) \$65,000,000.

“(iii) LIMITATIONS.—

“(I) FISCAL YEAR CONDITION.—In making the determination under clause (ii), an amount described in subclause (I) of such clause for fiscal year 2009 or 2010 shall be taken into account

only if subclauses (I) and (II) of clause (i) apply to such fiscal year.

“(II) RELATION TO SUBPARAGRAPH (A).—The Secretary shall limit any decrease under this paragraph if such a limitation is necessary to provide for the 3 months of operating reserves described in subparagraph (A).”.

(5) LIMIT.—Paragraph (5) of section 736(c) (21 U.S.C. 379h(c)), as redesignated by paragraph (3)(A), is amended by striking “2002” and inserting “2007”.

(d) FEE WAIVER OR REDUCTION.—Section 736(d) (21 U.S.C. 379h(d)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A)—

(A) by inserting after “The Secretary shall grant” the following: “to a person who is named as the applicant in a human drug application”; and

(B) by inserting “to that person” after “one or more fees assessed”;

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following:

“(2) CONSIDERATIONS.—In determining whether to grant a waiver or reduction of a fee under paragraph (1), the Secretary shall consider only the circumstances and assets of the applicant involved and any affiliate of the applicant.”; and

(4) in paragraph (4) (as redesignated by paragraph (2)), in subparagraph (A), by inserting before the period the following: “, and that does not have a drug product that has been approved under a human drug application and introduced or delivered for introduction into interstate commerce”.

(e) CREDITING AND AVAILABILITY OF FEES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 736(g)(3) (21 U.S.C. 379h(g)(3)) is amended to read as follows:

“(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2008 through 2012, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount determined under subsection (b) for the fiscal year, as adjusted or otherwise affected under subsection (c) and paragraph (4) of this subsection.”.

(2) OFFSET.—Section 736(g)(4) (21 U.S.C. 379h(g)(4)) is amended to read as follows:

“(4) OFFSET.—If the sum of the cumulative amount of fees collected under this section for the fiscal years 2008 through 2010 and the amount of fees estimated to be collected under this section for fiscal year 2011 exceeds the cumulative amount appropriated under paragraph (3) for the fiscal years 2008 through 2011, the excess shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for fiscal year 2012.”.

(f) EXEMPTION FOR ORPHAN DRUGS.—Section 736 (21 U.S.C. 379h) is further amended by adding at the end the following:

“(k) ORPHAN DRUGS.—

“(1) EXEMPTION.—A drug designated under section 526 for a rare disease or condition and approved under section 505 or under section 351 of the Public Health Service Act shall be exempt from product and establishment fees under this section, if the drug meets all of the following conditions:

“(A) The drug meets the public health requirements contained in this Act as such requirements are applied to requests for waivers for product and establishment fees.

“(B) The drug is owned or licensed and is marketed by a company that had less than \$50,000,000 in gross worldwide revenue during the previous year.

“(2) EVIDENCE OF QUALIFICATION.—An exemption under paragraph (1) applies with respect to a drug only if the applicant involved submits a certification that its gross annual revenues did not exceed \$50,000,000 for the preceding 12 months before the exemption was requested.”.

(g) CONFORMING AMENDMENT.—Section 736(a) (21 U.S.C. 379h(a)) is amended in paragraphs (1)(A)(i), (1)(A)(ii), (2)(A), and (3)(A) by striking “(c)(4)” each place such term appears and inserting “(c)(5)”.

(h) TECHNICAL AMENDMENT.—

(1) AMENDMENT.—Section 736(g)(1) (21 U.S.C. 379h(g)(1)) is amended by striking the first sentence and inserting the following: “Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended.”.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if included in section 504 of the Prescription Drug User Fee Amendments of 2002 (Public Law 107–188; 116 Stat. 687).

21 USC 379h
note.

SEC. 104. FEES RELATING TO ADVISORY REVIEW OF PRESCRIPTION-DRUG TELEVISION ADVERTISING.

Part 2 of subchapter C of chapter VII (21 U.S.C. 379g et seq.) is amended by adding after section 736 the following:

21 USC 379h–1.

“SEC. 736A. FEES RELATING TO ADVISORY REVIEW OF PRESCRIPTION-DRUG TELEVISION ADVERTISING.

Effective date.

“(a) TYPES OF DIRECT-TO-CONSUMER TELEVISION ADVERTISEMENT REVIEW FEES.—Beginning in fiscal year 2008, the Secretary shall assess and collect fees in accordance with this section as follows:

“(1) ADVISORY REVIEW FEE.—

“(A) IN GENERAL.—With respect to a proposed direct-to-consumer television advertisement (referred to in this section as a ‘DTC advertisement’), each person that on or after October 1, 2007, submits such an advertisement for advisory review by the Secretary prior to its initial public dissemination shall, except as provided in subparagraph (B), be subject to a fee established under subsection (c)(3).

“(B) EXCEPTION FOR REQUIRED SUBMISSIONS.—A DTC advertisement that is required to be submitted to the Secretary prior to initial public dissemination is not subject to a fee under subparagraph (A) unless the sponsor designates the submission as a submission for advisory review.

“(C) NOTICE TO SECRETARY OF NUMBER OF ADVERTISEMENTS.—Not later than June 1 of each fiscal

Deadlines.
Federal Register,
publication.

year, the Secretary shall publish a notice in the Federal Register requesting any person to notify the Secretary within 30 days of the number of DTC advertisements the person intends to submit for advisory review in the next fiscal year. Notwithstanding the preceding sentence, for fiscal year 2008, the Secretary shall publish such a notice in the Federal Register not later than 30 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007.

“(D) PAYMENT.—

Deadlines.

“(i) IN GENERAL.—The fee required by subparagraph (A) (referred to in this section as ‘an advisory review fee’) shall be due not later than October 1 of the fiscal year in which the DTC advertisement involved is intended to be submitted for advisory review, subject to subparagraph (F)(i). Notwithstanding the preceding sentence, the advisory review fee for any DTC advertisement that is intended to be submitted for advisory review during fiscal year 2008 shall be due not later than 120 days after the date of the enactment of the Food and Drug Administration Amendments of 2007 or an earlier date as specified by the Secretary.

“(ii) EFFECT OF SUBMISSION.—Notification of the Secretary under subparagraph (C) of the number of DTC advertisements a person intends to submit for advisory review is a legally binding commitment by that person to pay the annual advisory review fee for that number of submissions on or before October 1 of the fiscal year in which the advertisement is intended to be submitted. Notwithstanding the preceding sentence, the commitment shall be a legally binding commitment by that person to pay the annual advisory review fee for that number of submissions for fiscal year 2008 by the date specified in clause (i).

“(iii) NOTICE REGARDING CARRYOVER SUBMISSIONS.—In making a notification under subparagraph (C), the person involved shall in addition notify the Secretary if under subparagraph (F)(i) the person intends to submit a DTC advertisement for which the advisory review fee has already been paid. If the person does not so notify the Secretary, each DTC advertisement submitted by the person for advisory review in the fiscal year involved shall be subject to the advisory review fee.

“(E) MODIFICATION OF ADVISORY REVIEW FEE.—

“(i) LATE PAYMENT.—If a person has submitted a notification under subparagraph (C) with respect to a fiscal year and has not paid all advisory review fees due under subparagraph (D) not later than November 1 of such fiscal year (or, in the case of such a notification submitted with respect to fiscal year 2008, not later than 150 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007 or an earlier date specified by the Secretary), the fees shall be regarded as late

Applicability.

Deadline.

and an increase in the amount of fees applies in accordance with this clause, notwithstanding any other provision of this section. For such person, all advisory review fees for such fiscal year shall be due and payable 20 days before any direct-to-consumer advertisement is submitted to the Secretary for advisory review, and each such fee shall be equal to 150 percent of the fee that otherwise would have applied pursuant to subsection (c)(3).

Deadline.

“(ii) EXCEEDING IDENTIFIED NUMBER OF SUBMISSIONS.—If a person submits a number of DTC advertisements for advisory review in a fiscal year that exceeds the number identified by the person under subparagraph (C), an increase in the amount of fees applies under this clause for each submission in excess of such number, notwithstanding any other provision of this section. For each such DTC advertisement, the advisory review fee shall be due and payable 20 days before the advertisement is submitted to the Secretary, and the fee shall be equal to 150 percent of the fee that otherwise would have applied pursuant to subsection (c)(3).

“(F) LIMITS.—

“(i) SUBMISSIONS.—For each advisory review fee paid by a person for a fiscal year, the person is entitled to acceptance for advisory review by the Secretary of one DTC advertisement and acceptance of one resubmission for advisory review of the same advertisement. The advertisement shall be submitted for review in the fiscal year for which the fee was assessed, except that a person may carry over not more than one paid advisory review submission to the next fiscal year. Resubmissions may be submitted without regard to the fiscal year of the initial advisory review submission.

“(ii) NO REFUNDS.—Except as provided by subsections (d)(4) and (f), fees paid under this section shall not be refunded.

“(iii) NO WAIVERS, EXEMPTIONS, OR REDUCTIONS.—The Secretary shall not grant a waiver, exemption, or reduction of any fees due or payable under this section.

“(iv) RIGHT TO ADVISORY REVIEW NOT TRANSFERABLE.—The right to an advisory review under this paragraph is not transferable, except to a successor in interest.

“(2) OPERATING RESERVE FEE.—

“(A) IN GENERAL.—Each person that on or after October 1, 2007, is assessed an advisory review fee under paragraph (1) shall be subject to fee established under subsection (d)(2) (referred to in this section as an ‘operating reserve fee’) for the first fiscal year in which an advisory review fee is assessed to such person. The person is not subject to an operating reserve fee for any other fiscal year.

Deadlines.

“(B) PAYMENT.—Except as provided in subparagraph (C), the operating reserve fee shall be due no later than—

“(i) October 1 of the first fiscal year in which the person is required to pay an advisory review fee under paragraph (1); or

“(ii) for fiscal year 2008, 120 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007 or an earlier date specified by the Secretary.

“(C) LATE NOTICE OF SUBMISSION.—If, in the first fiscal year of a person’s participation in the program under this section, that person submits any DTC advertisements for advisory review that are in excess of the number identified by that person in response to the Federal Register notice described in subsection (a)(1)(C), that person shall pay an operating reserve fee for each of those advisory reviews equal to the advisory review fee for each submission established under paragraph (1)(E)(ii). Fees required by this subparagraph shall be in addition to any fees required by subparagraph (A). Fees under this subparagraph shall be due 20 days before any DTC advertisement is submitted by such person to the Secretary for advisory review.

Deadline.

“(D) LATE PAYMENT.—

Deadlines.

“(i) IN GENERAL.—Notwithstanding subparagraph (B), and subject to clause (ii), an operating reserve fee shall be regarded as late if the person required to pay the fee has not paid the complete operating reserve fee by—

“(I) for fiscal year 2008, 150 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007 or an earlier date specified by the Secretary; or

“(II) in any subsequent year, November 1.

“(ii) COMPLETE PAYMENT.—The complete operating reserve fee shall be due and payable 20 days before any DTC advertisement is submitted by such person to the Secretary for advisory review.

“(iii) AMOUNT.—Notwithstanding any other provision of this section, an operating reserve fee that is regarded as late under this subparagraph shall be equal to 150 percent of the operating reserve fee that otherwise would have applied pursuant to subsection (d).

“(b) ADVISORY REVIEW FEE REVENUE AMOUNTS.—Fees under subsection (a)(1) shall be established to generate revenue amounts of \$6,250,000 for each of fiscal years 2008 through 2012, as adjusted pursuant to subsections (c) and (g)(4).

“(c) ADJUSTMENTS.—

“(1) INFLATION ADJUSTMENT.—Beginning with fiscal year 2009, the revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

Effective date.
Notice.
Federal Register,
publication.

“(A) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; U.S. city average), for the 12-month period ending June 30 preceding the fiscal year for which fees are being established;

“(B) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance

with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia; or

“(C) the average annual change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions for the first 5 fiscal years of the previous 6 fiscal years.

The adjustment made each fiscal year by this subsection shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2008 under this subsection.

Effective date.

“(2) WORKLOAD ADJUSTMENT.—Beginning with fiscal year 2009, after the fee revenues established in subsection (b) are adjusted for a fiscal year for inflation in accordance with paragraph (1), the fee revenues shall be adjusted further for such fiscal year to reflect changes in the workload of the Secretary with respect to the submission of DTC advertisements for advisory review prior to initial dissemination. With respect to such adjustment:

“(A) The adjustment shall be determined by the Secretary based upon the number of DTC advertisements identified pursuant to subsection (a)(1)(C) for the upcoming fiscal year, excluding allowable previously paid carry over submissions. The adjustment shall be determined by multiplying the number of such advertisements projected for that fiscal year that exceeds 150 by \$27,600 (adjusted each year beginning with fiscal year 2009 for inflation in accordance with paragraph (1)). The Secretary shall publish in the Federal Register the fee revenues and fees resulting from the adjustment and the supporting methodologies.

Federal Register,
publication.

“(B) Under no circumstances shall the adjustment result in fee revenues for a fiscal year that are less than the fee revenues established for the prior fiscal year.

“(3) ANNUAL FEE SETTING FOR ADVISORY REVIEW.—

Deadlines.

“(A) IN GENERAL.—Not later than August 1 of each fiscal year (or, with respect to fiscal year 2008, not later than 90 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007), the Secretary shall establish for the next fiscal year the DTC advertisement advisory review fee under subsection (a)(1), based on the revenue amounts established under subsection (b), the adjustments provided under paragraphs (1) and (2), and the number of DTC advertisements identified pursuant to subsection (a)(1)(C), excluding allowable previously-paid carry over submissions. The annual advisory review fee shall be established by dividing the fee revenue for a fiscal year (as adjusted pursuant to this subsection) by the number of DTC advertisements so identified, excluding allowable previously-paid carry over submissions under subsection (a)(1)(F)(i).

“(B) FISCAL YEAR 2008 FEE LIMIT.—Notwithstanding subsection (b) and the adjustments pursuant to this subsection, the fee established under subparagraph (A) for

fiscal year 2008 may not be more than \$83,000 per submission for advisory review.

“(C) ANNUAL FEE LIMIT.—Notwithstanding subsection (b) and the adjustments pursuant to this subsection, the fee established under subparagraph (A) for a fiscal year after fiscal year 2008 may not be more than 50 percent more than the fee established for the prior fiscal year.

“(D) LIMIT.—The total amount of fees obligated for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the advisory review of prescription drug advertising.

“(d) OPERATING RESERVES.—

“(1) IN GENERAL.—The Secretary shall establish in the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation a Direct-to-Consumer Advisory Review Operating Reserve, of at least \$6,250,000 in fiscal year 2008, to continue the program under this section in the event the fees collected in any subsequent fiscal year pursuant to subsection (a)(1) do not generate the fee revenue amount established for that fiscal year.

“(2) FEE SETTING.—The Secretary shall establish the operating reserve fee under subsection (a)(2)(A) for each person required to pay the fee by multiplying the number of DTC advertisements identified by that person pursuant to subsection (a)(1)(C) by the advisory review fee established pursuant to subsection (c)(3) for that fiscal year, except that in no case shall the operating reserve fee assessed be less than the operating reserve fee assessed if the person had first participated in the program under this section in fiscal year 2008.

“(3) USE OF OPERATING RESERVE.—The Secretary may use funds from the reserves only to the extent necessary in any fiscal year to make up the difference between the fee revenue amount established for that fiscal year under subsections (b) and (c) and the amount of fees actually collected for that fiscal year pursuant to subsection (a)(1), or to pay costs of ending the program under this section if it is terminated pursuant to subsection (f) or not reauthorized beyond fiscal year 2012.

“(4) REFUND OF OPERATING RESERVES.—Within 120 days after the end of fiscal year 2012, or if the program under this section ends early pursuant to subsection (f), the Secretary, after setting aside sufficient operating reserve amounts to terminate the program under this section, shall refund all amounts remaining in the operating reserve on a pro rata basis to each person that paid an operating reserve fee assessment. In no event shall the refund to any person exceed the total amount of operating reserve fees paid by such person pursuant to subsection (a)(2).

Deadline.

“(e) EFFECT OF FAILURE TO PAY FEES.—Notwithstanding any other requirement, a submission for advisory review of a DTC advertisement submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person under this section have been paid.

“(f) EFFECT OF INADEQUATE FUNDING OF PROGRAM.—

“(1) INITIAL FUNDING.—If on November 1, 2007, or 120 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, whichever is later,

Effective date.

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Notification.

the Secretary has not received at least \$11,250,000 in advisory review fees and operating reserve fees combined, the program under this section shall not commence and all collected fees shall be refunded.

“(2) LATER FISCAL YEARS.—Beginning in fiscal year 2009, if, on November 1 of the fiscal year, the combination of the operating reserves, annual fee revenues from that fiscal year, and unobligated fee revenues from prior fiscal years falls below \$9,000,000, adjusted for inflation (as described in subsection (c)(1)), the program under this section shall terminate, and the Secretary shall notify all participants, retain any money from the unused advisory review fees and the operating reserves needed to terminate the program, and refund the remainder of the unused fees and operating reserves. To the extent required to terminate the program, the Secretary shall first use unobligated advisory review fee revenues from prior fiscal years, then the operating reserves, and finally, unused advisory review fees from the relevant fiscal year.

“(g) CREDITING AND AVAILABILITY OF FEES.—

“(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the advisory review of prescription drug advertising.

“(2) COLLECTIONS AND APPROPRIATION ACTS.—

“(A) IN GENERAL.—The fees authorized by this section—

“(i) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year; and

“(ii) shall be available for obligation only if the amounts appropriated as budget authority for such fiscal year are sufficient to support a number of full-time equivalent review employees that is not fewer than the number of such employees supported in fiscal year 2007.

“(B) REVIEW EMPLOYEES.—For purposes of subparagraph (A)(ii), the term ‘full-time equivalent review employees’ means the total combined number of full-time equivalent employees in—

“(i) the Center for Drug Evaluation and Research, Division of Drug Marketing, Advertising, and Communications, Food and Drug Administration; and

“(ii) the Center for Biologics Evaluation and Research, Advertising and Promotional Labeling Branch, Food and Drug Administration.

“(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2008 through 2012, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount determined under subsection (b) for the

fiscal year, as adjusted pursuant to subsection (c) and paragraph (4) of this subsection, plus amounts collected for the reserve fund under subsection (d).

“(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriation Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

“(h) DEFINITIONS.—For purposes of this section:

“(1) The term ‘advisory review’ means reviewing and providing advisory comments on DTC advertisements regarding compliance of a proposed advertisement with the requirements of this Act prior to its initial public dissemination.

“(2) The term ‘advisory review fee’ has the meaning indicated for such term in subsection (a)(1)(D).

“(3) The term ‘carry over submission’ means a submission for an advisory review for which a fee was paid in one fiscal year that is submitted for review in the following fiscal year.

“(4) The term ‘direct-to-consumer television advertisement’ means an advertisement for a prescription drug product (as defined in section 735(3)) intended to be displayed on any television channel for less than 3 minutes.

“(5) The term ‘DTC advertisement’ has the meaning indicated for such term in subsection (a)(1)(A).

“(6) The term ‘operating reserve fee’ has the meaning indicated for such term in subsection (a)(2)(A).

“(7) The term ‘person’ includes an individual, partnership, corporation, and association, and any affiliate thereof or successor in interest.

“(8) The term ‘process for the advisory review of prescription drug advertising’ means the activities necessary to review and provide advisory comments on DTC advertisements prior to public dissemination and, to the extent the Secretary has additional staff resources available under the program under this section that are not necessary for the advisory review of DTC advertisements, the activities necessary to review and provide advisory comments on other proposed advertisements and promotional material prior to public dissemination.

“(9) The term ‘resources allocated for the process for the advisory review of prescription drug advertising’ means the expenses incurred in connection with the process for the advisory review of prescription drug advertising for—

“(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees, and to contracts with such contractors;

“(B) management of information, and the acquisition, maintenance, and repair of computer resources;

“(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies;

“(D) collection of fees under this section and accounting for resources allocated for the advisory review of prescription drug advertising; and

“(E) terminating the program under this section pursuant to subsection (f)(2) if that becomes necessary.

“(10) The term ‘resubmission’ means a subsequent submission for advisory review of a direct-to-consumer television advertisement that has been revised in response to the Secretary’s comments on an original submission. A resubmission may not introduce significant new concepts or creative themes into the television advertisement.

“(11) The term ‘submission for advisory review’ means an original submission of a direct-to-consumer television advertisement for which the sponsor voluntarily requests advisory comments before the advertisement is publicly disseminated.”.

SEC. 105. REAUTHORIZATION; REPORTING REQUIREMENTS.

Part 2 of subchapter C of chapter VII (21 U.S.C. 379g et seq.), as amended by section 104, is further amended by inserting after section 736A the following:

21 USC 379h–2.

“SEC. 736B. REAUTHORIZATION; REPORTING REQUIREMENTS.

“(a) **PERFORMANCE REPORT.**—Beginning with fiscal year 2008, not later than 120 days after the end of each fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 101(c) of the Food and Drug Administration Amendments Act of 2007 during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals. The report for a fiscal year shall include information on all previous cohorts for which the Secretary has not given a complete response on all human drug applications and supplements in the cohort.

“(b) **FISCAL REPORT.**—Beginning with fiscal year 2008, not later than 120 days after the end of each fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for such fiscal year.

Website.

“(c) **PUBLIC AVAILABILITY.**—The Secretary shall make the reports required under subsections (a) and (b) available to the public on the Internet Web site of the Food and Drug Administration.

“(d) **REAUTHORIZATION.**—

“(1) **CONSULTATION.**—In developing recommendations to present to the Congress with respect to the goals, and plans for meeting the goals, for the process for the review of human drug applications for the first 5 fiscal years after fiscal year 2012, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

“(A) the Committee on Energy and Commerce of the House of Representatives;

“(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

“(C) scientific and academic experts;

“(D) health care professionals;

“(E) representatives of patient and consumer advocacy groups; and

“(F) the regulated industry.

“(2) PRIOR PUBLIC INPUT.—Prior to beginning negotiations with the regulated industry on the reauthorization of this part, the Secretary shall—

“(A) publish a notice in the Federal Register requesting public input on the reauthorization;

Federal Register,
publication.

“(B) hold a public meeting at which the public may present its views on the reauthorization, including specific suggestions for changes to the goals referred to in subsection (a);

“(C) provide a period of 30 days after the public meeting to obtain written comments from the public suggesting changes to this part; and

“(D) publish the comments on the Food and Drug Administration’s Internet Web site.

Website.

“(3) PERIODIC CONSULTATION.—Not less frequently than once every month during negotiations with the regulated industry, the Secretary shall hold discussions with representatives of patient and consumer advocacy groups to continue discussions of their views on the reauthorization and their suggestions for changes to this part as expressed under paragraph (2).

“(4) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the regulated industry, the Secretary shall—

“(A) present the recommendations developed under paragraph (1) to the Congressional committees specified in such paragraph;

“(B) publish such recommendations in the Federal Register;

Federal Register,
publication.

“(C) provide for a period of 30 days for the public to provide written comments on such recommendations;

“(D) hold a meeting at which the public may present its views on such recommendations; and

“(E) after consideration of such public views and comments, revise such recommendations as necessary.

“(5) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2012, the Secretary shall transmit to the Congress the revised recommendations under paragraph (4), a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments.

Deadline.

“(6) MINUTES OF NEGOTIATION MEETINGS.—

“(A) PUBLIC AVAILABILITY.—Before presenting the recommendations developed under paragraphs (1) through (5) to the Congress, the Secretary shall make publicly available, on the public Web site of the Food and Drug Administration, minutes of all negotiation meetings conducted under this subsection between the Food and Drug Administration and the regulated industry.

Website.

“(B) CONTENT.—The minutes described under subparagraph (A) shall summarize any substantive proposal made

by any party to the negotiations as well as significant controversies or differences of opinion during the negotiations and their resolution.”.

SEC. 106. SUNSET DATES.

21 USC 379g
note.

(a) **AUTHORIZATION.**—The amendments made by sections 102, 103, and 104 cease to be effective October 1, 2012.

21 USC 379h–2.

(b) **REPORTING REQUIREMENTS.**—The amendment made by section 105 ceases to be effective January 31, 2013.

21 USC 379g
note.

SEC. 107. EFFECTIVE DATE.

The amendments made by this title shall take effect on October 1, 2007, or the date of the enactment of this Act, whichever is later, except that fees under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act shall be assessed for all human drug applications received on or after October 1, 2007, regardless of the date of the enactment of this Act.

21 USC 379g
note.

SEC. 108. SAVINGS CLAUSE.

Notwithstanding section 509 of the Prescription Drug User Fee Amendments of 2002 (21 U.S.C. 379g note), and notwithstanding the amendments made by this title, part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as in effect on the day before the date of the enactment of this title, shall continue to be in effect with respect to human drug applications and supplements (as defined in such part as of such day) that on or after October 1, 2002, but before October 1, 2007, were accepted by the Food and Drug Administration for filing with respect to assessing and collecting any fee required by such part for a fiscal year prior to fiscal year 2008.

SEC. 109. TECHNICAL AMENDMENT; CONFORMING AMENDMENT.

(a) Section 739 (21 U.S.C. 379j–11) is amended in the matter preceding paragraph (1) by striking “subchapter” and inserting “part”.

(b) Paragraph (11) of section 739 (21 U.S.C. 379j–11) is amended by striking “735(9)” and inserting “735(11)”.

Medical Device
User Fee
Amendments of
2007.

TITLE II—MEDICAL DEVICE USER FEE AMENDMENTS OF 2007

SEC. 201. SHORT TITLE; REFERENCES IN TITLE; FINDING.

21 USC 301 note.

(a) **SHORT TITLE.**—This title may be cited as the “Medical Device User Fee Amendments of 2007”.

(b) **REFERENCES IN TITLE.**—Except as otherwise specified, amendments made by this title to a section or other provision of law are amendments to such section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

21 USC 379i
note.

(c) **FINDING.**—The Congress finds that the fees authorized under the amendments made by this title will be dedicated toward expediting the process for the review of device applications and for assuring the safety and effectiveness of devices, as set forth in the goals identified for purposes of part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy

and Commerce of the House of Representatives, as set forth in the Congressional Record.

Subtitle A—Fees Related to Medical Devices

SEC. 211. DEFINITIONS.

Section 737 is amended—

21 USC 379i.

(1) in the matter preceding paragraph (1), by striking “For purposes of this subchapter” and inserting “For purposes of this part”;

(2) by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (8), (9), (10), and (12), respectively;

(3) by inserting after paragraph (4) the following:

“(5) The term ‘30-day notice’ means a notice under section 515(d)(6) that is limited to a request to make modifications to manufacturing procedures or methods of manufacture affecting the safety and effectiveness of the device.

“(6) The term ‘request for classification information’ means a request made under section 513(g) for information respecting the class in which a device has been classified or the requirements applicable to a device.

“(7) The term ‘annual fee’, for periodic reporting concerning a class III device, means the annual fee associated with periodic reports required by a premarket application approval order.”;

(4) in paragraph (10), as so redesignated—

(A) by striking “April of the preceding fiscal year” and inserting “October of the preceding fiscal year”; and

(B) by striking “April 2002” and inserting “October 2001”;

(5) by inserting after paragraph (10), as so amended, the following:

“(11) The term ‘person’ includes an affiliate thereof.”; and

(6) by inserting after paragraph (12), as so redesignated, the following:

“(13) The term ‘establishment subject to a registration fee’ means an establishment that is required to register with the Secretary under section 510 and is one of the following types of establishments:

“(A) MANUFACTURER.—An establishment that makes by any means any article that is a device, including an establishment that sterilizes or otherwise makes such article for or on behalf of a specification developer or any other person.

“(B) SINGLE-USE DEVICE REPROCESSOR.—An establishment that, within the meaning of section 201(l)(2)(A), performs additional processing and manufacturing operations on a single-use device that has previously been used on a patient.

“(C) SPECIFICATION DEVELOPER.—An establishment that develops specifications for a device that is distributed under the establishment’s name but which performs no manufacturing, including an establishment that, in addition to developing specifications, also arranges for the manufacturing of devices labeled with another establishment’s name by a contract manufacturer.”.

SEC. 212. AUTHORITY TO ASSESS AND USE DEVICE FEES.**(a) TYPES OF FEES.—**

(1) **IN GENERAL.**—Section 738(a) (21 U.S.C. 379j(a)) is amended—

(A) in paragraph (1), by striking “Beginning on the date of the enactment of the Medical Device User Fee and Modernization Act of 2002” and inserting “Beginning in fiscal year 2008”; and

(B) by amending the designation and heading of paragraph (2) to read as follows:

“(2) **PREMARKET APPLICATION, PREMARKET REPORT, SUPPLEMENT, AND SUBMISSION FEE, AND ANNUAL FEE FOR PERIODIC REPORTING CONCERNING A CLASS III DEVICE.**—”.

(2) **FEE AMOUNTS.**—Section 738(a)(2)(A) (21 U.S.C. 379j(a)(2)(A)) is amended—

(A) in clause (iii), by striking “a fee equal to the fee that applies” and inserting “a fee equal to 75 percent of the fee that applies”;

(B) in clause (iv), by striking “21.5 percent” and inserting “15 percent”;

(C) in clause (v), by striking “7.2 percent” and inserting “7 percent”;

(D) by redesignating clauses (vi) and (vii) as clauses (vii) and (viii), respectively;

(E) by inserting after clause (v) the following:

“(vi) For a 30-day notice, a fee equal to 1.6 percent of the fee that applies under clause (i).”;

(F) in clause (viii), as so redesignated—

(i) by striking “1.42 percent” and inserting “1.84 percent”; and

(ii) by striking “, subject to any adjustment under subsection (e)(2)(C)(ii)”;

(G) by inserting after such clause (viii) the following:

“(ix) For a request for classification information, a fee equal to 1.35 percent of the fee that applies under clause (i).

“(x) For periodic reporting concerning a class III device, an annual fee equal to 3.5 percent of the fee that applies under clause (i).”.

(3) **PAYMENT.**—Section 738(a)(2)(C) (21 U.S.C. 379j(a)(2)(C)) is amended to read as follows:

“(C) **PAYMENT.**—The fee required by subparagraph (A) shall be due upon submission of the premarket application, premarket report, supplement, premarket notification submission, 30-day notice, request for classification information, or periodic reporting concerning a class III device. Applicants submitting portions of applications pursuant to section 515(c)(4) shall pay such fees upon submission of the first portion of such applications.”.

(4) **REFUNDS.**—Section 738(a)(2)(D) (21 U.S.C. 379j(a)(2)(D)) is amended—

(A) in clause (iii), by striking the last two sentences; and

(B) by adding after clause (iii) the following:

“(iv) **MODULAR APPLICATIONS WITHDRAWN BEFORE FIRST ACTION.**—The Secretary shall refund 75 percent of the application fee paid for an application submitted

under section 515(c)(4) that is withdrawn before a second portion is submitted and before a first action on the first portion.

“(v) LATER WITHDRAWN MODULAR APPLICATIONS.—

If an application submitted under section 515(c)(4) is withdrawn after a second or subsequent portion is submitted but before any first action, the Secretary may return a portion of the fee. The amount of refund, if any, shall be based on the level of effort already expended on the review of the portions submitted.

“(vi) SOLE DISCRETION TO REFUND.—The Secretary shall have sole discretion to refund a fee or portion of the fee under clause (iii) or (v). A determination by the Secretary concerning a refund under clause (iii) or (v) shall not be reviewable.”.

(5) ANNUAL ESTABLISHMENT REGISTRATION FEE.—Section 738(a) (21 U.S.C. 379j(a)) is amended by adding after paragraph (2) the following:

“(3) ANNUAL ESTABLISHMENT REGISTRATION FEE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each establishment subject to a registration fee shall be subject to a fee for each initial or annual registration under section 510 beginning with its registration for fiscal year 2008.

“(B) EXCEPTION.—No fee shall be required under subparagraph (A) for an establishment operated by a State or Federal governmental entity or an Indian tribe (as defined in the Indian Self Determination and Educational Assistance Act), unless a device manufactured by the establishment is to be distributed commercially.

“(C) PAYMENT.—The fee required under subparagraph (A) shall be due once each fiscal year, upon the initial registration of the establishment or upon the annual registration under section 510.”.

(b) FEE AMOUNTS.—Section 738(b) (21 U.S.C. 379j(b)) is amended to read as follows:

“(b) FEE AMOUNTS.—Except as provided in subsections (c), (d), (e), and (h) the fees under subsection (a) shall be based on the following fee amounts:

Fee Type	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012
Premarket Application	\$185,000	\$200,725	\$217,787	\$236,298	\$256,384
Establishment Registra- tion	\$1,706	\$1,851	\$2,008	\$2,179	\$2,364.”.

(c) ANNUAL FEE SETTING.—

(1) IN GENERAL.—Section 738(c) (21 U.S.C. 379j(c)(1)) is amended—

(A) in the subsection heading, by striking “Annual Fee Setting” and inserting “ANNUAL FEE SETTING”; and

(B) in paragraph (1), by striking the last sentence.

(2) ADJUSTMENT OF ANNUAL ESTABLISHMENT FEE.—Section 738(c) (21 U.S.C. 379j(c)), as amended by paragraph (1), is further amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following:

“(2) ADJUSTMENT.—

“(A) IN GENERAL.—When setting fees for fiscal year 2010, the Secretary may increase the fee under subsection (a)(3)(A) (applicable to establishments subject to registration) only if the Secretary estimates that the number of establishments submitting fees for fiscal year 2009 is fewer than 12,250. The percentage increase shall be the percentage by which the estimate of establishments submitting fees in fiscal year 2009 is fewer than 12,750, but in no case may the percentage increase be more than 8.5 percent over that specified in subsection (b) for fiscal year 2010. If the Secretary makes any adjustment to the fee under subsection (a)(3)(A) for fiscal year 2010, then such fee for fiscal years 2011 and 2012 shall be adjusted so that such fee for fiscal year 2011 is equal to the adjusted fee for fiscal year 2010 increased by 8.5 percent, and such fee for fiscal year 2012 is equal to the adjusted fee for fiscal year 2011 increased by 8.5 percent.

“(B) PUBLICATION.—For any adjustment made under subparagraph (A), the Secretary shall publish in the Federal Register the Secretary’s determination to make the adjustment and the rationale for the determination.”; and

(C) in paragraph (4), as redesignated by this paragraph, in subparagraph (A)—

(i) by striking “For fiscal years 2006 and 2007, the Secretary” and inserting “The Secretary”; and

(ii) by striking “for the first month of fiscal year 2008” and inserting “for the first month of the next fiscal year”.

(d) SMALL BUSINESSES; FEE WAIVER AND FEE REDUCTION REGARDING PREMARKET APPROVAL.—

(1) IN GENERAL.—Section 738(d)(1) (21 U.S.C. 379j(d)(1)) is amended—

(A) by striking “, partners, and parent firms”; and

(B) by striking “clauses (i) through (vi) of subsection (a)(2)(A)” and inserting “clauses (i) through (v) and clauses (vii), (ix), and (x) of subsection (a)(2)(A)”.

(2) RULES RELATING TO PREMARKET APPROVAL FEES.—

(A) DEFINITION.—Section 738(d)(2)(A) (21 U.S.C. 379j(d)(2)(A)) is amended by striking “, partners, and parent firms”.

(B) EVIDENCE OF QUALIFICATION.—Section 738(d)(2)(B) (21 U.S.C. 379j(d)(2)(B)) is amended—

(i) by striking “(B) EVIDENCE OF QUALIFICATION.—An applicant” and inserting the following:

“(B) EVIDENCE OF QUALIFICATION.—

“(i) IN GENERAL.—An applicant”;

(ii) by striking “The applicant shall support its claim” and inserting the following:

Federal Register,
publication.

“(ii) FIRMS SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—The applicant shall support its claim”;

(iii) by striking “, partners, and parent firms” each place it appears;

(iv) by striking the last sentence and inserting “If no tax forms are submitted for any affiliate, the applicant shall certify that the applicant has no affiliates.”; and

(v) by adding at the end the following:

“(iii) FIRMS NOT SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—In the case of an applicant that has not previously submitted a Federal income tax return, the applicant and each of its affiliates shall demonstrate that it meets the definition under subparagraph (A) by submission of a signed certification, in such form as the Secretary may direct through a notice published in the Federal Register, that the applicant or affiliate meets the criteria for a small business and a certification, in English, from the national taxing authority of the country in which the applicant or, if applicable, affiliate is headquartered. The certification from such taxing authority shall bear the official seal of such taxing authority and shall provide the applicant’s or affiliate’s gross receipts or sales for the most recent year in both the local currency of such country and in United States dollars, the exchange rate used in converting such local currency to dollars, and the dates during which these receipts or sales were collected. The applicant shall also submit a statement signed by the head of the applicant’s firm or by its chief financial officer that the applicant has submitted certifications for all of its affiliates, or that the applicant has no affiliates.”.

Certification.
Federal Register,
publication.

(3) REDUCED FEES.—Section 738(d)(2)(C) (21 U.S.C. 379j(d)(2)(C)) is amended to read as follows:

“(C) REDUCED FEES.—Where the Secretary finds that the applicant involved meets the definition under subparagraph (A), the fees established under subsection (c)(1) may be paid at a reduced rate of—

“(i) 25 percent of the fee established under such subsection for a premarket application, a premarket report, a supplement, or periodic reporting concerning a class III device; and

“(ii) 50 percent of the fee established under such subsection for a 30-day notice or a request for classification information.”.

(e) SMALL BUSINESSES; FEE REDUCTION REGARDING PREMARKET NOTIFICATION SUBMISSIONS.—

(1) IN GENERAL.—Section 738(e)(1) (21 U.S.C. 379j(e)(1)) is amended—

(A) by striking “2004” and inserting “2008”; and

(B) by striking “(a)(2)(A)(vii)” and inserting “(a)(2)(A)(viii)”.

(2) RULES RELATING TO PREMARKET NOTIFICATION SUBMISSIONS.—

(A) DEFINITION.—Section 738(e)(2)(A) (21 U.S.C. 379j(e)(2)(A)) is amended by striking “, partners, and parent firms”.

(B) EVIDENCE OF QUALIFICATION.—Section 738(e)(2)(B) (21 U.S.C. 379j(e)(2)(B)) is amended—

(i) by striking “(B) EVIDENCE OF QUALIFICATION.—An applicant” and inserting the following:

“(B) EVIDENCE OF QUALIFICATION.—

“(i) IN GENERAL.—An applicant”;

(ii) by striking “The applicant shall support its claim” and inserting the following:

“(ii) FIRMS SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—The applicant shall support its claim”;

(iii) by striking “, partners, and parent firms” each place it appears;

(iv) by striking the last sentence and inserting “If no tax forms are submitted for any affiliate, the applicant shall certify that the applicant has no affiliates.”; and

(v) by adding at the end the following:

“(iii) FIRMS NOT SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—In the case of an applicant that has not previously submitted a Federal income tax return, the applicant and each of its affiliates shall demonstrate that it meets the definition under subparagraph (A) by submission of a signed certification, in such form as the Secretary may direct through a notice published in the Federal Register, that the applicant or affiliate meets the criteria for a small business and a certification, in English, from the national taxing authority of the country in which the applicant or, if applicable, affiliate is headquartered. The certification from such taxing authority shall bear the official seal of such taxing authority and shall provide the applicant’s or affiliate’s gross receipts or sales for the most recent year in both the local currency of such country and in United States dollars, the exchange rate used in converting such local currency to dollars, and the dates during which these receipts or sales were collected. The applicant shall also submit a statement signed by the head of the applicant’s firm or by its chief financial officer that the applicant has submitted certifications for all of its affiliates, or that the applicant has no affiliates.”.

(3) REDUCED FEES.—Section 738(e)(2)(C) (21 U.S.C. 379j(e)(2)(C)) is amended to read as follows:

“(C) REDUCED FEES.—For fiscal year 2008 and each subsequent fiscal year, where the Secretary finds that the applicant involved meets the definition under subparagraph (A), the fee for a premarket notification submission may be paid at 50 percent of the fee that applies under subsection (a)(2)(A)(viii), and as established under subsection (c)(1).”.

(f) EFFECT OF FAILURE TO PAY FEES.—Section 738(f) (21 U.S.C. 379j(f)) is amended to read as follows:

Certification.
Federal Register,
publication.

“(f) EFFECT OF FAILURE TO PAY FEES.—

“(1) NO ACCEPTANCE OF SUBMISSIONS.—A premarket application, premarket report, supplement, premarket notification submission, 30-day notice, request for classification information, or periodic reporting concerning a class III device submitted by a person subject to fees under subsections (a)(2) and (a)(3) shall be considered incomplete and shall not be accepted by the Secretary until all fees owed by such person have been paid.

“(2) NO REGISTRATION.—Registration information submitted under section 510 by an establishment subject to a registration fee shall be considered incomplete and shall not be accepted by the Secretary until the registration fee under subsection (a)(3) owed for the establishment has been paid. Until the fee is paid and the registration is complete, the establishment is deemed to have failed to register in accordance with section 510.”.

(g) CONDITIONS.—Section 738(g) (21 U.S.C. 379j(g)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) PERFORMANCE GOALS; TERMINATION OF PROGRAM.—With respect to the amount that, under the salaries and expenses account of the Food and Drug Administration, is appropriated for a fiscal year for devices and radiological products, fees may not be assessed under subsection (a) for the fiscal year, and the Secretary is not expected to meet any performance goals identified for the fiscal year, if—

“(A) the amount so appropriated for the fiscal year, excluding the amount of fees appropriated for the fiscal year, is more than 1 percent less than \$205,720,000 multiplied by the adjustment factor applicable to such fiscal year; or

“(B) fees were not assessed under subsection (a) for the previous fiscal year.”; and

(2) by amending paragraph (2) to read as follows:

“(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate for premarket applications, supplements, premarket reports, premarket notification submissions, 30-day notices, requests for classification information, periodic reporting concerning a class III device, and establishment registrations at any time in such fiscal year, notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.”.

(h) CREDITING AND AVAILABILITY OF FEES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 738(h)(3) (21 U.S.C. 379j(h)(3)) is amended to read as follows:

“(3) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

“(A) \$48,431,000 for fiscal year 2008;

“(B) \$52,547,000 for fiscal year 2009;

“(C) \$57,014,000 for fiscal year 2010;

“(D) \$61,860,000 for fiscal year 2011; and

“(E) \$67,118,000 for fiscal year 2012.”.

(2) **OFFSET.**—Section 738(h)(4) (21 U.S.C. 379j(h)(3)) is amended to read as follows:

“(4) **OFFSET.**—If the cumulative amount of fees collected during fiscal years 2008, 2009, and 2010, added to the amount estimated to be collected for fiscal year 2011, which estimate shall be based upon the amount of fees received by the Secretary through June 30, 2011, exceeds the amount of fees specified in aggregate in paragraph (3) for these four fiscal years, the aggregate amount in excess shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for fiscal year 2012.”.

SEC. 213. REAUTHORIZATION; REPORTING REQUIREMENTS.

Part 3 of subchapter C of chapter VII is amended by inserting after section 738 the following:

21 USC 379j–1.

“SEC. 738A. REAUTHORIZATION; REPORTING REQUIREMENTS.

“(a) **REPORTS.**—

“(1) **PERFORMANCE REPORT.**—For fiscal years 2008 through 2012, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 201(c) of the Food and Drug Administration Amendments Act of 2007 during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals. The report for a fiscal year shall include information on all previous cohorts for which the Secretary has not given a complete response on all device premarket applications and reports, supplements, and premarket notifications in the cohort.

“(2) **FISCAL REPORT.**—For fiscal years 2008 through 2012, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

Website.

“(3) **PUBLIC AVAILABILITY.**—The Secretary shall make the reports required under paragraphs (1) and (2) available to the public on the Internet Web site of the Food and Drug Administration.

“(b) **REAUTHORIZATION.**—

“(1) **CONSULTATION.**—In developing recommendations to present to Congress with respect to the goals, and plans for meeting the goals, for the process for the review of device applications for the first 5 fiscal years after fiscal year 2012, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

“(A) the Committee on Energy and Commerce of the House of Representatives;

“(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

“(C) scientific and academic experts;

“(D) health care professionals;

“(E) representatives of patient and consumer advocacy groups; and

“(F) the regulated industry.

“(2) PRIOR PUBLIC INPUT.—Prior to beginning negotiations with the regulated industry on the reauthorization of this part, the Secretary shall—

“(A) publish a notice in the Federal Register requesting public input on the reauthorization;

Federal Register,
publication.

“(B) hold a public meeting at which the public may present its views on the reauthorization, including specific suggestions for changes to the goals referred to in subsection (a)(1);

“(C) provide a period of 30 days after the public meeting to obtain written comments from the public suggesting changes to this part; and

“(D) publish the comments on the Food and Drug Administration’s Internet Web site.

Website.

“(3) PERIODIC CONSULTATION.—Not less frequently than once every month during negotiations with the regulated industry, the Secretary shall hold discussions with representatives of patient and consumer advocacy groups to continue discussions of their views on the reauthorization and their suggestions for changes to this part as expressed under paragraph (2).

“(4) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the regulated industry, the Secretary shall—

“(A) present the recommendations developed under paragraph (1) to the Congressional committees specified in such paragraph;

“(B) publish such recommendations in the Federal Register;

Federal Register,
publication.

“(C) provide for a period of 30 days for the public to provide written comments on such recommendations;

“(D) hold a meeting at which the public may present its views on such recommendations; and

“(E) after consideration of such public views and comments, revise such recommendations as necessary.

“(5) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2012, the Secretary shall transmit to Congress the revised recommendations under paragraph (4), a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments.

Deadline.

“(6) MINUTES OF NEGOTIATION MEETINGS.—

“(A) PUBLIC AVAILABILITY.—Before presenting the recommendations developed under paragraphs (1) through (5) to the Congress, the Secretary shall make publicly available, on the public Web site of the Food and Drug Administration, minutes of all negotiation meetings conducted under this subsection between the Food and Drug Administration and the regulated industry.

Website.

“(B) CONTENT.—The minutes described under subparagraph (A) shall summarize any substantive proposal made by any party to the negotiations as well as significant controversies or differences of opinion during the negotiations and their resolution.”.

21 USC 379i
note.

SEC. 214. SAVINGS CLAUSE.

Notwithstanding section 107 of the Medical Device User Fee and Modernization Act of 2002 (Public Law 107–250), and notwithstanding the amendments made by this subtitle, part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379i et seq.), as in effect on the day before the date of the enactment of this subtitle, shall continue to be in effect with respect to premarket applications, premarket reports, premarket notification submissions, and supplements (as defined in such part as of such day) that on or after October 1, 2002, but before October 1, 2007, were accepted by the Food and Drug Administration for filing with respect to assessing and collecting any fee required by such part for a fiscal year prior to fiscal year 2008.

SEC. 215. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR POSTMARKET SAFETY INFORMATION.

For the purpose of collecting, developing, reviewing, and evaluating postmarket safety information on medical devices, there are authorized to be appropriated to the Food and Drug Administration, in addition to the amounts authorized by other provisions of law for such purpose—

- (1) \$7,100,000 for fiscal year 2008;
- (2) \$7,455,000 for fiscal year 2009;
- (3) \$7,827,750 for fiscal year 2010;
- (4) \$8,219,138 for fiscal year 2011; and
- (5) \$8,630,094 for fiscal year 2012.

21 USC 379i
note.

SEC. 216. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on October 1, 2007, or the date of the enactment of this Act, whichever is later, except that fees under part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act shall be assessed for all premarket applications, premarket reports, supplements, 30-day notices, and premarket notification submissions received on or after October 1, 2007, regardless of the date of the enactment of this Act.

21 USC 379i
note.

SEC. 217. SUNSET CLAUSE.

The amendments made by this subtitle cease to be effective October 1, 2012, except that section 738A of the Federal Food, Drug, and Cosmetic Act (regarding annual performance and financial reports) ceases to be effective January 31, 2013.

Subtitle B—Amendments Regarding Regulation of Medical Devices

SEC. 221. EXTENSION OF AUTHORITY FOR THIRD PARTY REVIEW OF PREMARKET NOTIFICATION.

Section 523(c) (21 U.S.C. 360m(c)) is amended by striking “2007” and inserting “2012”.

SEC. 222. REGISTRATION.

(a) ANNUAL REGISTRATION OF PRODUCERS OF DRUGS AND DEVICES.—Section 510(b) (21 U.S.C. 360(b)) is amended—

(1) by striking “(b) On or before” and inserting “(b)(1) On or before”;

(2) by striking “or a device or devices”; and

(3) by adding at the end the following:

“(2) During the period beginning on October 1 and ending on December 31 of each year, every person who owns or operates any establishment in any State engaged in the manufacture, preparation, propagation, compounding, or processing of a device or devices shall register with the Secretary his name, places of business, and all such establishments.”.

(b) REGISTRATION OF FOREIGN ESTABLISHMENTS.—Section 510(i)(1) (21 U.S.C. 360(i)(1)) is amended by striking “On or before December 31” and all that follows and inserting the following: “Any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or device that is imported or offered for import into the United States shall, through electronic means in accordance with the criteria of the Secretary—

“(A) upon first engaging in any such activity, immediately register with the Secretary the name and place of business of the establishment, the name of the United States agent for the establishment, the name of each importer of such drug or device in the United States that is known to the establishment, and the name of each person who imports or offers for import such drug or device to the United States for purposes of importation; and

“(B) each establishment subject to the requirements of subparagraph (A) shall thereafter—

“(i) with respect to drugs, register with the Secretary on or before December 31 of each year; and

“(ii) with respect to devices, register with the Secretary during the period beginning on October 1 and ending on December 31 of each year.”.

SEC. 223. FILING OF LISTS OF DRUGS AND DEVICES MANUFACTURED, PREPARED, PROPAGATED, AND COMPOUNDED BY REGISTRANTS; STATEMENTS; ACCOMPANYING DISCLOSURES.

Reports.
Deadlines.

Section 510(j)(2) (21 U.S.C. 360(j)(2)) is amended, in the matter preceding subparagraph (A), by striking “Each person” and all that follows through “the following information:” and inserting “Each person who registers with the Secretary under this section shall report to the Secretary, with regard to drugs once during the month of June of each year and once during the month of December of each year, and with regard to devices once each year during the period beginning on October 1 and ending on December 31, the following information:”.

SEC. 224. ELECTRONIC REGISTRATION AND LISTING.

Section 510(p) (21 U.S.C. 360(p)) is amended to read as follows:

“(p) Registrations and listings under this section (including the submission of updated information) shall be submitted to the Secretary by electronic means unless the Secretary grants a request for waiver of such requirement because use of electronic means is not reasonable for the person requesting such waiver.”.

SEC. 225. REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.

Study.

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study on the appropriate use of the process under section 510(k) of the Federal Food, Drug, and Cosmetic Act as part of the device classification process to determine whether a new device is as safe and effective as a classified device.

(b) **CONSIDERATION.**—In determining the effectiveness of the premarket notification and classification authority under section 510(k) and subsections (f) and (i) of section 513 of the Federal Food, Drug, and Cosmetic Act, the study under subsection (a) shall consider the Secretary of Health and Human Services’s evaluation of the respective intended uses and technologies of such devices, including the effectiveness of such Secretary’s comparative assessment of technological characteristics such as device materials, principles of operations, and power sources.

(c) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall complete the study under subsection (a) and submit to the Congress a report on the results of such study.

SEC. 226. UNIQUE DEVICE IDENTIFICATION SYSTEM.

(a) **IN GENERAL.**—Section 519 (21 U.S.C. 360i) is amended—
 (1) by redesignating subsection (f) as subsection (g); and
 (2) by inserting after subsection (e) the following:

“Unique Device Identification System

Regulations.

“(f) The Secretary shall promulgate regulations establishing a unique device identification system for medical devices requiring the label of devices to bear a unique identifier, unless the Secretary requires an alternative placement or provides an exception for a particular device or type of device. The unique identifier shall adequately identify the device through distribution and use, and may include information on the lot or serial number.”.

(b) **CONFORMING AMENDMENT.**—Section 303 (21 U.S.C. 333) is amended—

(1) by redesignating the subsection that follows subsection (e) as subsection (f); and

(2) in paragraph (1)(B)(ii) of subsection (f), as so redesignated, by striking “519(f)” and inserting “519(g)”.

SEC. 227. FREQUENCY OF REPORTING FOR CERTAIN DEVICES.

Subparagraph (B) of section 519(a)(1) (21 U.S.C. 360i(a)(1)) is amended by striking “were to recur,” and inserting the following: “were to recur, which report under this subparagraph—

“(i) shall be submitted in accordance with part 803 of title 21, Code of Federal Regulations (or successor regulations), unless the Secretary grants an exemption or variance from, or an alternative to, a requirement under such regulations pursuant to section 803.19 of such part, if the device involved is—

“(I) a class III device;

“(II) a class II device that is permanently implantable, is life supporting, or is life sustaining;
 or

“(III) a type of device which the Secretary has, by notice published in the Federal Register or letter to the person who is the manufacturer

Federal Register,
publication.

or importer of the device, indicated should be subject to such part 803 in order to protect the public health;

“(ii) shall, if the device is not subject to clause (i), be submitted in accordance with criteria established by the Secretary for reports made pursuant to this clause, which criteria shall require the reports to be in summary form and made on a quarterly basis; or

“(iii) shall, if the device is imported into the United States and for which part 803 of title 21, Code of Federal Regulations (or successor regulations) requires an importer to submit a report to the manufacturer, be submitted by the importer to the manufacturer in accordance with part 803 of title 21, Code of Federal Regulations (or successor regulations)”.

SEC. 228. INSPECTIONS BY ACCREDITED PERSONS.

Section 704(g) (21 U.S.C. 374(g)) is amended—

(1) in paragraph (1), by striking “Not later than one year after the date of the enactment of this subsection, the Secretary” and inserting “The Secretary”;

(2) in paragraph (2), by—

(A) striking “Not later than 180 days after the date of enactment of this subsection, the Secretary” and inserting “The Secretary”; and

(B) striking the fifth sentence;

(3) in paragraph (3), by adding at the end the following:

“(F) Such person shall notify the Secretary of any withdrawal, suspension, restriction, or expiration of certificate of conformance with the quality systems standard referred to in paragraph (7) for any device establishment that such person inspects under this subsection not later than 30 days after such withdrawal, suspension, restriction, or expiration.

Notification.
Deadline.

“(G) Such person may conduct audits to establish conformance with the quality systems standard referred to in paragraph (7).”;

(4) by amending paragraph (6) to read as follows:

“(6)(A) Subject to subparagraphs (B) and (C), a device establishment is eligible for inspection by persons accredited under paragraph (2) if the following conditions are met:

“(i) The Secretary classified the results of the most recent inspection of the establishment as ‘no action indicated’ or ‘voluntary action indicated’.

“(ii) With respect to inspections of the establishment to be conducted by an accredited person, the owner or operator of the establishment submits to the Secretary a notice that—

“(I) provides the date of the last inspection of the establishment by the Secretary and the classification of that inspection;

“(II) states the intention of the owner or operator to use an accredited person to conduct inspections of the establishment;

“(III) identifies the particular accredited person the owner or operator intends to select to conduct such inspections; and

“(IV) includes a certification that, with respect to the devices that are manufactured, prepared, propagated, compounded, or processed in the establishment—

“(aa) at least 1 of such devices is marketed in the United States; and

“(bb) at least 1 of such devices is marketed, or is intended to be marketed, in 1 or more foreign countries, 1 of which countries certifies, accredits, or otherwise recognizes the person accredited under paragraph (2) and identified under subclause (III) as a person authorized to conduct inspections of device establishments.

Deadline.

“(B)(i) Except with respect to the requirement of subparagraph (A)(i), a device establishment is deemed to have clearance to participate in the program and to use the accredited person identified in the notice under subparagraph (A)(ii) for inspections of the establishment unless the Secretary, not later than 30 days after receiving such notice, issues a response that—

“(I) denies clearance to participate as provided under subparagraph (C); or

“(II) makes a request under clause (ii).

“(ii) The Secretary may request from the owner or operator of a device establishment in response to the notice under subparagraph (A)(ii) with respect to the establishment, or from the particular accredited person identified in such notice—

“(I) compliance data for the establishment in accordance with clause (iii)(I); or

“(II) information concerning the relationship between the owner or operator of the establishment and the accredited person identified in such notice in accordance with clause (iii)(II).

Deadline.

The owner or operator of the establishment, or such accredited person, as the case may be, shall respond to such a request not later than 60 days after receiving such request.

“(iii)(I) The compliance data to be submitted by the owner or operator of a device establishment in response to a request under clause (ii)(I) are data describing whether the quality controls of the establishment have been sufficient for ensuring consistent compliance with current good manufacturing practice within the meaning of section 501(h) and with other applicable provisions of this Act. Such data shall include complete reports of inspectional findings regarding good manufacturing practice or other quality control audits that, during the preceding 2-year period, were conducted at the establishment by persons other than the owner or operator of the establishment, together with all other compliance data the Secretary deems necessary. Data under the preceding sentence shall demonstrate to the Secretary whether the establishment has facilitated consistent compliance by promptly correcting any compliance problems identified in such inspections.

“(II) A request to an accredited person under clause (ii)(II) may not seek any information that is not required to be maintained by such person in records under subsection (f)(1).

Deadline.

“(iv) A device establishment is deemed to have clearance to participate in the program and to use the accredited person identified in the notice under subparagraph (A)(ii) for inspections of the establishment unless the Secretary, not later than 60 days after receiving the information requested under clause (ii), issues

a response that denies clearance to participate as provided under subparagraph (C).

“(C)(i) The Secretary may deny clearance to a device establishment if the Secretary has evidence that the certification under subparagraph (A)(ii)(IV) is untrue and the Secretary provides to the owner or operator of the establishment a statement summarizing such evidence.

“(ii) The Secretary may deny clearance to a device establishment if the Secretary determines that the establishment has failed to demonstrate consistent compliance for purposes of subparagraph (B)(iii)(I) and the Secretary provides to the owner or operator of the establishment a statement of the reasons for such determination.

“(iii)(I) The Secretary may reject the selection of the accredited person identified in the notice under subparagraph (A)(ii) if the Secretary provides to the owner or operator of the establishment a statement of the reasons for such rejection. Reasons for the rejection may include that the establishment or the accredited person, as the case may be, has failed to fully respond to the request, or that the Secretary has concerns regarding the relationship between the establishment and such accredited person.

“(II) If the Secretary rejects the selection of an accredited person by the owner or operator of a device establishment, the owner or operator may make an additional selection of an accredited person by submitting to the Secretary a notice that identifies the additional selection. Clauses (i) and (ii) of subparagraph (B), and subclause (I) of this clause, apply to the selection of an accredited person through a notice under the preceding sentence in the same manner and to the same extent as such provisions apply to a selection of an accredited person through a notice under subparagraph (A)(ii).

“(iv) In the case of a device establishment that is denied clearance under clause (i) or (ii) or with respect to which the selection of the accredited person is rejected under clause (iii), the Secretary shall designate a person to review the statement of reasons, or statement summarizing such evidence, as the case may be, of the Secretary under such clause if, during the 30-day period beginning on the date on which the owner or operator of the establishment receives such statement, the owner or operator requests the review. The review shall commence not later than 30 days after the owner or operator requests the review, unless the Secretary and the owner or operator otherwise agree.”;

(5) in paragraph (7)—

(A) in subparagraph (A), by striking “(A) Persons” and all that follows through the end and inserting the following: “(A) Persons accredited under paragraph (2) to conduct inspections shall record in writing their inspection observations and shall present the observations to the device establishment’s designated representative and describe each observation. Additionally, such accredited person shall prepare an inspection report in a form and manner designated by the Secretary to conduct inspections, taking into consideration the goals of international harmonization of quality systems standards. Any official classification of the inspection shall be determined by the Secretary.”; and

(B) by adding at the end the following:

Notification.

Applicability.

Deadline.

Records.

Reports.

Audits.

“(F) For the purpose of setting risk-based inspectional priorities, the Secretary shall accept voluntary submissions of reports of audits assessing conformance with appropriate quality systems standards set by the International Organization for Standardization (ISO) and identified by the Secretary in public notice. If the owner or operator of an establishment elects to submit audit reports under this subparagraph, the owner or operator shall submit all such audit reports with respect to the establishment during the preceding 2-year periods.”; and

(6) in paragraph (10)(C)(iii), by striking “based” and inserting “base”.

SEC. 229. STUDY OF NOSOCOMIAL INFECTIONS RELATING TO MEDICAL DEVICES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on—

(1) the number of nosocomial infections attributable to new and reused medical devices; and

(2) the causes of such nosocomial infections, including the following:

(A) Reprocessed single-use devices.

(B) Handling of sterilized medical devices.

(C) In-hospital sterilization of medical devices.

(D) Health care professionals’ practices for patient examination and treatment.

(E) Hospital-based policies and procedures for infection control and prevention.

(F) Hospital-based practices for handling of medical waste.

(G) Other causes.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall complete the study under subsection (a) and submit to the Congress a report on the results of such study.

(c) DEFINITION.—In this section, the term “nosocomial infection” means an infection that is acquired while an individual is a patient at a hospital and was neither present nor incubating in the patient prior to receiving services in the hospital.

SEC. 230. REPORT BY THE FOOD AND DRUG ADMINISTRATION REGARDING LABELING INFORMATION ON THE RELATIONSHIP BETWEEN THE USE OF INDOOR TANNING DEVICES AND DEVELOPMENT OF SKIN CANCER OR OTHER SKIN DAMAGE.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”), acting through the Commissioner of Food and Drugs, shall determine—

(1) whether the labeling requirements for indoor tanning devices, including the positioning requirements, provide sufficient information to consumers regarding the risks that the use of such devices pose for the development of irreversible damage to the eyes and skin, including skin cancer; and

(2)(A) whether modifying the warning label required on tanning beds to read, “Ultraviolet radiation can cause skin cancer”, or any other additional warning, would communicate the risks of indoor tanning more effectively; or

(B) whether there is no warning that would be capable of adequately communicating such risks.

(b) **CONSUMER TESTING.**—In making the determinations under subsection (a), the Secretary shall conduct appropriate consumer testing to determine consumer understanding of label warnings.

(c) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report that provides the determinations under subsection (a). In addition, the Secretary shall include in the report the measures being implemented by the Secretary to significantly reduce the risks associated with indoor tanning devices.

TITLE III—PEDIATRIC MEDICAL DEVICE SAFETY AND IMPROVEMENT ACT OF 2007

Pediatric Medical
Device Safety
and
Improvement Act
of 2007.

SEC. 301. SHORT TITLE.

21 USC 301 note.

This title may be cited as the “Pediatric Medical Device Safety and Improvement Act of 2007”.

SEC. 302. TRACKING PEDIATRIC DEVICE APPROVALS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 515 the following:

“SEC. 515A. PEDIATRIC USES OF DEVICES.

21 USC 360e–1.

“(a) **NEW DEVICES.**—

“(1) **IN GENERAL.**—A person that submits to the Secretary an application under section 520(m), or an application (or supplement to an application) or a product development protocol under section 515, shall include in the application or protocol the information described in paragraph (2).

“(2) **REQUIRED INFORMATION.**—The application or protocol described in paragraph (1) shall include, with respect to the device for which approval is sought and if readily available—

“(A) a description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure; and

“(B) the number of affected pediatric patients.

“(3) **ANNUAL REPORT.**—Not later than 18 months after the date of the enactment of this section, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes—

“(A) the number of devices approved in the year preceding the year in which the report is submitted, for which there is a pediatric subpopulation that suffers from the disease or condition that the device is intended to treat, diagnose, or cure;

“(B) the number of devices approved in the year preceding the year in which the report is submitted, labeled for use in pediatric patients;

“(C) the number of pediatric devices approved in the year preceding the year in which the report is submitted, exempted from a fee pursuant to section 738(a)(2)(B)(v); and

“(D) the review time for each device described in subparagraphs (A), (B), and (C).

“(b) DETERMINATION OF PEDIATRIC EFFECTIVENESS BASED ON SIMILAR COURSE OF DISEASE OR CONDITION OR SIMILAR EFFECT OF DEVICE ON ADULTS.—

“(1) IN GENERAL.—If the course of the disease or condition and the effects of the device are sufficiently similar in adults and pediatric patients, the Secretary may conclude that adult data may be used to support a determination of a reasonable assurance of effectiveness in pediatric populations, as appropriate.

“(2) EXTRAPOLATION BETWEEN SUBPOPULATIONS.—A study may not be needed in each pediatric subpopulation if data from one subpopulation can be extrapolated to another subpopulation.

“(c) PEDIATRIC SUBPOPULATION.—For purposes of this section, the term ‘pediatric subpopulation’ has the meaning given the term in section 520(m)(6)(E)(ii).”.

SEC. 303. MODIFICATION TO HUMANITARIAN DEVICE EXEMPTION.

(a) IN GENERAL.—Section 520(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)) is amended—

(1) in paragraph (3), by striking “No” and inserting “Except as provided in paragraph (6), no”;

(2) in paragraph (5)—

(A) by inserting “, if the Secretary has reason to believe that the requirements of paragraph (6) are no longer met,” after “public health”; and

(B) by adding at the end the following: “If the person granted an exemption under paragraph (2) fails to demonstrate continued compliance with the requirements of this subsection, the Secretary may suspend or withdraw the exemption from the effectiveness requirements of sections 514 and 515 for a humanitarian device only after providing notice and an opportunity for an informal hearing.”; and

(3) by striking paragraph (6) and inserting after paragraph (5) the following new paragraphs:

“(6)(A) Except as provided in subparagraph (D), the prohibition in paragraph (3) shall not apply with respect to a person granted an exemption under paragraph (2) if each of the following conditions apply:

“(i)(I) The device with respect to which the exemption is granted is intended for the treatment or diagnosis of a disease or condition that occurs in pediatric patients or in a pediatric subpopulation, and such device is labeled for use in pediatric patients or in a pediatric subpopulation in which the disease or condition occurs.

“(II) The device was not previously approved under this subsection for the pediatric patients or the pediatric subpopulation described in subclause (I) prior to the date of the enactment of the Pediatric Medical Device Safety and Improvement Act of 2007.

“(ii) During any calendar year, the number of such devices distributed during that year does not exceed the annual distribution number specified by the Secretary when the Secretary grants such exemption. The annual distribution number shall

be based on the number of individuals affected by the disease or condition that such device is intended to treat, diagnose, or cure, and of that number, the number of individuals likely to use the device, and the number of devices reasonably necessary to treat such individuals. In no case shall the annual distribution number exceed the number identified in paragraph (2)(A).

“(iii) Such person immediately notifies the Secretary if the number of such devices distributed during any calendar year exceeds the annual distribution number referred to in clause (ii). Notification.

“(iv) The request for such exemption is submitted on or before October 1, 2012. Deadline.

“(B) The Secretary may inspect the records relating to the number of devices distributed during any calendar year of a person granted an exemption under paragraph (2) for which the prohibition in paragraph (3) does not apply.

“(C) A person may petition the Secretary to modify the annual distribution number specified by the Secretary under subparagraph (A)(ii) with respect to a device if additional information on the number of individuals affected by the disease or condition arises, and the Secretary may modify such number but in no case shall the annual distribution number exceed the number identified in paragraph (2)(A).

“(D) If a person notifies the Secretary, or the Secretary determines through an inspection under subparagraph (B), that the number of devices distributed during any calendar year exceeds the annual distribution number, as required under subparagraph (A)(iii), and modified under subparagraph (C), if applicable, then the prohibition in paragraph (3) shall apply with respect to such person for such device for any sales of such device after such notification. Applicability.

“(E)(i) In this subsection, the term ‘pediatric patients’ means patients who are 21 years of age or younger at the time of the diagnosis or treatment.

“(ii) In this subsection, the term ‘pediatric subpopulation’ means 1 of the following populations:

“(I) Neonates.

“(II) Infants.

“(III) Children.

“(IV) Adolescents.

“(7) The Secretary shall refer any report of an adverse event regarding a device for which the prohibition under paragraph (3) does not apply pursuant to paragraph (6)(A) that the Secretary receives to the Office of Pediatric Therapeutics, established under section 6 of the Best Pharmaceuticals for Children Act (Public Law 107–109). In considering the report, the Director of the Office of Pediatric Therapeutics, in consultation with experts in the Center for Devices and Radiological Health, shall provide for periodic review of the report by the Pediatric Advisory Committee, including obtaining any recommendations of such committee regarding whether the Secretary should take action under this Act in response to the report.

“(8) The Secretary, acting through the Office of Pediatric Therapeutics and the Center for Devices and Radiological Health, shall provide for an annual review by the Pediatric Advisory Committee Annual review.

of all devices described in paragraph (6) to ensure that the exemption under paragraph (2) remains appropriate for the pediatric populations for which it is granted.”.

(b) REPORT.—Not later than January 1, 2012, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the impact of allowing persons granted an exemption under section 520(m)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)(2)) with respect to a device to profit from such device pursuant to section 520(m)(6) of such Act (21 U.S.C. 360j(m)(6)) (as amended by subsection (a)), including—

(1) an assessment of whether such section 520(m)(6) (as amended by subsection (a)) has increased the availability of pediatric devices for conditions that occur in small numbers of children, including any increase or decrease in the number of—

(A) exemptions granted under such section 520(m)(2) for pediatric devices; and

(B) applications approved under section 515 of such Act (21 U.S.C. 360e) for devices intended to treat, diagnose, or cure conditions that occur in pediatric patients or for devices labeled for use in a pediatric population;

(2) the conditions or diseases the pediatric devices were intended to treat or diagnose and the estimated size of the pediatric patient population for each condition or disease;

(3) the costs of purchasing pediatric devices, based on a representative sampling of children’s hospitals;

(4) the extent to which the costs of such devices are covered by health insurance;

(5) the impact, if any, of allowing profit on access to such devices for patients;

(6) the profits made by manufacturers for each device that receives an exemption;

(7) an estimate of the extent of the use of the pediatric devices by both adults and pediatric populations for a condition or disease other than the condition or disease on the label of such devices;

(8) recommendations of the Comptroller General of the United States regarding the effectiveness of such section 520(m)(6) (as amended by subsection (a)) and whether any modifications to such section 520(m)(6) (as amended by subsection (a)) should be made;

(9) existing obstacles to pediatric device development; and

(10) an evaluation of the demonstration grants described in section 305, which shall include an evaluation of the number of pediatric medical devices—

(A) that have been or are being studied in children; and

(B) that have been submitted to the Food and Drug Administration for approval, clearance, or review under such section 520(m) (as amended by this Act) and any regulatory actions taken.

(c) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Commissioner of Food and Drugs shall issue guidance for institutional review committees on how to evaluate requests for approval for devices for which a humanitarian

device exemption under section 520(m)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)(2)) has been granted.

SEC. 304. ENCOURAGING PEDIATRIC MEDICAL DEVICE RESEARCH.

(a) **CONTACT POINT FOR AVAILABLE FUNDING.**—Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (21), by striking “and” after the semicolon at the end;

(2) in paragraph (22), by striking the period at the end and inserting “; and”; and

(3) by inserting after paragraph (22) the following:

“(23) shall designate a contact point or office to help innovators and physicians identify sources of funding available for pediatric medical device development.”.

(b) **PLAN FOR PEDIATRIC MEDICAL DEVICE RESEARCH.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, the Director of the National Institutes of Health, and the Director of the Agency for Healthcare Research and Quality, shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a plan for expanding pediatric medical device research and development. In developing such plan, the Secretary of Health and Human Services shall consult with individuals and organizations with appropriate expertise in pediatric medical devices.

Deadline.

(2) **CONTENTS.**—The plan under paragraph (1) shall include—

(A) the current status of federally funded pediatric medical device research;

(B) any gaps in such research, which may include a survey of pediatric medical providers regarding unmet pediatric medical device needs, as needed; and

(C) a research agenda for improving pediatric medical device development and Food and Drug Administration clearance or approval of pediatric medical devices, and for evaluating the short- and long-term safety and effectiveness of pediatric medical devices.

SEC. 305. DEMONSTRATION GRANTS FOR IMPROVING PEDIATRIC DEVICE AVAILABILITY.

42 USC 282 note.

(a) **IN GENERAL.**—

Deadline.

(1) **REQUEST FOR PROPOSALS.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue a request for proposals for 1 or more grants or contracts to nonprofit consortia for demonstration projects to promote pediatric device development.

(2) **DETERMINATION ON GRANTS OR CONTRACTS.**—Not later than 180 days after the date the Secretary of Health and Human Services issues a request for proposals under paragraph (1), the Secretary shall make a determination on the grants or contracts under this section.

(b) **APPLICATION.**—A nonprofit consortium that desires to receive a grant or contract under this section shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such information as the Secretary may require.

(c) **USE OF FUNDS.**—A nonprofit consortium that receives a grant or contract under this section shall facilitate the development, production, and distribution of pediatric medical devices by—

(1) encouraging innovation and connecting qualified individuals with pediatric device ideas with potential manufacturers;

(2) mentoring and managing pediatric device projects through the development process, including product identification, prototype design, device development, and marketing;

(3) connecting innovators and physicians to existing Federal and non-Federal resources, including resources from the Food and Drug Administration, the National Institutes of Health, the Small Business Administration, the Department of Energy, the Department of Education, the National Science Foundation, the Department of Veterans Affairs, the Agency for Healthcare Research and Quality, and the National Institute of Standards and Technology;

(4) assessing the scientific and medical merit of proposed pediatric device projects; and

(5) providing assistance and advice as needed on business development, personnel training, prototype development, postmarket needs, and other activities consistent with the purposes of this section.

(d) **COORDINATION.**—

(1) **NATIONAL INSTITUTES OF HEALTH.**—Each consortium that receives a grant or contract under this section shall—

(A) coordinate with the National Institutes of Health’s pediatric device contact point or office, designated under section 402(b)(23) of the Public Health Service Act, as added by section 304(a) of this Act; and

(B) provide to the National Institutes of Health any identified pediatric device needs that the consortium lacks sufficient capacity to address or those needs in which the consortium has been unable to stimulate manufacturer interest.

(2) **FOOD AND DRUG ADMINISTRATION.**—Each consortium that receives a grant or contract under this section shall coordinate with the Commissioner of Food and Drugs and device companies to facilitate the application for approval or clearance of devices labeled for pediatric use.

(3) **EFFECTIVENESS AND OUTCOMES.**—Each consortium that receives a grant or contract under this section shall annually report to the Secretary of Health and Human Services on the status of pediatric device development, production, and distribution that has been facilitated by the consortium.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$6,000,000 for each of fiscal years 2008 through 2012.

SEC. 306. AMENDMENTS TO OFFICE OF PEDIATRIC THERAPEUTICS AND PEDIATRIC ADVISORY COMMITTEE.

(a) **OFFICE OF PEDIATRIC THERAPEUTICS.**—Section 6(b) of the Best Pharmaceuticals for Children Act (21 U.S.C. 393a(b)) is amended by inserting “, including increasing pediatric access to medical devices” after “pediatric issues”.

Reports.

(b) PEDIATRIC ADVISORY COMMITTEE.—Section 14 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended—

(1) in subsection (a), by inserting “(including drugs and biological products) and medical devices” after “therapeutics”; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting “(including drugs and biological products) and medical devices” after “therapeutics”; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “and 505B” and inserting “505B, 510(k), 515, and 520(m)”; and

(ii) by striking subparagraph (B) and inserting the following:

“(B) identification of research priorities related to therapeutics (including drugs and biological products) and medical devices for pediatric populations and the need for additional diagnostics and treatments for specific pediatric diseases or conditions;” and

(iii) in subparagraph (C), by inserting “(including drugs and biological products) and medical devices” after “therapeutics”.

SEC. 307. POSTMARKET SURVEILLANCE.

Section 522 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360l) is amended—

(1) by amending the section heading and designation to read as follows:

“SEC. 522. POSTMARKET SURVEILLANCE.”;

(2) by striking subsection (a) and inserting the following:

“(a) POSTMARKET SURVEILLANCE.—

“(1) IN GENERAL.—

“(A) CONDUCT.—The Secretary may by order require a manufacturer to conduct postmarket surveillance for any device of the manufacturer that is a class II or class III device—

“(i) the failure of which would be reasonably likely to have serious adverse health consequences;

“(ii) that is expected to have significant use in pediatric populations; or

“(iii) that is intended to be—

“(I) implanted in the human body for more than 1 year; or

“(II) a life-sustaining or life-supporting device used outside a device user facility.

“(B) CONDITION.—The Secretary may order a postmarket surveillance under subparagraph (A) as a condition to approval or clearance of a device described in subparagraph (A)(ii).

“(2) RULE OF CONSTRUCTION.—The provisions of paragraph (1) shall have no effect on authorities otherwise provided under the Act or regulations issued under this Act.”; and

(3) in subsection (b)—

(A) by striking “(b) SURVEILLANCE APPROVAL.—Each” and inserting the following:

“(b) SURVEILLANCE APPROVAL.—

“(1) IN GENERAL.—Each”;

(B) by striking “The Secretary, in consultation” and inserting “Except as provided in paragraph (2), the Secretary, in consultation”;

(C) by striking “Any determination” and inserting “Except as provided in paragraph (2), any determination”;

and

(D) by adding at the end the following:

“(2) LONGER SURVEILLANCE FOR PEDIATRIC DEVICES.—The Secretary may by order require a prospective surveillance period of more than 36 months with respect to a device that is expected to have significant use in pediatric populations if such period of more than 36 months is necessary in order to assess the impact of the device on growth and development, or the effects of growth, development, activity level, or other factors on the safety or efficacy of the device.

“(c) DISPUTE RESOLUTION.—A manufacturer may request review under section 562 of any order or condition requiring postmarket surveillance under this section. During the pendency of such review, the device subject to such a postmarket surveillance order or condition shall not, because of noncompliance with such order or condition, be deemed in violation of section 301(q)(1)(C), adulterated under section 501(f)(1), misbranded under section 502(t)(3), or in violation of, as applicable, section 510(k) or section 515, unless deemed necessary to protect the public health.”.

Pediatric
Research Equity
Act of 2007.

TITLE IV—PEDIATRIC RESEARCH EQUITY ACT OF 2007

21 USC 301 note.

SEC. 401. SHORT TITLE.

This title may be cited as the “Pediatric Research Equity Act of 2007”.

SEC. 402. REAUTHORIZATION OF PEDIATRIC RESEARCH EQUITY ACT.

(a) IN GENERAL.—Section 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355c) is amended to read as follows:

“SEC. 505B. RESEARCH INTO PEDIATRIC USES FOR DRUGS AND BIOLOGICAL PRODUCTS.

“(a) NEW DRUGS AND BIOLOGICAL PRODUCTS.—

“(1) IN GENERAL.—A person that submits, on or after the date of the enactment of the Pediatric Research Equity Act of 2007, an application (or supplement to an application)—

“(A) under section 505 for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration, or

“(B) under section 351 of the Public Health Service Act (42 U.S.C. 262) for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration,

shall submit with the application the assessments described in paragraph (2).

“(2) ASSESSMENTS.—

“(A) IN GENERAL.—The assessments referred to in paragraph (1) shall contain data, gathered using appropriate

formulations for each age group for which the assessment is required, that are adequate—

“(i) to assess the safety and effectiveness of the drug or the biological product for the claimed indications in all relevant pediatric subpopulations; and

“(ii) to support dosing and administration for each pediatric subpopulation for which the drug or the biological product is safe and effective.

“(B) SIMILAR COURSE OF DISEASE OR SIMILAR EFFECT OF DRUG OR BIOLOGICAL PRODUCT.—

“(i) IN GENERAL.—If the course of the disease and the effects of the drug are sufficiently similar in adults and pediatric patients, the Secretary may conclude that pediatric effectiveness can be extrapolated from adequate and well-controlled studies in adults, usually supplemented with other information obtained in pediatric patients, such as pharmacokinetic studies.

“(ii) EXTRAPOLATION BETWEEN AGE GROUPS.—A study may not be needed in each pediatric age group if data from one age group can be extrapolated to another age group.

“(iii) INFORMATION ON EXTRAPOLATION.—A brief documentation of the scientific data supporting the conclusion under clauses (i) and (ii) shall be included in any pertinent reviews for the application under section 505 of this Act or section 351 of the Public Health Service Act (42 U.S.C. 262).

“(3) DEFERRAL.—

“(A) IN GENERAL.—On the initiative of the Secretary or at the request of the applicant, the Secretary may defer submission of some or all assessments required under paragraph (1) until a specified date after approval of the drug or issuance of the license for a biological product if—

“(i) the Secretary finds that—

“(I) the drug or biological product is ready for approval for use in adults before pediatric studies are complete;

“(II) pediatric studies should be delayed until additional safety or effectiveness data have been collected; or

“(III) there is another appropriate reason for deferral; and

“(ii) the applicant submits to the Secretary—

“(I) certification of the grounds for deferring the assessments;

“(II) a description of the planned or ongoing studies;

“(III) evidence that the studies are being conducted or will be conducted with due diligence and at the earliest possible time; and

“(IV) a timeline for the completion of such studies.

“(B) ANNUAL REVIEW.—

“(i) IN GENERAL.—On an annual basis following the approval of a deferral under subparagraph (A), the applicant shall submit to the Secretary the following information:

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“(I) Information detailing the progress made in conducting pediatric studies.

“(II) If no progress has been made in conducting such studies, evidence and documentation that such studies will be conducted with due diligence and at the earliest possible time.

“(ii) PUBLIC AVAILABILITY.—The information submitted through the annual review under clause (i) shall promptly be made available to the public in an easily accessible manner, including through the Web site of the Food and Drug Administration.

“(4) WAIVERS.—

“(A) FULL WAIVER.—On the initiative of the Secretary or at the request of an applicant, the Secretary shall grant a full waiver, as appropriate, of the requirement to submit assessments for a drug or biological product under this subsection if the applicant certifies and the Secretary finds that—

“(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients is so small or the patients are geographically dispersed);

“(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in all pediatric age groups; or

“(iii) the drug or biological product—

“(I) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients; and

“(II) is not likely to be used in a substantial number of pediatric patients.

“(B) PARTIAL WAIVER.—On the initiative of the Secretary or at the request of an applicant, the Secretary shall grant a partial waiver, as appropriate, of the requirement to submit assessments for a drug or biological product under this subsection with respect to a specific pediatric age group if the applicant certifies and the Secretary finds that—

“(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed);

“(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in that age group;

“(iii) the drug or biological product—

“(I) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients in that age group; and

“(II) is not likely to be used by a substantial number of pediatric patients in that age group; or

“(iv) the applicant can demonstrate that reasonable attempts to produce a pediatric formulation necessary for that age group have failed.

“(C) PEDIATRIC FORMULATION NOT POSSIBLE.—If a waiver is granted on the ground that it is not possible

to develop a pediatric formulation, the waiver shall cover only the pediatric groups requiring that formulation. An applicant seeking either a full or partial waiver shall submit to the Secretary documentation detailing why a pediatric formulation cannot be developed and, if the waiver is granted, the applicant's submission shall promptly be made available to the public in an easily accessible manner, including through posting on the Web site of the Food and Drug Administration.

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“(D) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

“(b) MARKETED DRUGS AND BIOLOGICAL PRODUCTS.—

“(1) IN GENERAL.—After providing notice in the form of a letter (that, for a drug approved under section 505, references a declined written request under section 505A for a labeled indication which written request is not referred under section 505A(n)(1)(A) to the Foundation of the National Institutes of Health for the pediatric studies), the Secretary may (by order in the form of a letter) require the sponsor or holder of an approved application for a drug under section 505 or the holder of a license for a biological product under section 351 of the Public Health Service Act to submit by a specified date the assessments described in subsection (a)(2), if the Secretary finds that—

“(A)(i) the drug or biological product is used for a substantial number of pediatric patients for the labeled indications; and

“(ii) adequate pediatric labeling could confer a benefit on pediatric patients;

“(B) there is reason to believe that the drug or biological product would represent a meaningful therapeutic benefit over existing therapies for pediatric patients for 1 or more of the claimed indications; or

“(C) the absence of adequate pediatric labeling could pose a risk to pediatric patients.

“(2) WAIVERS.—

“(A) FULL WAIVER.—At the request of an applicant, the Secretary shall grant a full waiver, as appropriate, of the requirement to submit assessments under this subsection if the applicant certifies and the Secretary finds that—

“(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed); or

“(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in all pediatric age groups.

“(B) PARTIAL WAIVER.—At the request of an applicant, the Secretary shall grant a partial waiver, as appropriate, of the requirement to submit assessments under this subsection with respect to a specific pediatric age group if the applicant certifies and the Secretary finds that—

“(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed);

“(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in that age group;

“(iii)(I) the drug or biological product—

“(aa) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients in that age group; and

“(bb) is not likely to be used in a substantial number of pediatric patients in that age group; and

“(II) the absence of adequate labeling could not pose significant risks to pediatric patients; or

“(iv) the applicant can demonstrate that reasonable attempts to produce a pediatric formulation necessary for that age group have failed.

“(C) PEDIATRIC FORMULATION NOT POSSIBLE.—If a waiver is granted on the ground that it is not possible to develop a pediatric formulation, the waiver shall cover only the pediatric groups requiring that formulation. An applicant seeking either a full or partial waiver shall submit to the Secretary documentation detailing why a pediatric formulation cannot be developed and, if the waiver is granted, the applicant’s submission shall promptly be made available to the public in an easily accessible manner, including through posting on the Web site of the Food and Drug Administration.

“(D) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

“(3) EFFECT OF SUBSECTION.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.

“(c) MEANINGFUL THERAPEUTIC BENEFIT.—For the purposes of paragraph (4)(A)(iii)(I) and (4)(B)(iii)(I) of subsection (a) and paragraphs (1)(B) and (2)(B)(iii)(I)(aa) of subsection (b), a drug or biological product shall be considered to represent a meaningful therapeutic benefit over existing therapies if the Secretary determines that—

“(1) if approved, the drug or biological product could represent an improvement in the treatment, diagnosis, or prevention of a disease, compared with marketed products adequately labeled for that use in the relevant pediatric population; or

“(2) the drug or biological product is in a class of products or for an indication for which there is a need for additional options.

“(d) SUBMISSION OF ASSESSMENTS.—If a person fails to submit an assessment described in subsection (a)(2), or a request for approval of a pediatric formulation described in subsection (a) or (b), in accordance with applicable provisions of subsections (a) and (b)—

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“(1) the drug or biological product that is the subject of the assessment or request may be considered misbranded solely because of that failure and subject to relevant enforcement action (except that the drug or biological product shall not be subject to action under section 303); but

“(2) the failure to submit the assessment or request shall not be the basis for a proceeding—

“(A) to withdraw approval for a drug under section 505(e); or

“(B) to revoke the license for a biological product under section 351 of the Public Health Service Act.

“(e) MEETINGS.—Before and during the investigational process for a new drug or biological product, the Secretary shall meet at appropriate times with the sponsor of the new drug or biological product to discuss—

“(1) information that the sponsor submits on plans and timelines for pediatric studies; or

“(2) any planned request by the sponsor for waiver or deferral of pediatric studies.

“(f) REVIEW OF PEDIATRIC PLANS, ASSESSMENTS, DEFERRALS, AND WAIVERS.—

“(1) REVIEW.—Beginning not later than 30 days after the date of the enactment of the Pediatric Research Equity Act of 2007, the Secretary shall utilize the internal committee established under section 505C to provide consultation to reviewing divisions on all pediatric plans and assessments prior to approval of an application or supplement for which a pediatric assessment is required under this section and all deferral and waiver requests granted pursuant to this section.

Deadline.

“(2) ACTIVITY BY COMMITTEE.—The committee referred to in paragraph (1) may operate using appropriate members of such committee and need not convene all members of the committee.

“(3) DOCUMENTATION OF COMMITTEE ACTION.—For each drug or biological product, the committee referred to in paragraph (1) shall document, for each activity described in paragraph (4) or (5), which members of the committee participated in such activity.

“(4) REVIEW OF PEDIATRIC PLANS, ASSESSMENTS, DEFERRALS, AND WAIVERS.—Consultation on pediatric plans and assessments by the committee referred to in paragraph (1) pursuant to this section shall occur prior to approval of an application or supplement for which a pediatric assessment is required under this section. The committee shall review all requests for deferrals and waivers from the requirement to submit a pediatric assessment granted under this section and shall provide recommendations as needed to reviewing divisions, including with respect to whether such a supplement, when submitted, shall be considered for priority review.

“(5) RETROSPECTIVE REVIEW OF PEDIATRIC ASSESSMENTS, DEFERRALS, AND WAIVERS.—Not later than 1 year after the date of the enactment of the Pediatric Research Equity Act of 2007, the committee referred to in paragraph (1) shall conduct a retrospective review and analysis of a representative sample of assessments submitted and deferrals and waivers approved under this section since the enactment of the Pediatric Research Equity Act of 2003. Such review shall include an

Deadline.

<p>Recommendations.</p>	<p>analysis of the quality and consistency of pediatric information in pediatric assessments and the appropriateness of waivers and deferrals granted. Based on such review, the Secretary shall issue recommendations to the review divisions for improvements and initiate guidance to industry related to the scope of pediatric studies required under this section.</p>
<p>Public information. Website.</p>	<p>“(6) TRACKING OF ASSESSMENTS AND LABELING CHANGES.—The Secretary, in consultation with the committee referred to in paragraph (1), shall track and make available to the public in an easily accessible manner, including through posting on the Web site of the Food and Drug Administration—</p>
	<p>“(A) the number of assessments conducted under this section;</p>
	<p>“(B) the specific drugs and biological products and their uses assessed under this section;</p>
	<p>“(C) the types of assessments conducted under this section, including trial design, the number of pediatric patients studied, and the number of centers and countries involved;</p>
	<p>“(D) the total number of deferrals requested and granted under this section and, if granted, the reasons for such deferrals, the timeline for completion, and the number completed and pending by the specified date, as outlined in subsection (a)(3);</p>
	<p>“(E) the number of waivers requested and granted under this section and, if granted, the reasons for the waivers;</p>
	<p>“(F) the number of pediatric formulations developed and the number of pediatric formulations not developed and the reasons any such formulation was not developed;</p>
	<p>“(G) the labeling changes made as a result of assessments conducted under this section;</p>
	<p>“(H) an annual summary of labeling changes made as a result of assessments conducted under this section for distribution pursuant to subsection (h)(2);</p>
	<p>“(I) an annual summary of information submitted pursuant to subsection (a)(3)(B); and</p>
	<p>“(J) the number of times the committee referred to in paragraph (1) made a recommendation to the Secretary under paragraph (4) regarding priority review, the number of times the Secretary followed or did not follow such a recommendation, and, if not followed, the reasons why such a recommendation was not followed.</p>
	<p>“(g) LABELING CHANGES.—</p>
	<p>“(1) DISPUTE RESOLUTION.—</p>
<p>Deadline.</p>	<p>“(A) REQUEST FOR LABELING CHANGE AND FAILURE TO AGREE.—If, on or after the date of the enactment of the Pediatric Research Equity Act of 2007, the Commissioner determines that a sponsor and the Commissioner have been unable to reach agreement on appropriate changes to the labeling for the drug that is the subject of the application or supplement, not later than 180 days after the date of the submission of the application or supplement—</p> <p>“(i) the Commissioner shall request that the sponsor of the application make any labeling change</p>

that the Commissioner determines to be appropriate; and

“(ii) if the sponsor does not agree within 30 days after the Commissioner’s request to make a labeling change requested by the Commissioner, the Commissioner shall refer the matter to the Pediatric Advisory Committee. Deadline.

“(B) ACTION BY THE PEDIATRIC ADVISORY COMMITTEE.—Not later than 90 days after receiving a referral under subparagraph (A)(ii), the Pediatric Advisory Committee shall— Deadline.

“(i) review the pediatric study reports; and

“(ii) make a recommendation to the Commissioner concerning appropriate labeling changes, if any.

“(C) CONSIDERATION OF RECOMMENDATIONS.—The Commissioner shall consider the recommendations of the Pediatric Advisory Committee and, if appropriate, not later than 30 days after receiving the recommendation, make a request to the sponsor of the application or supplement to make any labeling changes that the Commissioner determines to be appropriate. Deadline.

“(D) MISBRANDING.—If the sponsor of the application or supplement, within 30 days after receiving a request under subparagraph (C), does not agree to make a labeling change requested by the Commissioner, the Commissioner may deem the drug that is the subject of the application or supplement to be misbranded. Deadline.

“(E) NO EFFECT ON AUTHORITY.—Nothing in this subsection limits the authority of the United States to bring an enforcement action under this Act when a drug lacks appropriate pediatric labeling. Neither course of action (the Pediatric Advisory Committee process or an enforcement action referred to in the preceding sentence) shall preclude, delay, or serve as the basis to stay the other course of action.

“(2) OTHER LABELING CHANGES.—If, on or after the date of the enactment of the Pediatric Research Equity Act of 2007, the Secretary makes a determination that a pediatric assessment conducted under this section does or does not demonstrate that the drug that is the subject of such assessment is safe and effective in pediatric populations or subpopulations, including whether such assessment results are inconclusive, the Secretary shall order the label of such product to include information about the results of the assessment and a statement of the Secretary’s determination.

“(h) DISSEMINATION OF PEDIATRIC INFORMATION.—

“(1) IN GENERAL.—Not later than 210 days after the date of submission of a pediatric assessment under this section, the Secretary shall make available to the public in an easily accessible manner the medical, statistical, and clinical pharmacology reviews of such pediatric assessments, and shall post such assessments on the Web site of the Food and Drug Administration. Deadline.
Public information.
Website.

“(2) DISSEMINATION OF INFORMATION REGARDING LABELING CHANGES.—Beginning on the date of the enactment of the Pediatric Research Equity Act of 2007, the Secretary shall require that the sponsors of the assessments that result in labeling Effective date.

changes that are reflected in the annual summary developed pursuant to subsection (f)(6)(H) distribute such information to physicians and other health care providers.

“(3) EFFECT OF SUBSECTION.—Nothing in this subsection shall alter or amend section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.

“(i) ADVERSE EVENT REPORTING.—

Effective date.

“(1) REPORTING IN YEAR ONE.—Beginning on the date of the enactment of the Pediatric Research Equity Act of 2007, during the one-year period beginning on the date a labeling change is made pursuant to subsection (g), the Secretary shall ensure that all adverse event reports that have been received for such drug (regardless of when such report was received) are referred to the Office of Pediatric Therapeutics. In considering such reports, the Director of such Office shall provide for the review of such reports by the Pediatric Advisory Committee, including obtaining any recommendations of such committee regarding whether the Secretary should take action under this Act in response to such reports.

“(2) REPORTING IN SUBSEQUENT YEARS.—Following the one-year period described in paragraph (1), the Secretary shall, as appropriate, refer to the Office of Pediatric Therapeutics all pediatric adverse event reports for a drug for which a pediatric study was conducted under this section. In considering such reports, the Director of such Office may provide for the review of such reports by the Pediatric Advisory Committee, including obtaining any recommendation of such Committee regarding whether the Secretary should take action in response to such reports.

“(3) EFFECT.—The requirements of this subsection shall supplement, not supplant, other review of such adverse event reports by the Secretary.

“(j) SCOPE OF AUTHORITY.—Nothing in this section provides to the Secretary any authority to require a pediatric assessment of any drug or biological product, or any assessment regarding other populations or uses of a drug or biological product, other than the pediatric assessments described in this section.

“(k) ORPHAN DRUGS.—Unless the Secretary requires otherwise by regulation, this section does not apply to any drug for an indication for which orphan designation has been granted under section 526.

“(l) INSTITUTE OF MEDICINE STUDY.—

Deadline.
Contracts.
Reports.

“(1) IN GENERAL.—Not later than three years after the date of the enactment of the Pediatric Research Equity Act of 2007, the Secretary shall contract with the Institute of Medicine to conduct a study and report to Congress regarding the pediatric studies conducted pursuant to this section or precursor regulations since 1997 and labeling changes made as a result of such studies.

“(2) CONTENT OF STUDY.—The study under paragraph (1) shall review and assess the use of extrapolation for pediatric subpopulations, the use of alternative endpoints for pediatric populations, neonatal assessment tools, the number and type of pediatric adverse events, and ethical issues in pediatric clinical trials.

“(3) REPRESENTATIVE SAMPLE.—The Institute of Medicine may devise an appropriate mechanism to review a representative sample of studies conducted pursuant to this section from each review division within the Center for Drug Evaluation and Research in order to make the requested assessment.

“(m) INTEGRATION WITH OTHER PEDIATRIC STUDIES.—The authority under this section shall remain in effect so long as an application subject to this section may be accepted for filing by the Secretary on or before the date specified in section 505A(q).”.

(b) APPLICABILITY.—

(1) IN GENERAL.—Notwithstanding subsection (h) of section 505B of the Federal Food, Drug and Cosmetic Act, as in effect on the day before the date of the enactment of this Act, a pending assessment, including a deferred assessment, required under such section 505B shall be deemed to have been required under section 505B of the Federal Food, Drug and Cosmetic Act as in effect on or after the date of the enactment of this Act.

(2) CERTAIN ASSESSMENTS AND WAIVER REQUESTS.—An assessment pending on or after the date that is 1 year prior to the date of the enactment of this Act shall be subject to the tracking and disclosure requirements established under such section 505B, as in effect on or after such date of enactment, except that any such assessments submitted or waivers of such assessments requested before such date of enactment shall not be subject to subsections (a)(4)(C), (b)(2)(C), (f)(6)(F), and (h) of such section 505B.

21 USC 355c
note.

SEC. 403. ESTABLISHMENT OF INTERNAL COMMITTEE.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505B the following:

“SEC. 505C. INTERNAL COMMITTEE FOR REVIEW OF PEDIATRIC PLANS, ASSESSMENTS, DEFERRALS, AND WAIVERS.

Establishment.
21 USC 355d.

“The Secretary shall establish an internal committee within the Food and Drug Administration to carry out the activities as described in sections 505A(f) and 505B(f). Such internal committee shall include employees of the Food and Drug Administration, with expertise in pediatrics (including representation from the Office of Pediatric Therapeutics), biopharmacology, statistics, chemistry, legal issues, pediatric ethics, and the appropriate expertise pertaining to the pediatric product under review, such as expertise in child and adolescent psychiatry, and other individuals designated by the Secretary.”.

SEC. 404. GOVERNMENT ACCOUNTABILITY OFFICE REPORT.

Not later than January 1, 2011, the Comptroller General of the United States, in consultation with the Secretary of Health and Human Services, shall submit to the Congress a report that addresses the effectiveness of sections 505A and 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a, 355c) and section 409I of the Public Health Service Act (42 U.S.C. 284m) in ensuring that medicines used by children are tested and properly labeled. Such report shall include—

(1) the number and importance of drugs and biological products for children that are being tested as a result of the amendments made by this title and title V and the importance

for children, health care providers, parents, and others of labeling changes made as a result of such testing;

(2) the number and importance of drugs and biological products for children that are not being tested for their use notwithstanding the provisions of this title and title V and possible reasons for the lack of testing;

(3) the number of drugs and biological products for which testing is being done and labeling changes required, including the date labeling changes are made and which labeling changes required the use of the dispute resolution process established pursuant to the amendments made by this title, together with a description of the outcomes of such process, including a description of the disputes and the recommendations of the Pediatric Advisory Committee;

(4) any recommendations for modifications to the programs established under sections 505A and 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) and section 409I of the Public Health Service Act (42 U.S.C. 284m) that the Secretary determines to be appropriate, including a detailed rationale for each recommendation; and

(5)(A) the efforts made by the Secretary to increase the number of studies conducted in the neonate population; and

(B) the results of those efforts, including efforts made to encourage the conduct of appropriate studies in neonates by companies with products that have sufficient safety and other information to make the conduct of the studies ethical and safe.

Best
Pharmaceuticals
for Children Act
of 2007.

TITLE V—BEST PHARMACEUTICALS FOR CHILDREN ACT OF 2007

21 USC 301 note.

SEC. 501. SHORT TITLE.

This title may be cited as the “Best Pharmaceuticals for Children Act of 2007”.

SEC. 502. REAUTHORIZATION OF BEST PHARMACEUTICALS FOR CHILDREN ACT.

(a) PEDIATRIC STUDIES OF DRUGS.—

(1) IN GENERAL.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended to read as follows:

“SEC. 505A. PEDIATRIC STUDIES OF DRUGS.

“(a) DEFINITIONS.—As used in this section, the term ‘pediatric studies’ or ‘studies’ means at least one clinical investigation (that, at the Secretary’s discretion, may include pharmacokinetic studies) in pediatric age groups (including neonates in appropriate cases) in which a drug is anticipated to be used, and, at the discretion of the Secretary, may include preclinical studies.

“(b) MARKET EXCLUSIVITY FOR NEW DRUGS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if, prior to approval of an application that is submitted under section 505(b)(1), the Secretary determines that information relating to the use of a new drug in the pediatric population may produce health benefits in that population, the Secretary makes a written request for pediatric studies (which shall

include a timeframe for completing such studies), the applicant agrees to the request, such studies are completed using appropriate formulations for each age group for which the study is requested within any such timeframe, and the reports thereof are submitted and accepted in accordance with subsection (d)(3)—

“(A)(i)(I) the period referred to in subsection (c)(3)(E)(ii) of section 505, and in subsection (j)(5)(F)(ii) of such section, is deemed to be five years and six months rather than five years, and the references in subsections (c)(3)(E)(ii) and (j)(5)(F)(ii) of such section to four years, to forty-eight months, and to seven and one-half years are deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

“(II) the period referred to in clauses (iii) and (iv) of subsection (c)(3)(E) of such section, and in clauses (iii) and (iv) of subsection (j)(5)(F) of such section, is deemed to be three years and six months rather than three years; and

“(ii) if the drug is designated under section 526 for a rare disease or condition, the period referred to in section 527(a) is deemed to be seven years and six months rather than seven years; and

“(B)(i) if the drug is the subject of—

“(I) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

“(II) a listed patent for which a certification has been submitted under subsections (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under section 505(c)(3) or section 505(j)(5)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

“(ii) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(5)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions).

“(2) EXCEPTION.—The Secretary shall not extend the period referred to in paragraph (1)(A) or (1)(B) if the determination made under subsection (d)(3) is made later than 9 months prior to the expiration of such period.

“(c) MARKET EXCLUSIVITY FOR ALREADY-MARKETED DRUGS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if the Secretary determines that information relating to the use of an approved drug in the pediatric population may produce health benefits in that population and makes a written request to the holder of an approved application under section

505(b)(1) for pediatric studies (which shall include a timeframe for completing such studies), the holder agrees to the request, such studies are completed using appropriate formulations for each age group for which the study is requested within any such timeframe, and the reports thereof are submitted and accepted in accordance with subsection (d)(3)—

“(A)(i)(I) the period referred to in subsection (c)(3)(E)(ii) of section 505, and in subsection (j)(5)(F)(ii) of such section, is deemed to be five years and six months rather than five years, and the references in subsections (c)(3)(E)(ii) and (j)(5)(F)(ii) of such section to four years, to forty-eight months, and to seven and one-half years are deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

“(II) the period referred to in clauses (iii) and (iv) of subsection (c)(3)(D) of such section, and in clauses (iii) and (iv) of subsection (j)(5)(F) of such section, is deemed to be three years and six months rather than three years; and

“(ii) if the drug is designated under section 526 for a rare disease or condition, the period referred to in section 527(a) is deemed to be seven years and six months rather than seven years; and

“(B)(i) if the drug is the subject of—

“(I) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

“(II) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under section 505(c)(3) or section 505(j)(5)(B)(ii) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

“(ii) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(5)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions).

Deadline.

“(2) EXCEPTION.—The Secretary shall not extend the period referred to in paragraph (1)(A) or (1)(B) if the determination made under subsection (d)(3) is made later than 9 months prior to the expiration of such period.

“(d) CONDUCT OF PEDIATRIC STUDIES.—

“(1) REQUEST FOR STUDIES.—

“(A) IN GENERAL.—The Secretary may, after consultation with the sponsor of an application for an investigational new drug under section 505(i), the sponsor of an application for a new drug under section 505(b)(1), or the

holder of an approved application for a drug under section 505(b)(1), issue to the sponsor or holder a written request for the conduct of pediatric studies for such drug. In issuing such request, the Secretary shall take into account adequate representation of children of ethnic and racial minorities. Such request to conduct pediatric studies shall be in writing and shall include a timeframe for such studies and a request to the sponsor or holder to propose pediatric labeling resulting from such studies.

Minorities.

Timeframe.

“(B) SINGLE WRITTEN REQUEST.—A single written request—

“(i) may relate to more than one use of a drug;

and

“(ii) may include uses that are both approved and unapproved.

“(2) WRITTEN REQUEST FOR PEDIATRIC STUDIES.—

“(A) REQUEST AND RESPONSE.—

“(i) IN GENERAL.—If the Secretary makes a written request for pediatric studies (including neonates, as appropriate) under subsection (b) or (c), the applicant or holder, not later than 180 days after receiving the written request, shall respond to the Secretary as to the intention of the applicant or holder to act on the request by—

“(I) indicating when the pediatric studies will be initiated, if the applicant or holder agrees to the request; or

“(II) indicating that the applicant or holder does not agree to the request and stating the reasons for declining the request.

“(ii) DISAGREE WITH REQUEST.—If, on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the applicant or holder does not agree to the request on the grounds that it is not possible to develop the appropriate pediatric formulation, the applicant or holder shall submit to the Secretary the reasons such pediatric formulation cannot be developed.

“(B) ADVERSE EVENT REPORTS.—An applicant or holder that, on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, agrees to the request for such studies shall provide the Secretary, at the same time as the submission of the reports of such studies, with all postmarket adverse event reports regarding the drug that is the subject of such studies and are available prior to submission of such reports.

“(3) MEETING THE STUDIES REQUIREMENT.—Not later than 180 days after the submission of the reports of the studies, the Secretary shall accept or reject such reports and so notify the sponsor or holder. The Secretary’s only responsibility in accepting or rejecting the reports shall be to determine, within the 180-day period, whether the studies fairly respond to the written request, have been conducted in accordance with commonly accepted scientific principles and protocols, and have been reported in accordance with the requirements of the Secretary for filing.

Deadline.

Notification.

	<p>“(4) EFFECT OF SUBSECTION.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.</p> <p>“(e) NOTICE OF DETERMINATIONS ON STUDIES REQUIREMENT.—</p>
Publication.	<p>“(1) IN GENERAL.—The Secretary shall publish a notice of any determination, made on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, that the requirements of subsection (d) have been met and that submissions and approvals under subsection (b)(2) or (j) of section 505 for a drug will be subject to the provisions of this section. Such notice shall be published not later than 30 days after the date of the Secretary’s determination regarding market exclusivity and shall include a copy of the written request made under subsection (b) or (c).</p>
Deadline. Records.	
Publication.	<p>“(2) IDENTIFICATION OF CERTAIN DRUGS.—The Secretary shall publish a notice identifying any drug for which, on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, a pediatric formulation was developed, studied, and found to be safe and effective in the pediatric population (or specified subpopulation) if the pediatric formulation for such drug is not introduced onto the market within one year after the date that the Secretary publishes the notice described in paragraph (1). Such notice identifying such drug shall be published not later than 30 days after the date of the expiration of such one year period.</p>
Deadline.	<p>“(f) INTERNAL REVIEW OF WRITTEN REQUESTS AND PEDIATRIC STUDIES.—</p> <p>“(1) INTERNAL REVIEW.—The Secretary shall utilize the internal review committee established under section 505C to review all written requests issued on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, in accordance with paragraph (2).</p> <p>“(2) REVIEW OF WRITTEN REQUESTS.—The committee referred to in paragraph (1) shall review all written requests issued pursuant to this section prior to being issued.</p> <p>“(3) REVIEW OF PEDIATRIC STUDIES.—The committee referred to in paragraph (1) may review studies conducted pursuant to this section to make a recommendation to the Secretary whether to accept or reject such reports under subsection (d)(3).</p> <p>“(4) ACTIVITY BY COMMITTEE.—The committee referred to in paragraph (1) may operate using appropriate members of such committee and need not convene all members of the committee.</p> <p>“(5) DOCUMENTATION OF COMMITTEE ACTION.—For each drug, the committee referred to in paragraph (1) shall document, for each activity described in paragraph (2) or (3), which members of the committee participated in such activity.</p>
Public information. Website.	<p>“(6) TRACKING PEDIATRIC STUDIES AND LABELING CHANGES.—The Secretary, in consultation with the committee referred to in paragraph (1), shall track and make available to the public, in an easily accessible manner, including through posting on the Web site of the Food and Drug Administration—</p> <p>“(A) the number of studies conducted under this section and under section 409I of the Public Health Service Act;</p> <p>“(B) the specific drugs and drug uses, including labeled and off-labeled indications, studied under such sections;</p>

“(C) the types of studies conducted under such sections, including trial design, the number of pediatric patients studied, and the number of centers and countries involved;

“(D) the number of pediatric formulations developed and the number of pediatric formulations not developed and the reasons such formulations were not developed;

“(E) the labeling changes made as a result of studies conducted under such sections;

“(F) an annual summary of labeling changes made as a result of studies conducted under such sections for distribution pursuant to subsection (k)(2); and

“(G) information regarding reports submitted on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007.

“(g) LIMITATIONS.—Notwithstanding subsection (c)(2), a drug to which the six-month period under subsection (b) or (c) has already been applied—

“(1) may receive an additional six-month period under subsection (c)(1)(A)(i)(II) for a supplemental application if all other requirements under this section are satisfied, except that such drug may not receive any additional such period under subsection (c)(1)(B); and

“(2) may not receive any additional such period under subsection (c)(1)(A)(ii).

“(h) RELATIONSHIP TO PEDIATRIC RESEARCH REQUIREMENTS.—Notwithstanding any other provision of law, if any pediatric study is required by a provision of law (including a regulation) other than this section and such study meets the completeness, timeliness, and other requirements of this section, such study shall be deemed to satisfy the requirement for market exclusivity pursuant to this section.

“(i) LABELING CHANGES.—

“(1) PRIORITY STATUS FOR PEDIATRIC APPLICATIONS AND SUPPLEMENTS.—Any application or supplement to an application under section 505 proposing a labeling change as a result of any pediatric study conducted pursuant to this section—

“(A) shall be considered to be a priority application or supplement; and

“(B) shall be subject to the performance goals established by the Commissioner for priority drugs.

“(2) DISPUTE RESOLUTION.—

“(A) REQUEST FOR LABELING CHANGE AND FAILURE TO AGREE.—If, on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Commissioner determines that the sponsor and the Commissioner have been unable to reach agreement on appropriate changes to the labeling for the drug that is the subject of the application, not later than 180 days after the date of submission of the application—

Deadline.

“(i) the Commissioner shall request that the sponsor of the application make any labeling change that the Commissioner determines to be appropriate; and

“(ii) if the sponsor of the application does not agree within 30 days after the Commissioner’s request to

Deadline.

make a labeling change requested by the Commissioner, the Commissioner shall refer the matter to the Pediatric Advisory Committee.

Deadline. “(B) ACTION BY THE PEDIATRIC ADVISORY COMMITTEE.—Not later than 90 days after receiving a referral under subparagraph (A)(ii), the Pediatric Advisory Committee shall—

“(i) review the pediatric study reports; and

“(ii) make a recommendation to the Commissioner concerning appropriate labeling changes, if any.

Deadline. “(C) CONSIDERATION OF RECOMMENDATIONS.—The Commissioner shall consider the recommendations of the Pediatric Advisory Committee and, if appropriate, not later than 30 days after receiving the recommendation, make a request to the sponsor of the application to make any labeling change that the Commissioner determines to be appropriate.

Deadline. “(D) MISBRANDING.—If the sponsor of the application, within 30 days after receiving a request under subparagraph (C), does not agree to make a labeling change requested by the Commissioner, the Commissioner may deem the drug that is the subject of the application to be misbranded.

“(E) NO EFFECT ON AUTHORITY.—Nothing in this subsection limits the authority of the United States to bring an enforcement action under this Act when a drug lacks appropriate pediatric labeling. Neither course of action (the Pediatric Advisory Committee process or an enforcement action referred to in the preceding sentence) shall preclude, delay, or serve as the basis to stay the other course of action.

“(j) OTHER LABELING CHANGES.—If, on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Secretary determines that a pediatric study conducted under this section does or does not demonstrate that the drug that is the subject of the study is safe and effective, including whether such study results are inconclusive, in pediatric populations or subpopulations, the Secretary shall order the labeling of such product to include information about the results of the study and a statement of the Secretary’s determination.

“(k) DISSEMINATION OF PEDIATRIC INFORMATION.—

Deadline. Public information. “(1) IN GENERAL.—Not later than 210 days after the date of submission of a report on a pediatric study under this section, the Secretary shall make available to the public the medical, statistical, and clinical pharmacology reviews of pediatric studies conducted under subsection (b) or (c).

“(2) DISSEMINATION OF INFORMATION REGARDING LABELING CHANGES.—Beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Secretary shall include as a requirement of a written request that the sponsors of the studies that result in labeling changes that are reflected in the annual summary developed pursuant to subsection (f)(3)(F) distribute, at least annually (or more frequently if the Secretary determines that it would be beneficial to the public health), such information to physicians and other health care providers.

“(3) EFFECT OF SUBSECTION.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.

“(l) ADVERSE EVENT REPORTING.—

“(1) REPORTING IN YEAR ONE.—Beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, during the one-year period beginning on the date a labeling change is approved pursuant to subsection (i), the Secretary shall ensure that all adverse event reports that have been received for such drug (regardless of when such report was received) are referred to the Office of Pediatric Therapeutics established under section 6 of the Best Pharmaceuticals for Children Act (Public Law 107–109). In considering the reports, the Director of such Office shall provide for the review of the reports by the Pediatric Advisory Committee, including obtaining any recommendations of such Committee regarding whether the Secretary should take action under this Act in response to such reports.

Effective date.

“(2) REPORTING IN SUBSEQUENT YEARS.—Following the one-year period described in paragraph (1), the Secretary shall, as appropriate, refer to the Office of Pediatric Therapeutics all pediatric adverse event reports for a drug for which a pediatric study was conducted under this section. In considering such reports, the Director of such Office may provide for the review of such reports by the Pediatric Advisory Committee, including obtaining any recommendation of such Committee regarding whether the Secretary should take action in response to such reports.

“(3) EFFECT.—The requirements of this subsection shall supplement, not supplant, other review of such adverse event reports by the Secretary.

“(m) CLARIFICATION OF INTERACTION OF MARKET EXCLUSIVITY UNDER THIS SECTION AND MARKET EXCLUSIVITY AWARDED TO AN APPLICANT FOR APPROVAL OF A DRUG UNDER SECTION 505(j).—If a 180-day period under section 505(j)(5)(B)(iv) overlaps with a 6-month exclusivity period under this section, so that the applicant for approval of a drug under section 505(j) entitled to the 180-day period under that section loses a portion of the 180-day period to which the applicant is entitled for the drug, the 180-day period shall be extended from—

“(1) the date on which the 180-day period would have expired by the number of days of the overlap, if the 180-day period would, but for the application of this subsection, expire after the 6-month exclusivity period; or

“(2) the date on which the 6-month exclusivity period expires, by the number of days of the overlap if the 180-day period would, but for the application of this subsection, expire during the six-month exclusivity period.

“(n) REFERRAL IF PEDIATRIC STUDIES NOT COMPLETED.—

“(1) IN GENERAL.—Beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, if pediatric studies of a drug have not been completed under subsection (d) and if the Secretary, through the committee established under section 505C, determines that there is a continuing need for information relating to the use of the drug in the pediatric population (including neonates, as appropriate), the Secretary shall carry out the following:

Effective date.

Deadline.
Certification.

“(A) For a drug for which a listed patent has not expired, make a determination regarding whether an assessment shall be required to be submitted under section 505B(b). Prior to making such a determination, the Secretary may not take more than 30 days to certify whether the Foundation for the National Institutes of Health has sufficient funding at the time of such certification to initiate and fund all of the studies in the written request in their entirety within the timeframes specified within the written request. Only if the Secretary makes such certification in the affirmative, the Secretary shall refer all pediatric studies in the written request to the Foundation for the National Institutes of Health for the conduct of such studies, and such Foundation shall fund such studies. If no certification has been made at the end of the 30-day period, or if the Secretary certifies that funds are not sufficient to initiate and fund all the studies in their entirety, the Secretary shall consider whether assessments shall be required under section 505B(b) for such drug.

“(B) For a drug that has no listed patents or has 1 or more listed patents that have expired, the Secretary shall refer the drug for inclusion on the list established under section 409I of the Public Health Service Act for the conduct of studies.

“(2) PUBLIC NOTICE.—The Secretary shall give the public notice of a decision under paragraph (1)(A) not to require an assessment under section 505B and the basis for such decision.

“(3) EFFECT OF SUBSECTION.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.

“(o) PROMPT APPROVAL OF DRUGS UNDER SECTION 505(j) WHEN PEDIATRIC INFORMATION IS ADDED TO LABELING.—

“(1) GENERAL RULE.—A drug for which an application has been submitted or approved under section 505(j) shall not be considered ineligible for approval under that section or misbranded under section 502 on the basis that the labeling of the drug omits a pediatric indication or any other aspect of labeling pertaining to pediatric use when the omitted indication or other aspect is protected by patent or by exclusivity under clause (iii) or (iv) of section 505(j)(5)(F).

“(2) LABELING.—Notwithstanding clauses (iii) and (iv) of section 505(j)(5)(F), the Secretary may require that the labeling of a drug approved under section 505(j) that omits a pediatric indication or other aspect of labeling as described in paragraph (1) include—

“(A) a statement that, because of marketing exclusivity for a manufacturer—

“(i) the drug is not labeled for pediatric use; or

“(ii) in the case of a drug for which there is an additional pediatric use not referred to in paragraph (1), the drug is not labeled for the pediatric use under paragraph (1); and

“(B) a statement of any appropriate pediatric contraindications, warnings, or precautions that the Secretary considers necessary.

“(3) PRESERVATION OF PEDIATRIC EXCLUSIVITY AND OTHER PROVISIONS.—This subsection does not affect—

“(A) the availability or scope of exclusivity under this section;

“(B) the availability or scope of exclusivity under section 505 for pediatric formulations;

“(C) the question of the eligibility for approval of any application under section 505(j) that omits any other conditions of approval entitled to exclusivity under clause (iii) or (iv) of section 505(j)(5)(F); or

“(D) except as expressly provided in paragraphs (1) and (2), the operation of section 505.

“(p) INSTITUTE OF MEDICINE STUDY.—Not later than 3 years after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Secretary shall enter into a contract with the Institute of Medicine to conduct a study and report to Congress regarding the written requests made and the studies conducted pursuant to this section. The Institute of Medicine may devise an appropriate mechanism to review a representative sample of requests made and studies conducted pursuant to this section in order to conduct such study. Such study shall—

Deadline.
Contracts.
Reports.

“(1) review such representative written requests issued by the Secretary since 1997 under subsections (b) and (c);

“(2) review and assess such representative pediatric studies conducted under subsections (b) and (c) since 1997 and labeling changes made as a result of such studies;

“(3) review the use of extrapolation for pediatric subpopulations, the use of alternative endpoints for pediatric populations, neonatal assessment tools, and ethical issues in pediatric clinical trials;

“(4) review and assess the pediatric studies of biological products as required under subsections (a) and (b) of section 505B; and

“(5) make recommendations regarding appropriate incentives for encouraging pediatric studies of biologics.

“(q) SUNSET.—A drug may not receive any 6-month period under subsection (b) or (c) unless—

“(1) on or before October 1, 2012, the Secretary makes a written request for pediatric studies of the drug;

Deadline.

“(2) on or before October 1, 2012, an application for the drug is accepted for filing under section 505(b); and

Deadline.

“(3) all requirements of this section are met.”.

(2) APPLICABILITY.—

(A) IN GENERAL.—The amendment made by this subsection shall apply to written requests under section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) issued on or after the date of the enactment of this Act.

21 USC 355a
note.

(B) CERTAIN WRITTEN REQUESTS.—A written request issued under section 505A of the Federal Food, Drug, and Cosmetic Act, as in effect on the day before the date of the enactment of this Act, which has been accepted and for which no determination under subsection (d)(2) of such section has been made before such date of enactment, shall be subject to such section 505A, except that such written requests shall be subject to subsections (d)(2)(A)(ii), (e)(1) and (2), (f), (i)(2)(A), (j), (k)(1), (l)(1), and (n) of section 505A of the Federal Food, Drug, and Cosmetic Act, as

in effect on or after the date of the enactment of this Act.

(b) PROGRAM FOR PEDIATRIC STUDIES OF DRUGS.—Section 409I of the Public Health Service Act (42 U.S.C. 284m) is amended to read as follows:

“SEC. 409I. PROGRAM FOR PEDIATRIC STUDIES OF DRUGS.

“(a) LIST OF PRIORITY ISSUES IN PEDIATRIC THERAPEUTICS.—

Deadline.
Publication.

“(1) IN GENERAL.—Not later than one year after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Secretary, acting through the Director of the National Institutes of Health and in consultation with the Commissioner of Food and Drugs and experts in pediatric research, shall develop and publish a priority list of needs in pediatric therapeutics, including drugs or indications that require study. The list shall be revised every three years.

“(2) CONSIDERATION OF AVAILABLE INFORMATION.—In developing and prioritizing the list under paragraph (1), the Secretary shall consider—

“(A) therapeutic gaps in pediatrics that may include developmental pharmacology, pharmacogenetic determinants of drug response, metabolism of drugs and biologics in children, and pediatric clinical trials;

“(B) particular pediatric diseases, disorders or conditions where more complete knowledge and testing of therapeutics, including drugs and biologics, may be beneficial in pediatric populations; and

“(C) the adequacy of necessary infrastructure to conduct pediatric pharmacological research, including research networks and trained pediatric investigators.

“(b) PEDIATRIC STUDIES AND RESEARCH.—The Secretary, acting through the National Institutes of Health, shall award funds to entities that have the expertise to conduct pediatric clinical trials or other research (including qualified universities, hospitals, laboratories, contract research organizations, practice groups, federally funded programs such as pediatric pharmacology research units, other public or private institutions, or individuals) to enable the entities to conduct the drug studies or other research on the issues described in subsection (a). The Secretary may use contracts, grants, or other appropriate funding mechanisms to award funds under this subsection.

“(c) PROCESS FOR PROPOSED PEDIATRIC STUDY REQUESTS AND LABELING CHANGES.—

“(1) SUBMISSION OF PROPOSED PEDIATRIC STUDY REQUEST.—The Director of the National Institutes of Health shall, as appropriate, submit proposed pediatric study requests for consideration by the Commissioner of Food and Drugs for pediatric studies of a specific pediatric indication identified under subsection (a). Such a proposed pediatric study request shall be made in a manner equivalent to a written request made under subsection (b) or (c) of section 505A of the Federal Food, Drug, and Cosmetic Act, including with respect to the information provided on the pediatric studies to be conducted pursuant to the request. The Director of the National Institutes of Health may submit a proposed pediatric study request for a drug for which—

“(A)(i) there is an approved application under section 505(j) of the Federal Food, Drug, and Cosmetic Act; or

“(ii) there is a submitted application that could be approved under the criteria of such section; and

“(B) there is no patent protection or market exclusivity protection for at least one form of the drug under the Federal Food, Drug, and Cosmetic Act; and

“(C) additional studies are needed to assess the safety and effectiveness of the use of the drug in the pediatric population.

“(2) WRITTEN REQUEST TO HOLDERS OF APPROVED APPLICATIONS FOR DRUGS LACKING EXCLUSIVITY.—The Commissioner of Food and Drugs, in consultation with the Director of the National Institutes of Health, may issue a written request based on the proposed pediatric study request for the indication or indications submitted pursuant to paragraph (1) (which shall include a timeframe for negotiations for an agreement) for pediatric studies concerning a drug identified under subsection (a) to all holders of an approved application for the drug under section 505 of the Federal Food, Drug, and Cosmetic Act. Such a written request shall be made in a manner equivalent to the manner in which a written request is made under subsection (b) or (c) of section 505A of such Act, including with respect to information provided on the pediatric studies to be conducted pursuant to the request and using appropriate formulations for each age group for which the study is requested.

“(3) REQUESTS FOR PROPOSALS.—If the Commissioner of Food and Drugs does not receive a response to a written request issued under paragraph (2) not later than 30 days after the date on which a request was issued, the Secretary, acting through the Director of the National Institutes of Health and in consultation with the Commissioner of Food and Drugs, shall publish a request for proposals to conduct the pediatric studies described in the written request in accordance with subsection (b).

Deadline.
Publication.

“(4) DISQUALIFICATION.—A holder that receives a first right of refusal shall not be entitled to respond to a request for proposals under paragraph (3).

“(5) CONTRACTS, GRANTS, OR OTHER FUNDING MECHANISMS.—A contract, grant, or other funding may be awarded under this section only if a proposal is submitted to the Secretary in such form and manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

“(6) REPORTING OF STUDIES.—

“(A) IN GENERAL.—On completion of a pediatric study in accordance with an award under this section, a report concerning the study shall be submitted to the Director of the National Institutes of Health and the Commissioner of Food and Drugs. The report shall include all data generated in connection with the study, including a written request if issued.

“(B) AVAILABILITY OF REPORTS.—Each report submitted under subparagraph (A) shall be considered to be in the public domain (subject to section 505A(d)(4) of the Federal Food, Drug, and Cosmetic Act) and shall be assigned a

docket number by the Commissioner of Food and Drugs. An interested person may submit written comments concerning such pediatric studies to the Commissioner of Food and Drugs, and the written comments shall become part of the docket file with respect to each of the drugs.

“(C) ACTION BY COMMISSIONER.—The Commissioner of Food and Drugs shall take appropriate action in response to the reports submitted under subparagraph (A) in accordance with paragraph (7).

“(7) REQUESTS FOR LABELING CHANGE.—During the 180-day period after the date on which a report is submitted under paragraph (6)(A), the Commissioner of Food and Drugs shall—

“(A) review the report and such other data as are available concerning the safe and effective use in the pediatric population of the drug studied;

“(B) negotiate with the holders of approved applications for the drug studied for any labeling changes that the Commissioner of Food and Drugs determines to be appropriate and requests the holders to make; and

“(C)(i) place in the public docket file a copy of the report and of any requested labeling changes; and

“(ii) publish in the Federal Register and through a posting on the Web site of the Food and Drug Administration a summary of the report and a copy of any requested labeling changes.

“(8) DISPUTE RESOLUTION.—

“(A) REFERRAL TO PEDIATRIC ADVISORY COMMITTEE.—If, not later than the end of the 180-day period specified in paragraph (7), the holder of an approved application for the drug involved does not agree to any labeling change requested by the Commissioner of Food and Drugs under that paragraph, the Commissioner of Food and Drugs shall refer the request to the Pediatric Advisory Committee.

“(B) ACTION BY THE PEDIATRIC ADVISORY COMMITTEE.—Not later than 90 days after receiving a referral under subparagraph (A), the Pediatric Advisory Committee shall—

“(i) review the available information on the safe and effective use of the drug in the pediatric population, including study reports submitted under this section; and

“(ii) make a recommendation to the Commissioner of Food and Drugs as to appropriate labeling changes, if any.

“(9) FDA DETERMINATION.—Not later than 30 days after receiving a recommendation from the Pediatric Advisory Committee under paragraph (8)(B)(ii) with respect to a drug, the Commissioner of Food and Drugs shall consider the recommendation and, if appropriate, make a request to the holders of approved applications for the drug to make any labeling change that the Commissioner of Food and Drugs determines to be appropriate.

“(10) FAILURE TO AGREE.—If a holder of an approved application for a drug, within 30 days after receiving a request to make a labeling change under paragraph (9), does not agree to make a requested labeling change, the Commissioner of

Federal Register,
publication.
Website.

Deadline.

Deadline.

Recommen-
dations.

Deadline.

Deadline.

Food and Drugs may deem the drug to be misbranded under the Federal Food, Drug, and Cosmetic Act.

“(11) NO EFFECT ON AUTHORITY.—Nothing in this subsection limits the authority of the United States to bring an enforcement action under the Federal Food, Drug, and Cosmetic Act when a drug lacks appropriate pediatric labeling. Neither course of action (the Pediatric Advisory Committee process or an enforcement action referred to in the preceding sentence) shall preclude, delay, or serve as the basis to stay the other course of action.

“(d) DISSEMINATION OF PEDIATRIC INFORMATION.—Not later than one year after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Secretary, acting through the Director of the National Institutes of Health, shall study the feasibility of establishing a compilation of information on pediatric drug use and report the findings to Congress. Deadline.
Reports.

“(e) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

“(A) \$200,000,000 for fiscal year 2008; and

“(B) such sums as are necessary for each of the four succeeding fiscal years.

“(2) AVAILABILITY.—Any amount appropriated under paragraph (1) shall remain available to carry out this section until expended.”.

(c) FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH.—Section 499(c)(1)(C) of the Public Health Service Act (42 U.S.C. 290b(c)(1)(C)) is amended by striking “and studies listed by the Secretary pursuant to section 409I(a)(1)(A) of this Act and referred under section 505A(d)(4)(C) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(a)(d)(4)(C))” and inserting “and studies for which the Secretary issues a certification in the affirmative under section 505A(n)(1)(A) of the Federal Food, Drug, and Cosmetic Act”.

(d) CONTINUATION OF OPERATION OF COMMITTEE.—Section 14 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended by adding at the end the following new subsection:

“(d) CONTINUATION OF OPERATION OF COMMITTEE.—Notwithstanding section 14 of the Federal Advisory Committee Act, the advisory committee shall continue to operate during the five-year period beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007.”.

(e) PEDIATRIC SUBCOMMITTEE OF THE ONCOLOGIC DRUGS ADVISORY COMMITTEE.—Section 15 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking “and” after the semicolon;

(ii) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following new subparagraph:

“(D) provide recommendations to the internal review committee created under section 505B(f) of the Federal Food, Drug, and Cosmetic Act regarding the implementation of amendments to sections 505A and 505B of the

Federal Food, Drug, and Cosmetic Act with respect to the treatment of pediatric cancers.”; and

(B) by adding at the end the following new paragraph: “(3) CONTINUATION OF OPERATION OF SUBCOMMITTEE.—Notwithstanding section 14 of the Federal Advisory Committee Act, the Subcommittee shall continue to operate during the five-year period beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007.”; and

(2) in subsection (d), by striking “2003” and inserting “2009”.

(f) EFFECTIVE DATE AND LIMITATION FOR RULE RELATING TO TOLL-FREE NUMBER FOR ADVERSE EVENTS ON LABELING FOR HUMAN DRUG PRODUCTS.—

(1) IN GENERAL.—Notwithstanding subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the “Administrative Procedure Act”) and any other provision of law, the proposed rule issued by the Commissioner of Food and Drugs entitled “Toll-Free Number for Reporting Adverse Events on Labeling for Human Drug Products,” 69 Fed. Reg. 21778, (April 22, 2004) shall take effect on January 1, 2008, unless such Commissioner issues the final rule before such date.

(2) LIMITATION.—The proposed rule that takes effect under subsection (a), or the final rule described under subsection (a), shall, notwithstanding section 17(a) of the Best Pharmaceuticals for Children Act (21 U.S.C. 355b(a)), not apply to a drug—

(A) for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355);

(B) that is not described under section 503(b)(1) of such Act (21 U.S.C. 353(b)(1)); and

(C) the packaging of which includes a toll-free number through which consumers can report complaints to the manufacturer or distributor of the drug.

SEC. 503. TRAINING OF PEDIATRIC PHARMACOLOGISTS.

(a) INVESTMENT IN TOMORROW’S PEDIATRIC RESEARCHERS.—Section 452G(2) of the Public Health Service Act (42 U.S.C. 285g–10(2)) is amended by adding before the period at the end the following: “, including pediatric pharmacological research”.

(b) PEDIATRIC RESEARCH LOAN REPAYMENT PROGRAM.—Section 487F(a)(1) of the Public Health Service Act (42 U.S.C. 288–6(a)(1)) is amended by inserting “including pediatric pharmacological research,” after “pediatric research,”.

TITLE VI—REAGAN-UDALL FOUNDATION

SEC. 601. THE REAGAN-UDALL FOUNDATION FOR THE FOOD AND DRUG ADMINISTRATION.

(a) IN GENERAL.—Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

“Subchapter I—Reagan-Udall Foundation for the Food and Drug Administration

“SEC. 770. ESTABLISHMENT AND FUNCTIONS OF THE FOUNDATION. 21 USC 379dd.

“(a) IN GENERAL.—A nonprofit corporation to be known as the Reagan-Udall Foundation for the Food and Drug Administration (referred to in this subchapter as the ‘Foundation’) shall be established in accordance with this section. The Foundation shall be headed by an Executive Director, appointed by the members of the Board of Directors under subsection (e). The Foundation shall not be an agency or instrumentality of the United States Government.

“(b) PURPOSE OF FOUNDATION.—The purpose of the Foundation is to advance the mission of the Food and Drug Administration to modernize medical, veterinary, food, food ingredient, and cosmetic product development, accelerate innovation, and enhance product safety.

“(c) DUTIES OF THE FOUNDATION.—The Foundation shall—

“(1) taking into consideration the Critical Path reports and priorities published by the Food and Drug Administration, identify unmet needs in the development, manufacture, and evaluation of the safety and effectiveness, including post-approval, of devices, including diagnostics, biologics, and drugs, and the safety of food, food ingredients, and cosmetics, and including the incorporation of more sensitive and predictive tools and devices to measure safety;

“(2) establish goals and priorities in order to meet the unmet needs identified in paragraph (1);

“(3) in consultation with the Secretary, identify existing and proposed Federal intramural and extramural research and development programs relating to the goals and priorities established under paragraph (2), coordinate Foundation activities with such programs, and minimize Foundation duplication of existing efforts;

“(4) award grants to, or enter into contracts, memoranda of understanding, or cooperative agreements with, scientists and entities, which may include the Food and Drug Administration, university consortia, public-private partnerships, institutions of higher education, entities described in section 501(c)(3) of the Internal Revenue Code (and exempt from tax under section 501(a) of such Code), and industry, to efficiently and effectively advance the goals and priorities established under paragraph (2);

“(5) recruit meeting participants and hold or sponsor (in whole or in part) meetings as appropriate to further the goals and priorities established under paragraph (2);

“(6) release and publish information and data and, to the extent practicable, license, distribute, and release material, reagents, and techniques to maximize, promote, and coordinate the availability of such material, reagents, and techniques for use by the Food and Drug Administration, nonprofit organizations, and academic and industrial researchers to further the goals and priorities established under paragraph (2);

“(7) ensure that—

“(A) action is taken as necessary to obtain patents for inventions developed by the Foundation or with funds from the Foundation;

Grants.
Contracts.
Memorandums.

Publication.

“(B) action is taken as necessary to enable the licensing of inventions developed by the Foundation or with funds from the Foundation; and

“(C) executed licenses, memoranda of understanding, material transfer agreements, contracts, and other such instruments, promote, to the maximum extent practicable, the broadest conversion to commercial and noncommercial applications of licensed and patented inventions of the Foundation to further the goals and priorities established under paragraph (2);

“(8) provide objective clinical and scientific information to the Food and Drug Administration and, upon request, to other Federal agencies to assist in agency determinations of how to ensure that regulatory policy accommodates scientific advances and meets the agency’s public health mission;

“(9) conduct annual assessments of the unmet needs identified in paragraph (1); and

“(10) carry out such other activities consistent with the purposes of the Foundation as the Board determines appropriate.

“(d) BOARD OF DIRECTORS.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—The Foundation shall have a Board of Directors (referred to in this subchapter as the ‘Board’), which shall be composed of ex officio and appointed members in accordance with this subsection. All appointed members of the Board shall be voting members.

“(B) EX OFFICIO MEMBERS.—The ex officio members of the Board shall be the following individuals or their designees:

“(i) The Commissioner.

“(ii) The Director of the National Institutes of Health.

“(iii) The Director of the Centers for Disease Control and Prevention.

“(iv) The Director of the Agency for Healthcare Research and Quality.

“(C) APPOINTED MEMBERS.—

“(i) IN GENERAL.—The ex officio members of the Board under subparagraph (B) shall, by majority vote, appoint to the Board 14 individuals, of which 9 shall be from a list of candidates to be provided by the National Academy of Sciences and 5 shall be from lists of candidates provided by patient and consumer advocacy groups, professional scientific and medical societies, and industry trade organizations. Of such appointed members—

“(I) 4 shall be representatives of the general pharmaceutical, device, food, cosmetic, and biotechnology industries;

“(II) 3 shall be representatives of academic research organizations;

“(III) 2 shall be representatives of patient or consumer advocacy organizations;

“(IV) 1 shall be a representative of health care providers; and

“(V) 4 shall be at-large members with expertise or experience relevant to the purpose of the Foundation.

“(ii) REQUIREMENTS.—

“(I) EXPERTISE.—The ex officio members shall ensure the Board membership includes individuals with expertise in areas including the sciences of developing, manufacturing, and evaluating the safety and effectiveness of devices, including diagnostics, biologics, and drugs, and the safety of food, food ingredients, and cosmetics.

“(II) FEDERAL EMPLOYEES.—No employee of the Federal Government shall be appointed as a member of the Board under this subparagraph or under paragraph (3)(B).

“(D) INITIAL MEETING.—

“(i) IN GENERAL.—Not later than 30 days after the date of the enactment of this subchapter, the Secretary shall convene a meeting of the ex officio members of the Board to—

Deadline.

“(I) incorporate the Foundation; and

“(II) appoint the members of the Board in accordance with subparagraph (C).

“(ii) SERVICE OF EX OFFICIO MEMBERS.—Upon the appointment of the members of the Board under clause (i)(II)—

“(I) the terms of service of the Director of the Centers for Disease Control and Prevention and of the Director of the Agency for Healthcare Research and Quality as ex officio members of the Board shall terminate; and

“(II) the Commissioner and the Director of the National Institutes of Health shall continue to serve as ex officio members of the Board, but shall be nonvoting members.

“(iii) CHAIR.—The ex officio members of the Board under subparagraph (B) shall designate an appointed member of the Board to serve as the Chair of the Board.

“(2) DUTIES OF BOARD.—The Board shall—

“(A) establish bylaws for the Foundation that—

“(i) are published in the Federal Register and available for public comment;

Federal Register,
publication.

“(ii) establish policies for the selection of the officers, employees, agents, and contractors of the Foundation;

“(iii) establish policies, including ethical standards, for the acceptance, solicitation, and disposition of donations and grants to the Foundation and for the disposition of the assets of the Foundation, including appropriate limits on the ability of donors to designate, by stipulation or restriction, the use or recipient of donated funds;

“(iv) establish policies that would subject all employees, fellows, and trainees of the Foundation to the conflict of interest standards under section 208 of title 18, United States Code;

“(v) establish licensing, distribution, and publication policies that support the widest and least restrictive use by the public of information and inventions developed by the Foundation or with Foundation funds to carry out the duties described in paragraphs (6) and (7) of subsection (c), and may include charging cost-based fees for published material produced by the Foundation;

“(vi) specify principles for the review of proposals and awarding of grants and contracts that include peer review and that are consistent with those of the Foundation for the National Institutes of Health, to the extent determined practicable and appropriate by the Board;

“(vii) specify a cap on administrative expenses for recipients of a grant, contract, or cooperative agreement from the Foundation;

“(viii) establish policies for the execution of memoranda of understanding and cooperative agreements between the Foundation and other entities, including the Food and Drug Administration;

“(ix) establish policies for funding training fellowships, whether at the Foundation, academic or scientific institutions, or the Food and Drug Administration, for scientists, doctors, and other professionals who are not employees of regulated industry, to foster greater understanding of and expertise in new scientific tools, diagnostics, manufacturing techniques, and potential barriers to translating basic research into clinical and regulatory practice;

“(x) specify a process for annual Board review of the operations of the Foundation; and

“(xi) establish specific duties of the Executive Director;

“(B) prioritize and provide overall direction to the activities of the Foundation;

“(C) evaluate the performance of the Executive Director; and

“(D) carry out any other necessary activities regarding the functioning of the Foundation.

“(3) TERMS AND VACANCIES.—

“(A) TERM.—The term of office of each member of the Board appointed under paragraph (1)(C) shall be 4 years, except that the terms of offices for the initial appointed members of the Board shall expire on a staggered basis as determined by the ex officio members.

“(B) VACANCY.—Any vacancy in the membership of the Board—

“(i) shall not affect the power of the remaining members to execute the duties of the Board; and

“(ii) shall be filled by appointment by the appointed members described in paragraph (1)(C) by majority vote.

“(C) PARTIAL TERM.—If a member of the Board does not serve the full term applicable under subparagraph (A), the individual appointed under subparagraph (B) to fill

the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

“(D) SERVING PAST TERM.—A member of the Board may continue to serve after the expiration of the term of the member until a successor is appointed.

“(4) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. Such members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board, as set forth in the bylaws issued by the Board.

“(e) INCORPORATION.—The ex officio members of the Board shall serve as incorporators and shall take whatever actions necessary to incorporate the Foundation.

“(f) NONPROFIT STATUS.—In carrying out subsection (b), the Board shall establish such policies and bylaws under subsection (d), and the Executive Director shall carry out such activities under subsection (g), as may be necessary to ensure that the Foundation maintains status as an organization that—

“(1) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986; and

“(2) is, under subsection (a) of such section, exempt from taxation.

“(g) EXECUTIVE DIRECTOR.—

“(1) IN GENERAL.—The Board shall appoint an Executive Director who shall serve at the pleasure of the Board. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Board shall prescribe.

“(2) COMPENSATION.—The compensation of the Executive Director shall be fixed by the Board but shall not be greater than the compensation of the Commissioner.

“(h) ADMINISTRATIVE POWERS.—In carrying out this subchapter, the Board, acting through the Executive Director, may—

“(1) adopt, alter, and use a corporate seal, which shall be judicially noticed;

“(2) hire, promote, compensate, and discharge 1 or more officers, employees, and agents, as may be necessary, and define their duties;

“(3) prescribe the manner in which—

“(A) real or personal property of the Foundation is acquired, held, and transferred;

“(B) general operations of the Foundation are to be conducted; and

“(C) the privileges granted to the Board by law are exercised and enjoyed;

“(4) with the consent of the applicable executive department or independent agency, use the information, services, and facilities of such department or agencies in carrying out this section;

“(5) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

“(6) hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation under subsection (i);

“(7) enter into such other contracts, leases, cooperative agreements, and other transactions as the Board considers appropriate to conduct the activities of the Foundation;

“(8) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subchapter;

“(9) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

“(10) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

“(11) appoint other groups of advisors as may be determined necessary to carry out the functions of the Foundation; and

“(12) exercise other powers as set forth in this section, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this subchapter.

“(i) ACCEPTANCE OF FUNDS FROM OTHER SOURCES.—The Executive Director may solicit and accept on behalf of the Foundation, any funds, gifts, grants, devises, or bequests of real or personal property made to the Foundation, including from private entities, for the purposes of carrying out the duties of the Foundation.

“(j) SERVICE OF FEDERAL EMPLOYEES.—Federal Government employees may serve on committees advisory to the Foundation and otherwise cooperate with and assist the Foundation in carrying out its functions, so long as such employees do not direct or control Foundation activities.

“(k) DETAIL OF GOVERNMENT EMPLOYEES; FELLOWSHIPS.—

“(1) DETAIL FROM FEDERAL AGENCIES.—Federal Government employees may be detailed from Federal agencies with or without reimbursement to those agencies to the Foundation at any time, and such detail shall be without interruption or loss of civil service status or privilege. Each such employee shall abide by the statutory, regulatory, ethical, and procedural standards applicable to the employees of the agency from which such employee is detailed and those of the Foundation.

“(2) VOLUNTARY SERVICE; ACCEPTANCE OF FEDERAL EMPLOYEES.—

“(A) FOUNDATION.—The Executive Director of the Foundation may accept the services of employees detailed from Federal agencies with or without reimbursement to those agencies.

“(B) FOOD AND DRUG ADMINISTRATION.—The Commissioner may accept the uncompensated services of Foundation fellows or trainees. Such services shall be considered to be undertaking an activity under contract with the Secretary as described in section 708.

“(l) ANNUAL REPORTS.—

“(1) REPORTS TO FOUNDATION.—Any recipient of a grant, contract, fellowship, memorandum of understanding, or cooperative agreement from the Foundation under this section shall submit to the Foundation a report on an annual basis for the duration of such grant, contract, fellowship, memorandum of understanding, or cooperative agreement, that describes the activities carried out under such grant, contract, fellowship, memorandum of understanding, or cooperative agreement.

“(2) REPORT TO CONGRESS AND THE FDA.—Beginning with fiscal year 2009, the Executive Director shall submit to Congress and the Commissioner an annual report that—

“(A) describes the activities of the Foundation and the progress of the Foundation in furthering the goals and priorities established under subsection (c)(2), including the practical impact of the Foundation on regulated product development;

“(B) provides a specific accounting of the source and use of all funds used by the Foundation to carry out such activities; and

“(C) provides information on how the results of Foundation activities could be incorporated into the regulatory and product review activities of the Food and Drug Administration.

“(m) SEPARATION OF FUNDS.—The Executive Director shall ensure that the funds received from the Treasury are held in separate accounts from funds received from entities under subsection (i).

“(n) FUNDING.—From amounts appropriated to the Food and Drug Administration for each fiscal year, the Commissioner shall transfer not less than \$500,000 and not more than \$1,250,000, to the Foundation to carry out subsections (a), (b), and (d) through (m).”.

(b) OTHER FOUNDATION PROVISIONS.—Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) (as amended by subsection (a)) is amended by adding at the end the following:

“SEC. 771. LOCATION OF FOUNDATION.

21 USC 379dd–1.

“The Foundation shall, if practicable, be located not more than 20 miles from the District of Columbia.

“SEC. 772. ACTIVITIES OF THE FOOD AND DRUG ADMINISTRATION.

21 USC 379dd–2.

“(a) IN GENERAL.—The Commissioner shall receive and assess the report submitted to the Commissioner by the Executive Director of the Foundation under section 770(l)(2).

“(b) REPORT TO CONGRESS.—Beginning with fiscal year 2009, the Commissioner shall submit to Congress an annual report summarizing the incorporation of the information provided by the Foundation in the report described under section 770(l)(2) and by other recipients of grants, contracts, memoranda of understanding, or cooperative agreements into regulatory and product review activities of the Food and Drug Administration.

“(c) EXTRAMURAL GRANTS.—The provisions of this subchapter and section 566 shall have no effect on any grant, contract, memorandum of understanding, or cooperative agreement between the Food and Drug Administration and any other entity entered into before, on, or after the date of the enactment of this subchapter.”.

(c) CONFORMING AMENDMENT.—Section 742(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379l(b)) is amended by adding at the end the following: “Any such fellowships and training programs under this section or under section 770(d)(2)(A)(ix) may include provision by such scientists and physicians of services on a voluntary and uncompensated basis, as the Secretary determines appropriate. Such scientists and physicians shall be subject to all legal and ethical requirements otherwise applicable to officers or employees of the Department of Health and Human Services.”.

SEC. 602. OFFICE OF THE CHIEF SCIENTIST.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

21 USC 399a.

“SEC. 910. OFFICE OF THE CHIEF SCIENTIST.

“(a) **ESTABLISHMENT; APPOINTMENT.**—The Secretary shall establish within the Office of the Commissioner an office to be known as the Office of the Chief Scientist. The Secretary shall appoint a Chief Scientist to lead such Office.

“(b) **DUTIES OF THE OFFICE.**—The Office of the Chief Scientist shall—

“(1) oversee, coordinate, and ensure quality and regulatory focus of the intramural research programs of the Food and Drug Administration;

“(2) track and, to the extent necessary, coordinate intramural research awards made by each center of the Administration or science-based office within the Office of the Commissioner, and ensure that there is no duplication of research efforts supported by the Reagan-Udall Foundation for the Food and Drug Administration;

“(3) develop and advocate for a budget to support intramural research;

“(4) develop a peer review process by which intramural research can be evaluated;

“(5) identify and solicit intramural research proposals from across the Food and Drug Administration through an advisory board composed of employees of the Administration that shall include—

“(A) representatives of each of the centers and the science-based offices within the Office of the Commissioner; and

“(B) experts on trial design, epidemiology, demographics, pharmacovigilance, basic science, and public health; and

“(6) develop postmarket safety performance measures that are as measurable and rigorous as the ones already developed for premarket review.”.

SEC. 603. CRITICAL PATH PUBLIC-PRIVATE PARTNERSHIPS.

Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is amended by adding at the end the following:

21 USC
360bbb–5.**“SEC. 566. CRITICAL PATH PUBLIC-PRIVATE PARTNERSHIPS.**

“(a) **ESTABLISHMENT.**—The Secretary, acting through the Commissioner of Food and Drugs, may enter into collaborative agreements, to be known as Critical Path Public-Private Partnerships, with one or more eligible entities to implement the Critical Path Initiative of the Food and Drug Administration by developing innovative, collaborative projects in research, education, and outreach for the purpose of fostering medical product innovation, enabling the acceleration of medical product development, manufacturing, and translational therapeutics, and enhancing medical product safety.

“(b) **ELIGIBLE ENTITY.**—In this section, the term ‘eligible entity’ means an entity that meets each of the following:

“(1) The entity is—

“(A) an institution of higher education (as such term is defined in section 101 of the Higher Education Act of 1965) or a consortium of such institutions; or

“(B) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

“(2) The entity has experienced personnel and clinical and other technical expertise in the biomedical sciences, which may include graduate training programs in areas relevant to priorities of the Critical Path Initiative.

“(3) The entity demonstrates to the Secretary’s satisfaction that the entity is capable of—

“(A) developing and critically evaluating tools, methods, and processes—

“(i) to increase efficiency, predictability, and productivity of medical product development; and

“(ii) to more accurately identify the benefits and risks of new and existing medical products;

“(B) establishing partnerships, consortia, and collaborations with health care practitioners and other providers of health care goods or services; pharmacists; pharmacy benefit managers and purchasers; health maintenance organizations and other managed health care organizations; health care insurers; government agencies; patients and consumers; manufacturers of prescription drugs, biological products, diagnostic technologies, and devices; and academic scientists; and

“(C) securing funding for the projects of a Critical Path Public-Private Partnership from Federal and non-federal governmental sources, foundations, and private individuals.

“(c) FUNDING.—The Secretary may not enter into a collaborative agreement under subsection (a) unless the eligible entity involved provides an assurance that the entity will not accept funding for a Critical Path Public-Private Partnership project from any organization that manufactures or distributes products regulated by the Food and Drug Administration unless the entity provides assurances in its agreement with the Food and Drug Administration that the results of the Critical Path Public-Private Partnership project will not be influenced by any source of funding.

“(d) ANNUAL REPORT.—Not later than 18 months after the date of the enactment of this section, and annually thereafter, the Secretary, in collaboration with the parties to each Critical Path Public-Private Partnership, shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives—

“(1) reviewing the operations and activities of the Partnerships in the previous year; and

“(2) addressing such other issues relating to this section as the Secretary determines to be appropriate.

“(e) DEFINITION.—In this section, the term ‘medical product’ includes a drug, a biological product as defined in section 351 of the Public Health Service Act, a device, and any combination of such products.

“(f) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated \$5,000,000 for fiscal

year 2008 and such sums as may be necessary for each of fiscal years 2009 through 2012.”.

TITLE VII—CONFLICTS OF INTEREST

SEC. 701. CONFLICTS OF INTEREST.

(a) IN GENERAL.—Subchapter A of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by inserting at the end the following:

21 USC 379d–1.

“SEC. 712. CONFLICTS OF INTEREST.

“(a) DEFINITIONS.—For purposes of this section:

“(1) ADVISORY COMMITTEE.—The term ‘advisory committee’ means an advisory committee under the Federal Advisory Committee Act that provides advice or recommendations to the Secretary regarding activities of the Food and Drug Administration.

“(2) FINANCIAL INTEREST.—The term ‘financial interest’ means a financial interest under section 208(a) of title 18, United States Code.

“(b) APPOINTMENTS TO ADVISORY COMMITTEES.—

“(1) RECRUITMENT.—

“(A) IN GENERAL.—The Secretary shall—

“(i) develop and implement strategies on effective outreach to potential members of advisory committees at universities, colleges, other academic research centers, professional and medical societies, and patient and consumer groups;

“(ii) seek input from professional medical and scientific societies to determine the most effective informational and recruitment activities; and

“(iii) take into account the advisory committees with the greatest number of vacancies.

“(B) RECRUITMENT ACTIVITIES.—The recruitment activities under subparagraph (A) may include—

“(i) advertising the process for becoming an advisory committee member at medical and scientific society conferences;

“(ii) making widely available, including by using existing electronic communications channels, the contact information for the Food and Drug Administration point of contact regarding advisory committee nominations; and

“(iii) developing a method through which an entity receiving funding from the National Institutes of Health, the Agency for Healthcare Research and Quality, the Centers for Disease Control and Prevention, or the Veterans Health Administration can identify a person who the Food and Drug Administration can contact regarding the nomination of individuals to serve on advisory committees.

“(2) EVALUATION AND CRITERIA.—When considering a term appointment to an advisory committee, the Secretary shall review the expertise of the individual and the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978 for each individual under consideration

for the appointment, so as to reduce the likelihood that an appointed individual will later require a written determination as referred to in section 208(b)(1) of title 18, United States Code, a written certification as referred to in section 208(b)(3) of title 18, United States Code, or a waiver as referred to in subsection (c)(2) of this section for service on the committee at a meeting of the committee.

“(c) DISCLOSURES; PROHIBITIONS ON PARTICIPATION; WAIVERS.—

“(1) DISCLOSURE OF FINANCIAL INTEREST.—Prior to a meeting of an advisory committee regarding a ‘particular matter’ (as that term is used in section 208 of title 18, United States Code), each member of the committee who is a full-time Government employee or special Government employee shall disclose to the Secretary financial interests in accordance with subsection (b) of such section 208.

“(2) PROHIBITIONS AND WAIVERS ON PARTICIPATION.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), a member of an advisory committee may not participate with respect to a particular matter considered in an advisory committee meeting if such member (or an immediate family member of such member) has a financial interest that could be affected by the advice given to the Secretary with respect to such matter, excluding interests exempted in regulations issued by the Director of the Office of Government Ethics as too remote or inconsequential to affect the integrity of the services of the Government officers or employees to which such regulations apply.

“(B) WAIVER.—If the Secretary determines it necessary to afford the advisory committee essential expertise, the Secretary may grant a waiver of the prohibition in subparagraph (A) to permit a member described in such subparagraph to—

“(i) participate as a non-voting member with respect to a particular matter considered in a committee meeting; or

“(ii) participate as a voting member with respect to a particular matter considered in a committee meeting.

“(C) LIMITATION ON WAIVERS AND OTHER EXCEPTIONS.—

“(i) DEFINITION.—For purposes of this subparagraph, the term ‘exception’ means each of the following with respect to members of advisory committees:

“(I) A waiver under section 505(n)(4) (as in effect on the day before the date of the enactment of the Food and Drug Administration Amendments Act of 2007).

“(II) A written determination under section 208(b) of title 18, United States Code.

“(III) A written certification under section 208(b)(3) of such title.

“(ii) DETERMINATION OF TOTAL NUMBER OF MEMBERS SLOTS AND MEMBER EXCEPTIONS DURING FISCAL YEAR 2007.—The Secretary shall determine—

“(I)(aa) for each meeting held by any advisory committee during fiscal year 2007, the number of members who participated in the meeting; and

“(bb) the sum of the respective numbers determined under item (aa) (referred to in this subparagraph as the “total number of 2007 meeting slots”); and

“(II)(aa) for each meeting held by any advisory committee during fiscal year 2007, the number of members who received an exception for the meeting; and

“(bb) the sum of the respective numbers determined under item (aa) (referred to in this subparagraph as the “total number of 2007 meeting exceptions”).

“(iii) DETERMINATION OF PERCENTAGE REGARDING EXCEPTIONS DURING FISCAL YEAR 2007.—The Secretary shall determine the percentage constituted by—

“(I) the total number of 2007 meeting exceptions; divided by

“(II) the total number of 2007 meeting slots.

“(iv) LIMITATION FOR FISCAL YEARS 2008 THROUGH 2012.—The number of exceptions at the Food and Drug Administration for members of advisory committees for a fiscal year may not exceed the following:

“(I) For fiscal year 2008, 95 percent of the percentage determined under clause (iii) (referred to in this clause as the “base percentage”).

“(II) For fiscal year 2009, 90 percent of the base percentage.

“(III) For fiscal year 2010, 85 percent of the base percentage.

“(IV) For fiscal year 2011, 80 percent of the base percentage.

“(V) For fiscal year 2012, 75 percent of the base percentage.

“(v) ALLOCATION OF EXCEPTIONS.—The exceptions authorized under clause (iv) for a fiscal year may be allocated within the centers or other organizational units of the Food and Drug Administration as determined appropriate by the Secretary.

“(3) DISCLOSURE OF WAIVER.—Notwithstanding section 107(a)(2) of the Ethics in Government Act (5 U.S.C. App.), the following shall apply:

“(A) 15 OR MORE DAYS IN ADVANCE.—As soon as practicable, but (except as provided in subparagraph (B)) not later than 15 days prior to a meeting of an advisory committee to which a written determination as referred to in section 208(b)(1) of title 18, United States Code, a written certification as referred to in section 208(b)(3) of title 18, United States Code, or a waiver as referred to in paragraph (2)(B) applies, the Secretary shall disclose (other than information exempted from disclosure under section 552 of title 5, United States Code, and section 552a of title 5, United States Code (popularly known as the Freedom of Information Act and the Privacy Act of 1974, respectively)) on the Internet Web site of the Food and Drug Administration—

“(i) the type, nature, and magnitude of the financial interests of the advisory committee member to

Applicability.
Website.

which such determination, certification, or waiver applies; and

“(ii) the reasons of the Secretary for such determination, certification, or waiver.

“(B) LESS THAN 30 DAYS IN ADVANCE.—In the case of a financial interest that becomes known to the Secretary less than 30 days prior to a meeting of an advisory committee to which a written determination as referred to in section 208(b)(1) of title 18, United States Code, a written certification as referred to in section 208(b)(3) of title 18, United States Code, or a waiver as referred to in paragraph (2)(B) applies, the Secretary shall disclose (other than information exempted from disclosure under section 552 of title 5, United States Code, and section 552a of title 5, United States Code) on the Internet Web site of the Food and Drug Administration, the information described in clauses (i) and (ii) of subparagraph (A) as soon as practicable after the Secretary makes such determination, certification, or waiver, but in no case later than the date of such meeting.

“(d) PUBLIC RECORD.—The Secretary shall ensure that the public record and transcript of each meeting of an advisory committee includes the disclosure required under subsection (c)(3) (other than information exempted from disclosure under section 552 of title 5, United States Code, and section 552a of title 5, United States Code).

“(e) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary shall submit to the Committee on Appropriations and the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives a report that describes—

“(1) with respect to the fiscal year that ended on September 30 of the previous year, the number of vacancies on each advisory committee, the number of nominees received for each committee, and the number of such nominees willing to serve;

“(2) with respect to such year, the aggregate number of disclosures required under subsection (c)(3) for each meeting of each advisory committee and the percentage of individuals to whom such disclosures did not apply who served on such committee for each such meeting;

“(3) with respect to such year, the number of times the disclosures required under subsection (c)(3) occurred under subparagraph (B) of such subsection; and

“(4) how the Secretary plans to reduce the number of vacancies reported under paragraph (1) during the fiscal year following such year, and mechanisms to encourage the nomination of individuals for service on an advisory committee, including those who are classified by the Food and Drug Administration as academicians or practitioners.

“(f) PERIODIC REVIEW OF GUIDANCE.—Not less than once every 5 years, the Secretary shall review guidance of the Food and Drug Administration regarding conflict of interest waiver determinations with respect to advisory committees and update such guidance as necessary.”.

(b) CONFORMING AMENDMENTS.—Section 505(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(n)) is amended by—

- (1) striking paragraph (4); and
 (2) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (4), (5), (6), and (7), respectively.
- 21 USC 355 note. (c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007.

TITLE VIII—CLINICAL TRIAL DATABASES

SEC. 801. EXPANDED CLINICAL TRIAL REGISTRY DATA BANK.

(a) IN GENERAL.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended by—

- (1) redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and
 (2) inserting after subsection (i) the following:

“(j) EXPANDED CLINICAL TRIAL REGISTRY DATA BANK.—

“(1) DEFINITIONS; REQUIREMENT.—

“(A) DEFINITIONS.—In this subsection:

“(i) APPLICABLE CLINICAL TRIAL.—The term ‘applicable clinical trial’ means an applicable device clinical trial or an applicable drug clinical trial.

“(ii) APPLICABLE DEVICE CLINICAL TRIAL.—The term ‘applicable device clinical trial’ means—

“(I) a prospective clinical study of health outcomes comparing an intervention with a device subject to section 510(k), 515, or 520(m) of the Federal Food, Drug, and Cosmetic Act against a control in human subjects (other than a small clinical trial to determine the feasibility of a device, or a clinical trial to test prototype devices where the primary outcome measure relates to feasibility and not to health outcomes); and

“(II) a pediatric postmarket surveillance as required under section 522 of the Federal Food, Drug, and Cosmetic Act.

“(iii) APPLICABLE DRUG CLINICAL TRIAL.—

“(I) IN GENERAL.—The term ‘applicable drug clinical trial’ means a controlled clinical investigation, other than a phase I clinical investigation, of a drug subject to section 505 of the Federal Food, Drug, and Cosmetic Act or to section 351 of this Act.

“(II) CLINICAL INVESTIGATION.—For purposes of subclause (I), the term ‘clinical investigation’ has the meaning given that term in section 312.3 of title 21, Code of Federal Regulations (or any successor regulation).

“(III) PHASE I.—For purposes of subclause (I), the term ‘phase I’ has the meaning given that term in section 312.21 of title 21, Code of Federal Regulations (or any successor regulation).

“(iv) CLINICAL TRIAL INFORMATION.—The term ‘clinical trial information’ means, with respect to an applicable clinical trial, those data elements that the responsible party is required to submit under paragraph (2) or under paragraph (3).

“(v) COMPLETION DATE.—The term ‘completion date’ means, with respect to an applicable clinical trial, the date that the final subject was examined or received an intervention for the purposes of final collection of data for the primary outcome, whether the clinical trial concluded according to the prespecified protocol or was terminated.

“(vi) DEVICE.—The term ‘device’ means a device as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act.

“(vii) DRUG.—The term ‘drug’ means a drug as defined in section 201(g) of the Federal Food, Drug, and Cosmetic Act or a biological product as defined in section 351 of this Act.

“(viii) ONGOING.—The term ‘ongoing’ means, with respect to a clinical trial of a drug or a device and to a date, that—

“(I) 1 or more patients is enrolled in the clinical trial; and

“(II) the date is before the completion date of the clinical trial.

“(ix) RESPONSIBLE PARTY.—The term ‘responsible party’, with respect to a clinical trial of a drug or device, means—

“(I) the sponsor of the clinical trial (as defined in section 50.3 of title 21, Code of Federal Regulations (or any successor regulation)); or

“(II) the principal investigator of such clinical trial if so designated by a sponsor, grantee, contractor, or awardee, so long as the principal investigator is responsible for conducting the trial, has access to and control over the data from the clinical trial, has the right to publish the results of the trial, and has the ability to meet all of the requirements under this subsection for the submission of clinical trial information.

“(B) REQUIREMENT.—The Secretary shall develop a mechanism by which the responsible party for each applicable clinical trial shall submit the identity and contact information of such responsible party to the Secretary at the time of submission of clinical trial information under paragraph (2).

“(2) EXPANSION OF CLINICAL TRIAL REGISTRY DATA BANK WITH RESPECT TO CLINICAL TRIAL INFORMATION.—

“(A) IN GENERAL.—

“(i) EXPANSION OF DATA BANK.—To enhance patient enrollment and provide a mechanism to track subsequent progress of clinical trials, the Secretary, acting through the Director of NIH, shall expand, in accordance with this subsection, the clinical trials registry of the data bank described under subsection (i)(1) (referred to in this subsection as the ‘registry data bank’). The Director of NIH shall ensure that the registry data bank is made publicly available through the Internet.

Public
information.
Internet.

“(ii) CONTENT.—The clinical trial information required to be submitted under this paragraph for an applicable clinical trial shall include—

“(I) descriptive information, including—

“(aa) a brief title, intended for the lay public;

“(bb) a brief summary, intended for the lay public;

“(cc) the primary purpose;

“(dd) the study design;

“(ee) for an applicable drug clinical trial, the study phase;

“(ff) study type;

“(gg) the primary disease or condition being studied, or the focus of the study;

“(hh) the intervention name and intervention type;

“(ii) the study start date;

“(jj) the expected completion date;

“(kk) the target number of subjects; and

“(ll) outcomes, including primary and secondary outcome measures;

“(II) recruitment information, including—

“(aa) eligibility criteria;

“(bb) gender;

“(cc) age limits;

“(dd) whether the trial accepts healthy volunteers;

“(ee) overall recruitment status;

“(ff) individual site status; and

“(gg) in the case of an applicable drug clinical trial, if the drug is not approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act, specify whether or not there is expanded access to the drug under section 561 of the Federal Food, Drug, and Cosmetic Act for those who do not qualify for enrollment in the clinical trial and how to obtain information about such access;

“(III) location and contact information, including—

“(aa) the name of the sponsor;

“(bb) the responsible party, by official title;

and

“(cc) the facility name and facility contact information (including the city, State, and zip code for each clinical trial location, or a toll-free number through which such location information may be accessed); and

“(IV) administrative data (which the Secretary may make publicly available as necessary), including—

“(aa) the unique protocol identification number;

“(bb) other protocol identification numbers, if any; and

“(cc) the Food and Drug Administration IND/IDE protocol number and the record verification date.

“(iii) MODIFICATIONS.—The Secretary may by regulation modify the requirements for clinical trial information under this paragraph, if the Secretary provides a rationale for why such a modification improves and does not reduce such clinical trial information.

“(B) FORMAT AND STRUCTURE.—

“(i) SEARCHABLE CATEGORIES.—The Director of NIH shall ensure that the public may, in addition to keyword searching, search the entries in the registry data bank by 1 or more of the following criteria:

“(I) The disease or condition being studied in the clinical trial, using Medical Subject Headers (MeSH) descriptors.

“(II) The name of the intervention, including any drug or device being studied in the clinical trial.

“(III) The location of the clinical trial.

“(IV) The age group studied in the clinical trial, including pediatric subpopulations.

“(V) The study phase of the clinical trial.

“(VI) The sponsor of the clinical trial, which may be the National Institutes of Health or another Federal agency, a private industry source, or a university or other organization.

“(VII) The recruitment status of the clinical trial.

“(VIII) The National Clinical Trial number or other study identification for the clinical trial.

“(ii) ADDITIONAL SEARCHABLE CATEGORY.—Not later than 18 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Director of NIH shall ensure that the public may search the entries of the registry data bank by the safety issue, if any, being studied in the clinical trial as a primary or secondary outcome. Deadline.

“(iii) OTHER ELEMENTS.—The Director of NIH shall also ensure that the public may search the entries of the registry data bank by such other elements as the Director deems necessary on an ongoing basis.

“(iv) FORMAT.—The Director of the NIH shall ensure that the registry data bank is easily used by the public, and that entries are easily compared.

“(C) DATA SUBMISSION.—The responsible party for an applicable clinical trial, including an applicable drug clinical trial for a serious or life-threatening disease or condition, that is initiated after, or is ongoing on the date that is 90 days after, the date of the enactment of the Food and Drug Administration Amendments Act of 2007, shall submit to the Director of NIH for inclusion in the registry data bank the clinical trial information described in of subparagraph (A)(ii) not later than the later of— Deadlines.

“(i) 90 days after such date of enactment;

“(ii) 21 days after the first patient is enrolled in such clinical trial; or

Deadlines.

“(iii) in the case of a clinical trial that is not for a serious or life-threatening disease or condition and that is ongoing on such date of enactment, 1 year after such date of enactment.

“(D) POSTING OF DATA.—

“(i) APPLICABLE DRUG CLINICAL TRIAL.—The Director of NIH shall ensure that clinical trial information for an applicable drug clinical trial submitted in accordance with this paragraph is posted in the registry data bank not later than 30 days after such submission.

“(ii) APPLICABLE DEVICE CLINICAL TRIAL.—The Director of NIH shall ensure that clinical trial information for an applicable device clinical trial submitted in accordance with this paragraph is posted publicly in the registry data bank—

“(I) not earlier than the date of clearance under section 510(k) of the Federal Food, Drug, and Cosmetic Act, or approval under section 515 or 520(m) of such Act, as applicable, for a device that was not previously cleared or approved, and not later than 30 days after such date; or

“(II) for a device that was previously cleared or approved, not later than 30 days after the clinical trial information under paragraph (3)(C) is required to be posted by the Secretary.

“(3) EXPANSION OF REGISTRY DATA BANK TO INCLUDE RESULTS OF CLINICAL TRIALS.—

“(A) LINKING REGISTRY DATA BANK TO EXISTING RESULTS.—

Deadlines.

“(i) IN GENERAL.—Beginning not later than 90 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, for those clinical trials that form the primary basis of an efficacy claim or are conducted after the drug involved is approved or after the device involved is cleared or approved, the Secretary shall ensure that the registry data bank includes links to results information as described in clause (ii) for such clinical trial—

“(I) not earlier than 30 days after the date of the approval of the drug involved or clearance or approval of the device involved; or

“(II) not later than 30 days after the results information described in clause (ii) becomes publicly available.

“(ii) REQUIRED INFORMATION.—

“(I) FDA INFORMATION.—The Secretary shall ensure that the registry data bank includes links to the following information:

“(aa) If an advisory committee considered at a meeting an applicable clinical trial, any posted Food and Drug Administration summary document regarding such applicable clinical trial.

“(bb) If an applicable drug clinical trial was conducted under section 505A or 505B of the Federal Food, Drug, and Cosmetic Act,

a link to the posted Food and Drug Administration assessment of the results of such trial.

“(cc) Food and Drug Administration public health advisories regarding the drug or device that is the subject of the applicable clinical trial, if any.

“(dd) For an applicable drug clinical trial, the Food and Drug Administration action package for approval document required under section 505(l)(2) of the Federal Food, Drug, and Cosmetic Act.

“(ee) For an applicable device clinical trial, in the case of a premarket application under section 515 of the Federal Food, Drug, and Cosmetic Act, the detailed summary of information respecting the safety and effectiveness of the device required under section 520(h)(1) of such Act, or, in the case of a report under section 510(k) of such Act, the section 510(k) summary of the safety and effectiveness data required under section 807.95(d) of title 21, Code of Federal Regulations (or any successor regulation).

“(II) NIH INFORMATION.—The Secretary shall ensure that the registry data bank includes links to the following information:

“(aa) Medline citations to any publications focused on the results of an applicable clinical trial.

“(bb) The entry for the drug that is the subject of an applicable drug clinical trial in the National Library of Medicine database of structured product labels, if available.

“(iii) RESULTS FOR EXISTING DATA BANK ENTRIES.—The Secretary may include the links described in clause (ii) for data bank entries for clinical trials submitted to the data bank prior to enactment of the Food and Drug Administration Amendments Act of 2007, as available.

“(B) INCLUSION OF RESULTS.—The Secretary, acting through the Director of NIH, shall—

“(i) expand the registry data bank to include the results of applicable clinical trials (referred to in this subsection as the ‘registry and results data bank’);

“(ii) ensure that such results are made publicly available through the Internet;

“(iii) post publicly a glossary for the lay public explaining technical terms related to the results of clinical trials; and

“(iv) in consultation with experts on risk communication, provide information with the information included under subparagraph (C) in the registry and results data bank to help ensure that such information does not mislead the patients or the public.

“(C) BASIC RESULTS.—Not later than 1 year after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary shall include in

Public
information.
Internet.

Deadline.

the registry and results data bank the following elements for drugs that are approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act and devices that are cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act or approved under section 515 or 520(m) of such Act:

“(i) DEMOGRAPHIC AND BASELINE CHARACTERISTICS OF PATIENT SAMPLE.—A table of the demographic and baseline data collected overall and for each arm of the clinical trial to describe the patients who participated in the clinical trial, including the number of patients who dropped out of the clinical trial and the number of patients excluded from the analysis, if any.

“(ii) PRIMARY AND SECONDARY OUTCOMES.—The primary and secondary outcome measures as submitted under paragraph (2)(A)(ii)(I)(ll), and a table of values for each of the primary and secondary outcome measures for each arm of the clinical trial, including the results of scientifically appropriate tests of the statistical significance of such outcome measures.

“(iii) POINT OF CONTACT.—A point of contact for scientific information about the clinical trial results.

“(iv) CERTAIN AGREEMENTS.—Whether there exists an agreement (other than an agreement solely to comply with applicable provisions of law protecting the privacy of participants) between the sponsor or its agent and the principal investigator (unless the sponsor is an employer of the principal investigator) that restricts in any manner the ability of the principal investigator, after the completion date of the trial, to discuss the results of the trial at a scientific meeting or any other public or private forum, or to publish in a scientific or academic journal information concerning the results of the trial.

“(D) EXPANDED REGISTRY AND RESULTS DATA BANK.—

“(i) EXPANSION BY RULEMAKING.—To provide more complete results information and to enhance patient access to and understanding of the results of clinical trials, not later than 3 years after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary shall by regulation expand the registry and results data bank as provided under this subparagraph.

“(ii) CLINICAL TRIALS.—

“(I) APPROVED PRODUCTS.—The regulations under this subparagraph shall require the inclusion of the results information described in clause (iii) for—

“(aa) each applicable drug clinical trial for a drug that is approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act; and

“(bb) each applicable device clinical trial for a device that is cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act or approved under section 515 or 520(m) of such Act.

Deadline.

“(II) UNAPPROVED PRODUCTS.—The regulations under this subparagraph shall establish whether or not the results information described in clause (iii) shall be required for—

“(aa) an applicable drug clinical trial for a drug that is not approved under section 505 of the Federal Food, Drug, and Cosmetic Act and not licensed under section 351 of this Act (whether approval or licensure was sought or not); and

“(bb) an applicable device clinical trial for a device that is not cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act and not approved under section 515 or section 520(m) of such Act (whether clearance or approval was sought or not).

“(iii) REQUIRED ELEMENTS.—The regulations under this subparagraph shall require, in addition to the elements described in subparagraph (C), information within each of the following categories:

“(I) A summary of the clinical trial and its results that is written in non-technical, understandable language for patients, if the Secretary determines that such types of summary can be included without being misleading or promotional.

“(II) A summary of the clinical trial and its results that is technical in nature, if the Secretary determines that such types of summary can be included without being misleading or promotional.

“(III) The full protocol or such information on the protocol for the trial as may be necessary to help to evaluate the results of the trial.

“(IV) Such other categories as the Secretary determines appropriate.

“(iv) RESULTS SUBMISSION.—The results information described in clause (iii) shall be submitted to the Director of NIH for inclusion in the registry and results data bank as provided by subparagraph (E), except that the Secretary shall by regulation determine—

Regulations.

“(I) whether the 1-year period for submission of clinical trial information described in subparagraph (E)(i) should be increased from 1 year to a period not to exceed 18 months;

“(II) whether the clinical trial information described in clause (iii) should be required to be submitted for an applicable clinical trial for which the clinical trial information described in subparagraph (C) is submitted to the registry and results data bank before the effective date of the regulations issued under this subparagraph; and

“(III) in the case when the clinical trial information described in clause (iii) is required to be submitted for the applicable clinical trials described in clause (ii)(II), the date by which such clinical trial information shall be required to be submitted, taking into account—

“(aa) the certification process under subparagraph (E)(iii) when approval, licensure, or clearance is sought; and

“(bb) whether there should be a delay of submission when approval, licensure, or clearance will not be sought.

“(v) ADDITIONAL PROVISIONS.—The regulations under this subparagraph shall also establish—

“(I) a standard format for the submission of clinical trial information under this paragraph to the registry and results data bank;

“(II) additional information on clinical trials and results that is written in nontechnical, understandable language for patients;

“(III) considering the experience under the pilot quality control project described in paragraph (5)(C), procedures for quality control, including using representative samples, with respect to completeness and content of clinical trial information under this subsection, to help ensure that data elements are not false or misleading and are non-promotional;

“(IV) the appropriate timing and requirements for updates of clinical trial information, and whether and, if so, how such updates should be tracked;

“(V) a statement to accompany the entry for an applicable clinical trial when the primary and secondary outcome measures for such clinical trial are submitted under paragraph (4)(A) after the date specified for the submission of such information in paragraph (2)(C); and

“(VI) additions or modifications to the manner of reporting of the data elements established under subparagraph (C).

“(vi) CONSIDERATION OF WORLD HEALTH ORGANIZATION DATA SET.—The Secretary shall consider the status of the consensus data elements set for reporting clinical trial results of the World Health Organization when issuing the regulations under this subparagraph.

“(vii) PUBLIC MEETING.—The Secretary shall hold a public meeting no later than 18 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007 to provide an opportunity for input from interested parties with regard to the regulations to be issued under this subparagraph.

“(E) SUBMISSION OF RESULTS INFORMATION.—

“(i) IN GENERAL.—Except as provided in clauses (iii), (iv), (v), and (vi) the responsible party for an applicable clinical trial that is described in clause (ii) shall submit to the Director of NIH for inclusion in the registry and results data bank the clinical trial information described in subparagraph (C) not later than 1 year, or such other period as may be provided by regulation under subparagraph (D), after the earlier of—

Procedures.

Deadline.

Deadline.

“(I) the estimated completion date of the trial as described in paragraph (2)(A)(ii)(I)(jj)); or

“(II) the actual date of completion.

“(ii) CLINICAL TRIALS DESCRIBED.—An applicable clinical trial described in this clause is an applicable clinical trial subject to—

“(I) paragraph (2)(C); and

“(II)(aa) subparagraph (C); or

“(bb) the regulations issued under subparagraph (D).

“(iii) DELAYED SUBMISSION OF RESULTS WITH CERTIFICATION.—If the responsible party for an applicable clinical trial submits a certification that clause (iv) or (v) applies to such clinical trial, the responsible party shall submit to the Director of NIH for inclusion in the registry and results data bank the clinical trial information described in subparagraphs (C) and (D) as required under the applicable clause.

“(iv) SEEKING INITIAL APPROVAL OF A DRUG OR DEVICE.—With respect to an applicable clinical trial that is completed before the drug is initially approved under section 505 of the Federal Food, Drug, and Cosmetic Act or initially licensed under section 351 of this Act, or the device is initially cleared under section 510(k) or initially approved under section 515 or 520(m) of the Federal Food, Drug, and Cosmetic Act, the responsible party shall submit to the Director of NIH for inclusion in the registry and results data bank the clinical trial information described in subparagraphs (C) and (D) not later than 30 days after the drug or device is approved under such section 505, licensed under such section 351, cleared under such section 510(k), or approved under such section 515 or 520(m), as applicable.

Deadline.

“(v) SEEKING APPROVAL OF A NEW USE FOR THE DRUG OR DEVICE.—

“(I) IN GENERAL.—With respect to an applicable clinical trial where the manufacturer of the drug or device is the sponsor of an applicable clinical trial, and such manufacturer has filed, or will file within 1 year, an application seeking approval under section 505 of the Federal Food, Drug, and Cosmetic Act, licensing under section 351 of this Act, or clearance under section 510(k), or approval under section 515 or 520(m), of the Federal Food, Drug, and Cosmetic Act for the use studied in such clinical trial (which use is not included in the labeling of the approved drug or device), then the responsible party shall submit to the Director of NIH for inclusion in the registry and results data bank the clinical trial information described in subparagraphs (C) and (D) on the earlier of the date that is 30 days after the date—

Deadlines.

“(aa) the new use of the drug or device is approved under such section 505, licensed under such section 351, cleared under such

section 510(k), or approved under such section 515 or 520(m);

“(bb) the Secretary issues a letter, such as a complete response letter, not approving the submission or not clearing the submission, a not approvable letter, or a not substantially equivalent letter for the new use of the drug or device under such section 505, 351, 510(k), 515, or 520(m); or

“(cc) except as provided in subclause (III), the application or premarket notification under such section 505, 351, 510(k), 515, or 520(m) is withdrawn without resubmission for no less than 210 days.

“(II) REQUIREMENT THAT EACH CLINICAL TRIAL IN APPLICATION BE TREATED THE SAME.—If a manufacturer makes a certification under clause (iii) that this clause applies with respect to a clinical trial, the manufacturer shall make such a certification with respect to each applicable clinical trial that is required to be submitted in an application or report for licensure, approval, or clearance (under section 351 of this Act or section 505, 510(k), 515, or 520(m) of the Federal Food, Drug, and Cosmetic Act, as applicable) of the use studied in the clinical trial.

“(III) TWO-YEAR LIMITATION.—The responsible party shall submit to the Director of NIH for inclusion in the registry and results data bank the clinical trial information subject to subclause (I) on the date that is 2 years after the date a certification under clause (iii) was made to the Director of NIH, if an action referred to in item (aa), (bb), or (cc) of subclause (I) has not occurred by such date.

“(vi) EXTENSIONS.—The Director of NIH may provide an extension of the deadline for submission of clinical trial information under clause (i) if the responsible party for the trial submits to the Director a written request that demonstrates good cause for the extension and provides an estimate of the date on which the information will be submitted. The Director of NIH may grant more than one such extension for a clinical trial.

Deadline.

“(F) NOTICE TO DIRECTOR OF NIH.—The Commissioner of Food and Drugs shall notify the Director of NIH when there is an action described in subparagraph (E)(iv) or item (aa), (bb), or (cc) of subparagraph (E)(v)(I) with respect to an application or a report that includes a certification required under paragraph (5)(B) of such action not later than 30 days after such action.

Public
information.
Deadline.

“(G) POSTING OF DATA.—The Director of NIH shall ensure that the clinical trial information described in subparagraphs (C) and (D) for an applicable clinical trial submitted in accordance with this paragraph is posted publicly in the registry and results database not later than 30 days after such submission.

“(H) WAIVERS REGARDING CERTAIN CLINICAL TRIAL RESULTS.—The Secretary may waive any applicable requirements of this paragraph for an applicable clinical trial, upon a written request from the responsible party, if the Secretary determines that extraordinary circumstances justify the waiver and that providing the waiver is consistent with the protection of public health, or in the interest of national security. Not later than 30 days after any part of a waiver is granted, the Secretary shall notify, in writing, the appropriate committees of Congress of the waiver and provide an explanation for why the waiver was granted.

Deadline.
Notification.

“(I) ADVERSE EVENTS.—

“(i) REGULATIONS.—Not later than 18 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary shall by regulation determine the best method for including in the registry and results data bank appropriate results information on serious adverse and frequent adverse events for drugs described in subparagraph (C) in a manner and form that is useful and not misleading to patients, physicians, and scientists.

Deadline.

“(ii) DEFAULT.—If the Secretary fails to issue the regulation required by clause (i) by the date that is 24 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, clause (iii) shall take effect.

Effective date.

“(iii) ADDITIONAL ELEMENTS.—Upon the application of clause (ii), the Secretary shall include in the registry and results data bank for drugs described in subparagraph (C), in addition to the clinical trial information described in subparagraph (C), the following elements:

“(I) SERIOUS ADVERSE EVENTS.—A table of anticipated and unanticipated serious adverse events grouped by organ system, with number and frequency of such event in each arm of the clinical trial.

“(II) FREQUENT ADVERSE EVENTS.—A table of anticipated and unanticipated adverse events that are not included in the table described in subclause (I) that exceed a frequency of 5 percent within any arm of the clinical trial, grouped by organ system, with number and frequency of such event in each arm of the clinical trial.

“(iv) POSTING OF OTHER INFORMATION.—In carrying out clause (iii), the Secretary shall, in consultation with experts in risk communication, post with the tables information to enhance patient understanding and to ensure such tables do not mislead patients or the lay public.

“(v) RELATION TO SUBPARAGRAPH (C).—Clinical trial information included in the registry and results data bank pursuant to this subparagraph is deemed to be clinical trial information included in such data bank pursuant to subparagraph (C).

“(4) ADDITIONAL SUBMISSIONS OF CLINICAL TRIAL INFORMATION.—

“(A) VOLUNTARY SUBMISSIONS.—A responsible party for a clinical trial that is not an applicable clinical trial, or that is an applicable clinical trial that is not subject to paragraph (2)(C), may submit complete clinical trial information described in paragraph (2) or paragraph (3) provided the responsible party submits clinical trial information for each applicable clinical trial that is required to be submitted under section 351 or under section 505, 510(k), 515, or 520(m) of the Federal Food, Drug, and Cosmetic Act in an application or report for licensure, approval, or clearance of the drug or device for the use studied in the clinical trial.

“(B) REQUIRED SUBMISSIONS.—

“(i) IN GENERAL.—Notwithstanding paragraphs (2) and (3) and subparagraph (A), in any case in which the Secretary determines for a specific clinical trial described in clause (ii) that posting in the registry and results data bank of clinical trial information for such clinical trial is necessary to protect the public health—

“(I) the Secretary may require by notification that such information be submitted to the Secretary in accordance with paragraphs (2) and (3) except with regard to timing of submission;

“(II) unless the responsible party submits a certification under paragraph (3)(E)(iii), such information shall be submitted not later than 30 days after the date specified by the Secretary in the notification; and

“(III) failure to comply with the requirements under subclauses (I) and (II) shall be treated as a violation of the corresponding requirement of such paragraphs.

“(ii) CLINICAL TRIALS DESCRIBED.—A clinical trial described in this clause is—

“(I) an applicable clinical trial for a drug that is approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act or for a device that is cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act or approved under section 515 or section 520(m) of such Act, whose completion date is on or after the date 10 years before the date of the enactment of the Food and Drug Administration Amendments Act of 2007; or

“(II) an applicable clinical trial that is described by both by paragraph (2)(C) and paragraph (3)(D)(ii)(II).

“(C) UPDATES TO CLINICAL TRIAL DATA BANK.—

“(i) SUBMISSION OF UPDATES.—The responsible party for an applicable clinical trial shall submit to the Director of NIH for inclusion in the registry and results data bank updates to reflect changes to the clinical trial information submitted under paragraph (2). Such updates—

“(I) shall be provided not less than once every 12 months, unless there were no changes to the

Deadline.

Deadlines.

clinical trial information during the preceding 12-month period;

“(II) shall include identification of the dates of any such changes;

“(III) not later than 30 days after the recruitment status of such clinical trial changes, shall include an update of the recruitment status; and

“(IV) not later than 30 days after the completion date of the clinical trial, shall include notification to the Director that such clinical trial is complete.

“(ii) PUBLIC AVAILABILITY OF UPDATES.—The Director of NIH shall make updates submitted under clause (i) publicly available in the registry data bank. Except with regard to overall recruitment status, individual site status, location, and contact information, the Director of NIH shall ensure that updates to elements required under subclauses (I) to (V) of paragraph (2)(A)(ii) do not result in the removal of any information from the original submissions or any preceding updates, and information in such databases is presented in a manner that enables users to readily access each original element submission and to track the changes made by the updates. The Director of NIH shall provide a link from the table of primary and secondary outcomes required under paragraph (3)(C)(ii) to the tracked history required under this clause of the primary and secondary outcome measures submitted under paragraph (2)(A)(ii)(I)(II).

“(5) COORDINATION AND COMPLIANCE.—

“(A) CLINICAL TRIALS SUPPORTED BY GRANTS FROM FEDERAL AGENCIES.—

“(i) GRANTS FROM CERTAIN FEDERAL AGENCIES.—If an applicable clinical trial is funded in whole or in part by a grant from any agency of the Department of Health and Human Services, including the Food and Drug Administration, the National Institutes of Health, or the Agency for Healthcare Research and Quality, any grant or progress report forms required under such grant shall include a certification that the responsible party has made all required submissions to the Director of NIH under paragraphs (2) and (3).

Certification.

“(ii) VERIFICATION BY FEDERAL AGENCIES.—The heads of the agencies referred to in clause (i), as applicable, shall verify that the clinical trial information for each applicable clinical trial for which a grantee is the responsible party has been submitted under paragraphs (2) and (3) before releasing any remaining funding for a grant or funding for a future grant to such grantee.

“(iii) NOTICE AND OPPORTUNITY TO REMEDY.—If the head of an agency referred to in clause (i), as applicable, verifies that a grantee has not submitted clinical trial information as described in clause (ii), such agency head shall provide notice to such grantee of such non-compliance and allow such grantee 30 days

Deadline.

to correct such non-compliance and submit the required clinical trial information.

“(iv) CONSULTATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall—

“(I) consult with other agencies that conduct research involving human subjects in accordance with any section of part 46 of title 45, Code of Federal Regulations (or any successor regulations), to determine if any such research is an applicable clinical trial; and

Procedures.

“(II) develop with such agencies procedures comparable to those described in clauses (i), (ii), and (iii) to ensure that clinical trial information for such applicable clinical trial is submitted under paragraphs (2) and (3).

“(B) CERTIFICATION TO ACCOMPANY DRUG, BIOLOGICAL PRODUCT, AND DEVICE SUBMISSIONS.—At the time of submission of an application under section 505 of the Federal Food, Drug, and Cosmetic Act, section 515 of such Act, section 520(m) of such Act, or section 351 of this Act, or submission of a report under section 510(k) of such Act, such application or submission shall be accompanied by a certification that all applicable requirements of this subsection have been met. Where available, such certification shall include the appropriate National Clinical Trial control numbers.

“(C) QUALITY CONTROL.—

“(i) PILOT QUALITY CONTROL PROJECT.—Until the effective date of the regulations issued under paragraph (3)(D), the Secretary, acting through the Director of NIH and the Commissioner of Food and Drugs, shall conduct a pilot project to determine the optimal method of verification to help to ensure that the clinical trial information submitted under paragraph (3)(C) is non-promotional and is not false or misleading in any particular under subparagraph (D). The Secretary shall use the publicly available information described in paragraph (3)(A) and any other information available to the Secretary about applicable clinical trials to verify the accuracy of the clinical trial information submitted under paragraph (3)(C).

Deadline.

“(ii) NOTICE OF COMPLIANCE.—If the Secretary determines that any clinical trial information was not submitted as required under this subsection, or was submitted but is false or misleading in any particular, the Secretary shall notify the responsible party and give such party an opportunity to remedy such non-compliance by submitting the required revised clinical trial information not later than 30 days after such notification.

“(D) TRUTHFUL CLINICAL TRIAL INFORMATION.—

“(i) IN GENERAL.—The clinical trial information submitted by a responsible party under this subsection shall not be false or misleading in any particular.

“(ii) EFFECT.—Clause (i) shall not have the effect of—

“(I) requiring clinical trial information with respect to an applicable clinical trial to include information from any source other than such clinical trial involved; or

“(II) requiring clinical trial information described in paragraph (3)(D) to be submitted for purposes of paragraph (3)(C).

“(E) PUBLIC NOTICES.—

“(i) NOTICE OF VIOLATIONS.—If the responsible party for an applicable clinical trial fails to submit clinical trial information for such clinical trial as required under paragraphs (2) or (3), the Director of NIH shall include in the registry and results data bank entry for such clinical trial a notice—

“(I) that the responsible party is not in compliance with this Act by—

“(aa) failing to submit required clinical trial information; or

“(bb) submitting false or misleading clinical trial information;

“(II) of the penalties imposed for the violation, if any; and

“(III) whether the responsible party has corrected the clinical trial information in the registry and results data bank.

“(ii) NOTICE OF FAILURE TO SUBMIT PRIMARY AND SECONDARY OUTCOMES.—If the responsible party for an applicable clinical trial fails to submit the primary and secondary outcomes as required under section 2(A)(ii)(I)(II), the Director of NIH shall include in the registry and results data bank entry for such clinical trial a notice that the responsible party is not in compliance by failing to register the primary and secondary outcomes in accordance with this act, and that the primary and secondary outcomes were not publicly disclosed in the database before conducting the clinical trial.

“(iii) FAILURE TO SUBMIT STATEMENT.—The notice under clause (i) for a violation described in clause (i)(I)(aa) shall include the following statement: ‘The entry for this clinical trial was not complete at the time of submission, as required by law. This may or may not have any bearing on the accuracy of the information in the entry.’.

“(iv) SUBMISSION OF FALSE INFORMATION STATEMENT.—The notice under clause (i) for a violation described in clause (i)(I)(bb) shall include the following statement: ‘The entry for this clinical trial was found to be false or misleading and therefore not in compliance with the law.’.

“(v) NON-SUBMISSION OF STATEMENT.—The notice under clause (ii) for a violation described in clause (ii) shall include the following statement: ‘The entry for this clinical trial did not contain information on the primary and secondary outcomes at the time of submission, as required by law. This may or may not

have any bearing on the accuracy of the information in the entry.’.

“(vi) COMPLIANCE SEARCHES.—The Director of NIH shall provide that the public may easily search the registry and results data bank for entries that include notices required under this subparagraph.

“(6) LIMITATION ON DISCLOSURE OF CLINICAL TRIAL INFORMATION.—

“(A) IN GENERAL.—Nothing in this subsection (or under section 552 of title 5, United States Code) shall require the Secretary to publicly disclose, by any means other than the registry and results data bank, information described in subparagraph (B).

“(B) INFORMATION DESCRIBED.—Information described in this subparagraph is—

“(i) information submitted to the Director of NIH under this subsection, or information of the same general nature as (or integrally associated with) the information so submitted; and

“(ii) information not otherwise publicly available, including because it is protected from disclosure under section 552 of title 5, United States Code.

“(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$10,000,000 for each fiscal year.”.

(b) CONFORMING AMENDMENTS.—

(1) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

“(jj)(1) The failure to submit the certification required by section 402(j)(5)(B) of the Public Health Service Act, or knowingly submitting a false certification under such section.

“(2) The failure to submit clinical trial information required under subsection (j) of section 402 of the Public Health Service Act.

“(3) The submission of clinical trial information under subsection (j) of section 402 of the Public Health Service Act that is false or misleading in any particular under paragraph (5)(D) of such subsection (j).”.

(2) CIVIL MONEY PENALTIES.—Subsection (f) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as redesignated by section 226, is amended—

(A) by redesignating paragraphs (3), (4), and (5) as paragraphs (5), (6), and (7), respectively;

(B) by inserting after paragraph (2) the following:

Penalties. “(3)(A) Any person who violates section 301(jj) shall be subject to a civil monetary penalty of not more than \$10,000 for all violations adjudicated in a single proceeding.

Deadline. “(B) If a violation of section 301(jj) is not corrected within the 30-day period following notification under section 402(j)(5)(C)(ii), the person shall, in addition to any penalty under subparagraph (A), be subject to a civil monetary penalty of not more than \$10,000 for each day of the violation after such period until the violation is corrected.”;

(C) in paragraph (2)(C), by striking “paragraph (3)(A)” and inserting “paragraph (5)(A)”;

(D) in paragraph (5), as so redesignated, by striking “paragraph (1) or (2)” each place it appears and inserting “paragraph (1), (2), or (3)”;

(E) in paragraph (6), as so redesignated, by striking “paragraph (3)(A)” and inserting “paragraph (5)(A)”;

(F) in paragraph (7), as so redesignated, by striking “paragraph (4)” each place it appears and inserting “paragraph (6)”.

(3) NEW DRUGS AND DEVICES.—

(A) INVESTIGATIONAL NEW DRUGS.—Section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) is amended in paragraph (4), by adding at the end the following: “The Secretary shall update such regulations to require inclusion in the informed consent documents and process a statement that clinical trial information for such clinical investigation has been or will be submitted for inclusion in the registry data bank pursuant to subsection (j) of section 402 of the Public Health Service Act.”.

Certification.

(B) NEW DRUG APPLICATIONS.—Section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) is amended by adding at the end the following:

Regulations.

“(6) An application submitted under this subsection shall be accompanied by the certification required under section 402(j)(5)(B) of the Public Health Service Act. Such certification shall not be considered an element of such application.”.

(C) DEVICE REPORTS UNDER SECTION 510(k).—Section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) is amended by adding at the end the following:

“A notification submitted under this subsection that contains clinical trial data for an applicable device clinical trial (as defined in section 402(j)(1) of the Public Health Service Act) shall be accompanied by the certification required under section 402(j)(5)(B) of such Act. Such certification shall not be considered an element of such notification.”.

(D) DEVICE PREMARKET APPROVAL APPLICATION.—Section 515(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)(1)) is amended—

(i) in subparagraph (F), by striking “; and” and inserting a semicolon;

(ii) by redesignating subparagraph (G) as subparagraph (H); and

(iii) by inserting after subparagraph (F) the following:

“(G) the certification required under section 402(j)(5)(B) of the Public Health Service Act (which shall not be considered an element of such application); and”.

(E) HUMANITARIAN DEVICE EXEMPTION.—Section 520(m)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)) is amended in the first sentence in the matter following subparagraph (C), by inserting at the end before the period “and such application shall include the certification required under section 402(j)(5)(B) of the Public Health Service Act (which shall not be considered an element of such application)”.

21 USC 360j.

(c) SURVEILLANCES.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human

Deadline.

Guidance.

42 USC 282 note.

Services shall issue guidance on how the requirements of section 402(j) of the Public Health Service Act, as added by this section, apply to a pediatric postmarket surveillance described in paragraph (1)(A)(ii)(II) of such section 402(j) that is not a clinical trial.

42 USC 282 note.

(d) PREEMPTION.—

(1) IN GENERAL.—Upon the expansion of the registry and results data bank under section 402(j)(3)(D) of the Public Health Service Act, as added by this section, no State or political subdivision of a State may establish or continue in effect any requirement for the registration of clinical trials or for the inclusion of information relating to the results of clinical trials in a database.

(2) RULE OF CONSTRUCTION.—The fact of submission of clinical trial information, if submitted in compliance with subsection (j) of section 402 of the Public Health Service Act (as amended by this section), that relates to a use of a drug or device not included in the official labeling of the approved drug or device shall not be construed by the Secretary of Health and Human Services or in any administrative or judicial proceeding, as evidence of a new intended use of the drug or device that is different from the intended use of the drug or device set forth in the official labeling of the drug or device. The availability of clinical trial information through the registry and results data bank under such subsection (j), if submitted in compliance with such subsection, shall not be considered as labeling, adulteration, or misbranding of the drug or device under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

TITLE IX—ENHANCED AUTHORITIES REGARDING POSTMARKET SAFETY OF DRUGS

Subtitle A—Postmarket Studies and Surveillance

SEC. 901. POSTMARKET STUDIES AND CLINICAL TRIALS REGARDING HUMAN DRUGS; RISK EVALUATION AND MITIGATION STRATEGIES.

(a) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following subsections:

“(o) POSTMARKET STUDIES AND CLINICAL TRIALS; LABELING.—

“(1) IN GENERAL.—A responsible person may not introduce or deliver for introduction into interstate commerce the new drug involved if the person is in violation of a requirement established under paragraph (3) or (4) with respect to the drug.

“(2) DEFINITIONS.—For purposes of this subsection:

“(A) RESPONSIBLE PERSON.—The term ‘responsible person’ means a person who—

“(i) has submitted to the Secretary a covered application that is pending; or

“(ii) is the holder of an approved covered application.

“(B) COVERED APPLICATION.—The term ‘covered application’ means—

“(i) an application under subsection (b) for a drug that is subject to section 503(b); and

“(ii) an application under section 351 of the Public Health Service Act.

“(C) NEW SAFETY INFORMATION; SERIOUS RISK.—The terms ‘new safety information’, ‘serious risk’, and ‘signal of a serious risk’ have the meanings given such terms in section 505–1(b).

“(3) STUDIES AND CLINICAL TRIALS.—

“(A) IN GENERAL.—For any or all of the purposes specified in subparagraph (B), the Secretary may, subject to subparagraph (D), require a responsible person for a drug to conduct a postapproval study or studies of the drug, or a postapproval clinical trial or trials of the drug, on the basis of scientific data deemed appropriate by the Secretary, including information regarding chemically-related or pharmacologically-related drugs.

“(B) PURPOSES OF STUDY OR CLINICAL TRIAL.—The purposes referred to in this subparagraph with respect to a postapproval study or postapproval clinical trial are the following:

“(i) To assess a known serious risk related to the use of the drug involved.

“(ii) To assess signals of serious risk related to the use of the drug.

“(iii) To identify an unexpected serious risk when available data indicates the potential for a serious risk.

“(C) ESTABLISHMENT OF REQUIREMENT AFTER APPROVAL OF COVERED APPLICATION.—The Secretary may require a postapproval study or studies or postapproval clinical trial or trials for a drug for which an approved covered application is in effect as of the date on which the Secretary seeks to establish such requirement only if the Secretary becomes aware of new safety information.

“(D) DETERMINATION BY SECRETARY.—

“(i) POSTAPPROVAL STUDIES.—The Secretary may not require the responsible person to conduct a study under this paragraph, unless the Secretary makes a determination that the reports under subsection (k)(1) and the active postmarket risk identification and analysis system as available under subsection (k)(3) will not be sufficient to meet the purposes set forth in subparagraph (B).

“(ii) POSTAPPROVAL CLINICAL TRIALS.—The Secretary may not require the responsible person to conduct a clinical trial under this paragraph, unless the Secretary makes a determination that a postapproval study or studies will not be sufficient to meet the purposes set forth in subparagraph (B).

“(E) NOTIFICATION; TIMETABLES; PERIODIC REPORTS.—

“(i) NOTIFICATION.—The Secretary shall notify the responsible person regarding a requirement under this

paragraph to conduct a postapproval study or clinical trial by the target dates for communication of feedback from the review team to the responsible person regarding proposed labeling and postmarketing study commitments as set forth in the letters described in section 101(c) of the Food and Drug Administration Amendments Act of 2007.

“(ii) TIMETABLE; PERIODIC REPORTS.—For each study or clinical trial required to be conducted under this paragraph, the Secretary shall require that the responsible person submit a timetable for completion of the study or clinical trial. With respect to each study required to be conducted under this paragraph or otherwise undertaken by the responsible person to investigate a safety issue, the Secretary shall require the responsible person to periodically report to the Secretary on the status of such study including whether any difficulties in completing the study have been encountered. With respect to each clinical trial required to be conducted under this paragraph or otherwise undertaken by the responsible person to investigate a safety issue, the Secretary shall require the responsible person to periodically report to the Secretary on the status of such clinical trial including whether enrollment has begun, the number of participants enrolled, the expected completion date, whether any difficulties completing the clinical trial have been encountered, and registration information with respect to the requirements under section 402(j) of the Public Health Service Act. If the responsible person fails to comply with such timetable or violates any other requirement of this subparagraph, the responsible person shall be considered in violation of this subsection, unless the responsible person demonstrates good cause for such noncompliance or such other violation. The Secretary shall determine what constitutes good cause under the preceding sentence.

“(F) DISPUTE RESOLUTION.—The responsible person may appeal a requirement to conduct a study or clinical trial under this paragraph using dispute resolution procedures established by the Secretary in regulation and guidance.

Deadlines.

“(4) SAFETY LABELING CHANGES REQUESTED BY SECRETARY.—

Notification.

“(A) NEW SAFETY INFORMATION.—If the Secretary becomes aware of new safety information that the Secretary believes should be included in the labeling of the drug, the Secretary shall promptly notify the responsible person or, if the same drug approved under section 505(b) is not currently marketed, the holder of an approved application under 505(j).

“(B) RESPONSE TO NOTIFICATION.—Following notification pursuant to subparagraph (A), the responsible person or the holder of the approved application under section 505(j) shall within 30 days—

“(i) submit a supplement proposing changes to the approved labeling to reflect the new safety information,

including changes to boxed warnings, contraindications, warnings, precautions, or adverse reactions; or

“(ii) notify the Secretary that the responsible person or the holder of the approved application under section 505(j) does not believe a labeling change is warranted and submit a statement detailing the reasons why such a change is not warranted.

Notification.

“(C) REVIEW.—Upon receipt of such supplement, the Secretary shall promptly review and act upon such supplement. If the Secretary disagrees with the proposed changes in the supplement or with the statement setting forth the reasons why no labeling change is necessary, the Secretary shall initiate discussions to reach agreement on whether the labeling for the drug should be modified to reflect the new safety information, and if so, the contents of such labeling changes.

“(D) DISCUSSIONS.—Such discussions shall not extend for more than 30 days after the response to the notification under subparagraph (B), unless the Secretary determines an extension of such discussion period is warranted.

“(E) ORDER.—Within 15 days of the conclusion of the discussions under subparagraph (D), the Secretary may issue an order directing the responsible person or the holder of the approved application under section 505(j) to make such a labeling change as the Secretary deems appropriate to address the new safety information. Within 15 days of such an order, the responsible person or the holder of the approved application under section 505(j) shall submit a supplement containing the labeling change.

“(F) DISPUTE RESOLUTION.—Within 5 days of receiving an order under subparagraph (E), the responsible person or the holder of the approved application under section 505(j) may appeal using dispute resolution procedures established by the Secretary in regulation and guidance.

“(G) VIOLATION.—If the responsible person or the holder of the approved application under section 505(j) has not submitted a supplement within 15 days of the date of such order under subparagraph (E), and there is no appeal or dispute resolution proceeding pending, the responsible person or holder shall be considered to be in violation of this subsection. If at the conclusion of any dispute resolution procedures the Secretary determines that a supplement must be submitted and such a supplement is not submitted within 15 days of the date of that determination, the responsible person or holder shall be in violation of this subsection.

“(H) PUBLIC HEALTH THREAT.—Notwithstanding subparagraphs (A) through (F), if the Secretary concludes that such a labeling change is necessary to protect the public health, the Secretary may accelerate the timelines in such subparagraphs.

“(I) RULE OF CONSTRUCTION.—This paragraph shall not be construed to affect the responsibility of the responsible person or the holder of the approved application under section 505(j) to maintain its label in accordance with existing requirements, including subpart B of part 201

and sections 314.70 and 601.12 of title 21, Code of Federal Regulations (or any successor regulations).

“(5) NON-DELEGATION.—Determinations by the Secretary under this subsection for a drug shall be made by individuals at or above the level of individuals empowered to approve a drug (such as division directors within the Center for Drug Evaluation and Research).

“(p) RISK EVALUATION AND MITIGATION STRATEGY.—

“(1) IN GENERAL.—A person may not introduce or deliver for introduction into interstate commerce a new drug if—

“(A)(i) the application for such drug is approved under subsection (b) or (j) and is subject to section 503(b); or

“(ii) the application for such drug is approved under section 351 of the Public Health Service Act; and

“(B) a risk evaluation and mitigation strategy is required under section 505–1 with respect to the drug and the person fails to maintain compliance with the requirements of the approved strategy or with other requirements under section 505–1, including requirements regarding assessments of approved strategies.

“(2) CERTAIN POSTMARKET STUDIES.—The failure to conduct a postmarket study under section 506, subpart H of part 314, or subpart E of part 601 of title 21, Code of Federal Regulations (or any successor regulations), is deemed to be a violation of paragraph (1).”.

(b) REQUIREMENTS REGARDING STRATEGIES.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505 the following section:

21 USC 355–1.

“SEC. 505–1. RISK EVALUATION AND MITIGATION STRATEGIES.

“(a) SUBMISSION OF PROPOSED STRATEGY.—

“(1) INITIAL APPROVAL.—If the Secretary, in consultation with the office responsible for reviewing the drug and the office responsible for postapproval safety with respect to the drug, determines that a risk evaluation and mitigation strategy is necessary to ensure that the benefits of the drug outweigh the risks of the drug, and informs the person who submits such application of such determination, then such person shall submit to the Secretary as part of such application a proposed risk evaluation and mitigation strategy. In making such a determination, the Secretary shall consider the following factors:

“(A) The estimated size of the population likely to use the drug involved.

“(B) The seriousness of the disease or condition that is to be treated with the drug.

“(C) The expected benefit of the drug with respect to such disease or condition.

“(D) The expected or actual duration of treatment with the drug.

“(E) The seriousness of any known or potential adverse events that may be related to the drug and the background incidence of such events in the population likely to use the drug.

“(F) Whether the drug is a new molecular entity.

“(2) POSTAPPROVAL REQUIREMENT.—

“(A) IN GENERAL.—If the Secretary has approved a covered application (including an application approved before the effective date of this section) and did not when approving the application require a risk evaluation and mitigation strategy under paragraph (1), the Secretary, in consultation with the offices described in paragraph (1), may subsequently require such a strategy for the drug involved (including when acting on a supplemental application seeking approval of a new indication for use of the drug) if the Secretary becomes aware of new safety information and makes a determination that such a strategy is necessary to ensure that the benefits of the drug outweigh the risks of the drug.

“(B) SUBMISSION OF PROPOSED STRATEGY.—Not later than 120 days after the Secretary notifies the holder of an approved covered application that the Secretary has made a determination under subparagraph (A) with respect to the drug involved, or within such other reasonable time as the Secretary requires to protect the public health, the holder shall submit to the Secretary a proposed risk evaluation and mitigation strategy.

Deadline.
Notification.

“(3) ABBREVIATED NEW DRUG APPLICATIONS.—The applicability of this section to an application under section 505(j) is subject to subsection (i).

Applicability.

“(4) NON-DELEGATION.—Determinations by the Secretary under this subsection for a drug shall be made by individuals at or above the level of individuals empowered to approve a drug (such as division directors within the Center for Drug Evaluation and Research).

“(b) DEFINITIONS.—For purposes of this section:

“(1) ADVERSE DRUG EXPERIENCE.—The term ‘adverse drug experience’ means any adverse event associated with the use of a drug in humans, whether or not considered drug related, including—

“(A) an adverse event occurring in the course of the use of the drug in professional practice;

“(B) an adverse event occurring from an overdose of the drug, whether accidental or intentional;

“(C) an adverse event occurring from abuse of the drug;

“(D) an adverse event occurring from withdrawal of the drug; and

“(E) any failure of expected pharmacological action of the drug.

“(2) COVERED APPLICATION.—The term ‘covered application’ means an application referred to in section 505(p)(1)(A).

“(3) NEW SAFETY INFORMATION.—The term ‘new safety information’, with respect to a drug, means information derived from a clinical trial, an adverse event report, a postapproval study (including a study under section 505(o)(3)), or peer-reviewed biomedical literature; data derived from the postmarket risk identification and analysis system under section 505(k); or other scientific data deemed appropriate by the Secretary about—

“(A) a serious risk or an unexpected serious risk associated with use of the drug that the Secretary has become aware of (that may be based on a new analysis of existing

information) since the drug was approved, since the risk evaluation and mitigation strategy was required, or since the last assessment of the approved risk evaluation and mitigation strategy for the drug; or

“(B) the effectiveness of the approved risk evaluation and mitigation strategy for the drug obtained since the last assessment of such strategy.

“(4) SERIOUS ADVERSE DRUG EXPERIENCE.—The term ‘serious adverse drug experience’ is an adverse drug experience that—

“(A) results in—

“(i) death;

“(ii) an adverse drug experience that places the patient at immediate risk of death from the adverse drug experience as it occurred (not including an adverse drug experience that might have caused death had it occurred in a more severe form);

“(iii) inpatient hospitalization or prolongation of existing hospitalization;

“(iv) a persistent or significant incapacity or substantial disruption of the ability to conduct normal life functions; or

“(v) a congenital anomaly or birth defect; or

“(B) based on appropriate medical judgment, may jeopardize the patient and may require a medical or surgical intervention to prevent an outcome described under subparagraph (A).

“(5) SERIOUS RISK.—The term ‘serious risk’ means a risk of a serious adverse drug experience.

“(6) SIGNAL OF A SERIOUS RISK.—The term ‘signal of a serious risk’ means information related to a serious adverse drug experience associated with use of a drug and derived from—

“(A) a clinical trial;

“(B) adverse event reports;

“(C) a postapproval study, including a study under section 505(o)(3);

“(D) peer-reviewed biomedical literature;

“(E) data derived from the postmarket risk identification and analysis system under section 505(k)(4); or

“(F) other scientific data deemed appropriate by the Secretary.

“(7) RESPONSIBLE PERSON.—The term ‘responsible person’ means the person submitting a covered application or the holder of the approved such application.

“(8) UNEXPECTED SERIOUS RISK.—The term ‘unexpected serious risk’ means a serious adverse drug experience that is not listed in the labeling of a drug, or that may be symptomatically and pathophysiologically related to an adverse drug experience identified in the labeling, but differs from such adverse drug experience because of greater severity, specificity, or prevalence.

“(c) CONTENTS.—A proposed risk evaluation and mitigation strategy under subsection (a) shall—

“(1) include the timetable required under subsection (d); and

“(2) to the extent required by the Secretary, in consultation with the office responsible for reviewing the drug and the office responsible for postapproval safety with respect to the drug, include additional elements described in subsections (e) and (f).

“(d) MINIMAL STRATEGY.—For purposes of subsection (c)(1), the risk evaluation and mitigation strategy for a drug shall require a timetable for submission of assessments of the strategy that—

“(1) includes an assessment, by the date that is 18 months after the strategy is initially approved;

“(2) includes an assessment by the date that is 3 years after the strategy is initially approved;

“(3) includes an assessment in the seventh year after the strategy is so approved; and

“(4) subject to paragraphs (1), (2), and (3)—

“(A) is at a frequency specified in the strategy;

“(B) is increased or reduced in frequency as necessary as provided for in subsection (g)(4)(A); and

“(C) is eliminated after the 3-year period described in paragraph (1) if the Secretary determines that serious risks of the drug have been adequately identified and assessed and are being adequately managed.

“(e) ADDITIONAL POTENTIAL ELEMENTS OF STRATEGY.—

“(1) IN GENERAL.—The Secretary, in consultation with the offices described in subsection (c)(2), may under such subsection require that the risk evaluation and mitigation strategy for a drug include 1 or more of the additional elements described in this subsection if the Secretary makes the determination required with respect to each element involved.

“(2) MEDICATION GUIDE; PATIENT PACKAGE INSERT.—The risk evaluation and mitigation strategy for a drug may require that, as applicable, the responsible person develop for distribution to each patient when the drug is dispensed—

“(A) a Medication Guide, as provided for under part 208 of title 21, Code of Federal Regulations (or any successor regulations); and

“(B) a patient package insert, if the Secretary determines that such insert may help mitigate a serious risk of the drug.

“(3) COMMUNICATION PLAN.—The risk evaluation and mitigation strategy for a drug may require that the responsible person conduct a communication plan to health care providers, if, with respect to such drug, the Secretary determines that such plan may support implementation of an element of the strategy (including under this paragraph). Such plan may include—

“(A) sending letters to health care providers;

“(B) disseminating information about the elements of the risk evaluation and mitigation strategy to encourage implementation by health care providers of components that apply to such health care providers, or to explain certain safety protocols (such as medical monitoring by periodic laboratory tests); or

“(C) disseminating information to health care providers through professional societies about any serious risks of the drug and any protocol to assure safe use.

“(f) PROVIDING SAFE ACCESS FOR PATIENTS TO DRUGS WITH KNOWN SERIOUS RISKS THAT WOULD OTHERWISE BE UNAVAILABLE.—

“(1) ALLOWING SAFE ACCESS TO DRUGS WITH KNOWN SERIOUS RISKS.—The Secretary, in consultation with the offices described in subsection (c)(2), may require that the risk evaluation and mitigation strategy for a drug include such elements as are necessary to assure safe use of the drug, because of its inherent toxicity or potential harmfulness, if the Secretary determines that—

“(A) the drug, which has been shown to be effective, but is associated with a serious adverse drug experience, can be approved only if, or would be withdrawn unless, such elements are required as part of such strategy to mitigate a specific serious risk listed in the labeling of the drug; and

“(B) for a drug initially approved without elements to assure safe use, other elements under subsections (c), (d), and (e) are not sufficient to mitigate such serious risk.

“(2) ASSURING ACCESS AND MINIMIZING BURDEN.—Such elements to assure safe use under paragraph (1) shall—

“(A) be commensurate with the specific serious risk listed in the labeling of the drug;

“(B) within 30 days of the date on which any element under paragraph (1) is imposed, be posted publicly by the Secretary with an explanation of how such elements will mitigate the observed safety risk;

“(C) considering such risk, not be unduly burdensome on patient access to the drug, considering in particular—

“(i) patients with serious or life-threatening diseases or conditions; and

“(ii) patients who have difficulty accessing health care (such as patients in rural or medically underserved areas); and

“(D) to the extent practicable, so as to minimize the burden on the health care delivery system—

“(i) conform with elements to assure safe use for other drugs with similar, serious risks; and

“(ii) be designed to be compatible with established distribution, procurement, and dispensing systems for drugs.

“(3) ELEMENTS TO ASSURE SAFE USE.—The elements to assure safe use under paragraph (1) shall include 1 or more goals to mitigate a specific serious risk listed in the labeling of the drug and, to mitigate such risk, may require that—

“(A) health care providers who prescribe the drug have particular training or experience, or are specially certified (the opportunity to obtain such training or certification with respect to the drug shall be available to any willing provider from a frontier area in a widely available training or certification method (including an on-line course or via mail) as approved by the Secretary at reasonable cost to the provider);

Deadline.

“(B) pharmacies, practitioners, or health care settings that dispense the drug are specially certified (the opportunity to obtain such certification shall be available to any willing provider from a frontier area);

“(C) the drug be dispensed to patients only in certain health care settings, such as hospitals;

“(D) the drug be dispensed to patients with evidence or other documentation of safe-use conditions, such as laboratory test results;

“(E) each patient using the drug be subject to certain monitoring; or

“(F) each patient using the drug be enrolled in a registry.

“(4) IMPLEMENTATION SYSTEM.—The elements to assure safe use under paragraph (1) that are described in subparagraphs (B), (C), and (D) of paragraph (3) may include a system through which the applicant is able to take reasonable steps to—

“(A) monitor and evaluate implementation of such elements by health care providers, pharmacists, and other parties in the health care system who are responsible for implementing such elements; and

“(B) work to improve implementation of such elements by such persons.

“(5) EVALUATION OF ELEMENTS TO ASSURE SAFE USE.—The Secretary, through the Drug Safety and Risk Management Advisory Committee (or successor committee) of the Food and Drug Administration, shall—

“(A) seek input from patients, physicians, pharmacists, and other health care providers about how elements to assure safe use under this subsection for 1 or more drugs may be standardized so as not to be—

“(i) unduly burdensome on patient access to the drug; and

“(ii) to the extent practicable, minimize the burden on the health care delivery system;

“(B) at least annually, evaluate, for 1 or more drugs, the elements to assure safe use of such drug to assess whether the elements—

“(i) assure safe use of the drug;

“(ii) are not unduly burdensome on patient access to the drug; and

“(iii) to the extent practicable, minimize the burden on the health care delivery system; and

“(C) considering such input and evaluations—

“(i) issue or modify agency guidance about how to implement the requirements of this subsection; and

“(ii) modify elements under this subsection for 1 or more drugs as appropriate.

“(6) ADDITIONAL MECHANISMS TO ASSURE ACCESS.—The mechanisms under section 561 to provide for expanded access for patients with serious or life-threatening diseases or conditions may be used to provide access for patients with a serious or life-threatening disease or condition, the treatment of which is not an approved use for the drug, to a drug that is subject to elements to assure safe use under this subsection. The Secretary shall promulgate regulations for how a physician may provide the drug under the mechanisms of section 561.

Regulations.

“(7) WAIVER IN PUBLIC HEALTH EMERGENCIES.—The Secretary may waive any requirement of this subsection during the period described in section 319(a) of the Public Health Service Act with respect to a qualified countermeasure described under section 319F–1(a)(2) of such Act, to which a requirement under this subsection has been applied, if the Secretary has—

“(A) declared a public health emergency under such section 319; and

“(B) determined that such waiver is required to mitigate the effects of, or reduce the severity of, such public health emergency.

“(8) LIMITATION.—No holder of an approved covered application shall use any element to assure safe use required by the Secretary under this subsection to block or delay approval of an application under section 505(b)(2) or (j) or to prevent application of such element under subsection (i)(1)(B) to a drug that is the subject of an abbreviated new drug application.

“(g) ASSESSMENT AND MODIFICATION OF APPROVED STRATEGY.—

“(1) VOLUNTARY ASSESSMENTS.—After the approval of a risk evaluation and mitigation strategy under subsection (a), the responsible person involved may, subject to paragraph (2), submit to the Secretary an assessment of, and propose a modification to, the approved strategy for the drug involved at any time.

“(2) REQUIRED ASSESSMENTS.—A responsible person shall, subject to paragraph (5), submit an assessment of, and may propose a modification to, the approved risk evaluation and mitigation strategy for a drug—

“(A) when submitting a supplemental application for a new indication for use under section 505(b) or under section 351 of the Public Health Service Act, unless the drug is not subject to section 503(b) and the risk evaluation and mitigation strategy for the drug includes only the timetable under subsection (d);

“(B) when required by the strategy, as provided for in such timetable under subsection (d);

“(C) within a time period to be determined by the Secretary, if the Secretary, in consultation with the offices described in subsection (c)(2), determines that new safety or effectiveness information indicates that—

“(i) an element under subsection (d) or (e) should be modified or included in the strategy; or

“(ii) an element under subsection (f) should be modified or included in the strategy; or

“(D) within 15 days when ordered by the Secretary, in consultation with the offices described in subsection (c)(2), if the Secretary determines that there may be a cause for action by the Secretary under section 505(e).

“(3) REQUIREMENTS FOR ASSESSMENTS.—An assessment under paragraph (1) or (2) of an approved risk evaluation and mitigation strategy for a drug shall include—

“(A) with respect to any goal under subsection (f), an assessment of the extent to which the elements to assure safe use are meeting the goal or whether the goal or such elements should be modified;

Deadline.

“(B) with respect to any postapproval study required under section 505(o) or otherwise undertaken by the responsible person to investigate a safety issue, the status of such study, including whether any difficulties completing the study have been encountered; and

“(C) with respect to any postapproval clinical trial required under section 505(o) or otherwise undertaken by the responsible party to investigate a safety issue, the status of such clinical trial, including whether enrollment has begun, the number of participants enrolled, the expected completion date, whether any difficulties completing the clinical trial have been encountered, and registration information with respect to requirements under subsections (i) and (j) of section 402 of the Public Health Service Act.

“(4) MODIFICATION.—A modification (whether an enhancement or a reduction) to the approved risk evaluation and mitigation strategy for a drug may include the addition or modification of any element under subsection (d) or the addition, modification, or removal of any element under subsection (e) or (f), such as—

“(A) modifying the timetable for assessments of the strategy as provided in subsection (d)(3), including to eliminate assessments; or

“(B) adding, modifying, or removing an element to assure safe use under subsection (f).

“(h) REVIEW OF PROPOSED STRATEGIES; REVIEW OF ASSESSMENTS OF APPROVED STRATEGIES.—

“(1) IN GENERAL.—The Secretary, in consultation with the offices described in subsection (c)(2), shall promptly review each proposed risk evaluation and mitigation strategy for a drug submitted under subsection (a) and each assessment of an approved risk evaluation and mitigation strategy for a drug submitted under subsection (g).

“(2) DISCUSSION.—The Secretary, in consultation with the offices described in subsection (c)(2), shall initiate discussions with the responsible person for purposes of this subsection to determine a strategy not later than 60 days after any such assessment is submitted or, in the case of an assessment submitted under subsection (g)(2)(D), not later than 30 days after such assessment is submitted.

Deadlines.

“(3) ACTION.—

“(A) IN GENERAL.—Unless the dispute resolution process described under paragraph (4) or (5) applies, the Secretary, in consultation with the offices described in subsection (c)(2), shall describe any required risk evaluation and mitigation strategy for a drug, or any modification to any required strategy—

“(i) as part of the action letter on the application, when a proposed strategy is submitted under subsection (a) or a modification to the strategy is proposed as part of an assessment of the strategy submitted under subsection (g)(1); or

“(ii) in an order issued not later than 90 days after the date discussions of such modification begin under paragraph (2), when a modification to the strategy is proposed as part of an assessment of the

Deadline.

strategy submitted under subsection (g)(1) or under any of subparagraphs (B) through (D) of subsection (g)(2).

“(B) INACTION.—An approved risk evaluation and mitigation strategy shall remain in effect until the Secretary acts, if the Secretary fails to act as provided under subparagraph (A).

“(C) PUBLIC AVAILABILITY.—Any action letter described in subparagraph (A)(i) or order described in subparagraph (A)(ii) shall be made publicly available.

“(4) DISPUTE RESOLUTION AT INITIAL APPROVAL.—If a proposed risk evaluation and mitigation strategy is submitted under subsection (a)(1) in an application for initial approval of a drug and there is a dispute about the strategy, the responsible person shall use the major dispute resolution procedures as set forth in the letters described in section 101(c) of the Food and Drug Administration Amendments Act of 2007.

“(5) DISPUTE RESOLUTION IN ALL OTHER CASES.—

“(A) REQUEST FOR REVIEW.—

“(i) IN GENERAL.—Not earlier than 15 days, and not later than 35 days, after discussions under paragraph (2) have begun, the responsible person may request in writing that a dispute about the strategy be reviewed by the Drug Safety Oversight Board under subsection (j), except that the determination of the Secretary to require a risk evaluation and mitigation strategy is not subject to review under this paragraph. The preceding sentence does not prohibit review under this paragraph of the particular elements of such a strategy.

“(ii) SCHEDULING.—Upon receipt of a request under clause (i), the Secretary shall schedule the dispute involved for review under subparagraph (B) and, not later than 5 business days of scheduling the dispute for review, shall publish by posting on the Internet or otherwise a notice that the dispute will be reviewed by the Drug Safety Oversight Board.

“(B) SCHEDULING REVIEW.—If a responsible person requests review under subparagraph (A), the Secretary—

“(i) shall schedule the dispute for review at 1 of the next 2 regular meetings of the Drug Safety Oversight Board, whichever meeting date is more practicable; or

“(ii) may convene a special meeting of the Drug Safety Oversight Board to review the matter more promptly, including to meet an action deadline on an application (including a supplemental application).

“(C) AGREEMENT AFTER DISCUSSION OR ADMINISTRATIVE APPEALS.—

“(i) FURTHER DISCUSSION OR ADMINISTRATIVE APPEALS.—A request for review under subparagraph (A) shall not preclude further discussions to reach agreement on the risk evaluation and mitigation strategy, and such a request shall not preclude the use of administrative appeals within the Food and Drug Administration to reach agreement on the strategy, including appeals as described in the letters

Deadlines.

described in section 101(c) of the Food and Drug Administration Amendments Act of 2007 for procedural or scientific matters involving the review of human drug applications and supplemental applications that cannot be resolved at the divisional level. At the time a review has been scheduled under subparagraph (B) and notice of such review has been posted, the responsible person shall either withdraw the request under subparagraph (A) or terminate the use of such administrative appeals.

“(ii) AGREEMENT TERMINATES DISPUTE RESOLUTION.—At any time before a decision and order is issued under subparagraph (G), the Secretary (in consultation with the offices described in subsection (c)(2)) and the responsible person may reach an agreement on the risk evaluation and mitigation strategy through further discussion or administrative appeals, terminating the dispute resolution process, and the Secretary shall issue an action letter or order, as appropriate, that describes the strategy.

“(D) MEETING OF THE BOARD.—At a meeting of the Drug Safety Oversight Board described in subparagraph (B), the Board shall—

“(i) hear from both parties via written or oral presentation; and

“(ii) review the dispute.

“(E) RECORD OF PROCEEDINGS.—The Secretary shall ensure that the proceedings of any such meeting are recorded, transcribed, and made public within 90 days of the meeting. The Secretary shall redact the transcript to protect any trade secrets and other information that is exempted from disclosure under section 552 of title 5, United States Code, or section 552a of title 5, United States Code.

Public
information.
Deadline.

“(F) RECOMMENDATION OF THE BOARD.—Not later than 5 days after any such meeting, the Drug Safety Oversight Board shall provide a written recommendation on resolving the dispute to the Secretary. Not later than 5 days after the Board provides such written recommendation to the Secretary, the Secretary shall make the recommendation available to the public.

Deadlines.
Public
information.

“(G) ACTION BY THE SECRETARY.—

Deadlines.

“(i) ACTION LETTER.—With respect to a proposal or assessment referred to in paragraph (1), the Secretary shall issue an action letter that resolves the dispute not later than the later of—

“(I) the action deadline for the action letter on the application; or

“(II) 7 days after receiving the recommendation of the Drug Safety Oversight Board.

“(ii) ORDER.—With respect to an assessment of an approved risk evaluation and mitigation strategy under subsection (g)(1) or under any of subparagraphs (B) through (D) of subsection (g)(2), the Secretary shall issue an order, which shall be made public, that resolves the dispute not later than 7 days after

receiving the recommendation of the Drug Safety Oversight Board.

“(H) INACTION.—An approved risk evaluation and mitigation strategy shall remain in effect until the Secretary acts, if the Secretary fails to act as provided for under subparagraph (G).

“(I) EFFECT ON ACTION DEADLINE.—With respect to a proposal or assessment referred to in paragraph (1), the Secretary shall be considered to have met the action deadline for the action letter on the application if the responsible person requests the dispute resolution process described in this paragraph and if the Secretary—

“(i) has initiated the discussions described under paragraph (2) not less than 60 days before such action deadline; and

“(ii) has complied with the timing requirements of scheduling review by the Drug Safety Oversight Board, providing a written recommendation, and issuing an action letter under subparagraphs (B), (F), and (G), respectively.

“(J) DISQUALIFICATION.—No individual who is an employee of the Food and Drug Administration and who reviews a drug or who participated in an administrative appeal under subparagraph (C)(i) with respect to such drug may serve on the Drug Safety Oversight Board at a meeting under subparagraph (D) to review a dispute about the risk evaluation and mitigation strategy for such drug.

“(K) ADDITIONAL EXPERTISE.—The Drug Safety Oversight Board may add members with relevant expertise from the Food and Drug Administration, including the Office of Pediatrics, the Office of Women’s Health, or the Office of Rare Diseases, or from other Federal public health or health care agencies, for a meeting under subparagraph (D) of the Drug Safety Oversight Board.

“(6) USE OF ADVISORY COMMITTEES.—The Secretary may convene a meeting of 1 or more advisory committees of the Food and Drug Administration to—

“(A) review a concern about the safety of a drug or class of drugs, including before an assessment of the risk evaluation and mitigation strategy or strategies of such drug or drugs is required to be submitted under any of subparagraphs (B) through (D) of subsection (g)(2);

“(B) review the risk evaluation and mitigation strategy or strategies of a drug or group of drugs; or

“(C) review a dispute under paragraph (4) or (5).

“(7) PROCESS FOR ADDRESSING DRUG CLASS EFFECTS.—

“(A) IN GENERAL.—When a concern about a serious risk of a drug may be related to the pharmacological class of the drug, the Secretary, in consultation with the offices described in subsection (c)(2), may defer assessments of the approved risk evaluation and mitigation strategies for such drugs until the Secretary has convened 1 or more public meetings to consider possible responses to such concern.

“(B) NOTICE.—If the Secretary defers an assessment under subparagraph (A), the Secretary shall—

“(i) give notice of the deferral to the holder of the approved covered application not later than 5 days after the deferral;

Deadline.

“(ii) publish the deferral in the Federal Register; and

Federal Register, publication.

“(iii) give notice to the public of any public meetings to be convened under subparagraph (A), including a description of the deferral.

Public information.

“(C) PUBLIC MEETINGS.—Such public meetings may include—

“(i) 1 or more meetings of the responsible person for such drugs;

“(ii) 1 or more meetings of 1 or more advisory committees of the Food and Drug Administration, as provided for under paragraph (6); or

“(iii) 1 or more workshops of scientific experts and other stakeholders.

“(D) ACTION.—After considering the discussions from any meetings under subparagraph (A), the Secretary may—

“(i) announce in the Federal Register a planned regulatory action, including a modification to each risk evaluation and mitigation strategy, for drugs in the pharmacological class;

“(ii) seek public comment about such action; and

“(iii) after seeking such comment, issue an order addressing such regulatory action.

“(8) INTERNATIONAL COORDINATION.—The Secretary, in consultation with the offices described in subsection (c)(2), may coordinate the timetable for submission of assessments under subsection (d), or a study or clinical trial under section 505(o)(3), with efforts to identify and assess the serious risks of such drug by the marketing authorities of other countries whose drug approval and risk management processes the Secretary deems comparable to the drug approval and risk management processes of the United States. If the Secretary takes action to coordinate such timetable, the Secretary shall give notice to the responsible person.

“(9) EFFECT.—Use of the processes described in paragraphs (7) and (8) shall not be the sole source of delay of action on an application or a supplement to an application for a drug.

“(i) ABBREVIATED NEW DRUG APPLICATIONS.—

“(1) IN GENERAL.—A drug that is the subject of an abbreviated new drug application under section 505(j) is subject to only the following elements of the risk evaluation and mitigation strategy required under subsection (a) for the applicable listed drug:

“(A) A Medication Guide or patient package insert, if required under subsection (e) for the applicable listed drug.

“(B) Elements to assure safe use, if required under subsection (f) for the listed drug. A drug that is the subject of an abbreviated new drug application and the listed drug shall use a single, shared system under subsection (f). The Secretary may waive the requirement under the preceding sentence for a drug that is the subject of an abbreviated new drug application, and permit the applicant to

use a different, comparable aspect of the elements to assure safe use, if the Secretary determines that—

“(i) the burden of creating a single, shared system outweighs the benefit of a single, system, taking into consideration the impact on health care providers, patients, the applicant for the abbreviated new drug application, and the holder of the reference drug product; or

“(ii) an aspect of the elements to assure safe use for the applicable listed drug is claimed by a patent that has not expired or is a method or process that, as a trade secret, is entitled to protection, and the applicant for the abbreviated new drug application certifies that it has sought a license for use of an aspect of the elements to assure safe use for the applicable listed drug and that it was unable to obtain a license.

A certification under clause (ii) shall include a description of the efforts made by the applicant for the abbreviated new drug application to obtain a license. In a case described in clause (ii), the Secretary may seek to negotiate a voluntary agreement with the owner of the patent, method, or process for a license under which the applicant for such abbreviated new drug application may use an aspect of the elements to assure safe use, if required under subsection (f) for the applicable listed drug, that is claimed by a patent that has not expired or is a method or process that as a trade secret is entitled to protection.

“(2) ACTION BY SECRETARY.—For an applicable listed drug for which a drug is approved under section 505(j), the Secretary—

“(A) shall undertake any communication plan to health care providers required under subsection (e)(3) for the applicable listed drug; and

“(B) shall inform the responsible person for the drug that is so approved if the risk evaluation and mitigation strategy for the applicable listed drug is modified.

“(j) DRUG SAFETY OVERSIGHT BOARD.—

“(1) IN GENERAL.—There is established a Drug Safety Oversight Board.

“(2) COMPOSITION; MEETINGS.—The Drug Safety Oversight Board shall—

“(A) be composed of scientists and health care practitioners appointed by the Secretary, each of whom is an employee of the Federal Government;

“(B) include representatives from offices throughout the Food and Drug Administration, including the offices responsible for postapproval safety of drugs;

“(C) include at least 1 representative each from the National Institutes of Health and the Department of Health and Human Services (other than the Food and Drug Administration);

“(D) include such representatives as the Secretary shall designate from other appropriate agencies that wish to provide representatives; and

“(E) meet at least monthly to provide oversight and advice to the Secretary on the management of important drug safety issues.”.

Establishment.

(c) REGULATION OF BIOLOGICAL PRODUCTS.—Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended—

(1) in subsection (a)(2), by adding at the end the following:

“(D) POSTMARKET STUDIES AND CLINICAL TRIALS; LABELING; RISK EVALUATION AND MITIGATION STRATEGY.—A person that submits an application for a license under this paragraph is subject to sections 505(o), 505(p), and 505–1 of the Federal Food, Drug, and Cosmetic Act.”; and

(2) in subsection (j), by inserting “, including the requirements under sections 505(o), 505(p), and 505–1 of such Act,” after “, and Cosmetic Act”.

(d) ADVERTISEMENTS OF DRUGS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), as amended by section 801(b), is amended—

(1) in section 301 (21 U.S.C. 331), by adding at the end the following:

“(kk) The dissemination of a television advertisement without complying with section 503B.”; and

(2) by inserting after section 503A the following:

“SEC. 503B. PREREVIEW OF TELEVISION ADVERTISEMENTS.

21 USC 353b.

“(a) IN GENERAL.—The Secretary may require the submission of any television advertisement for a drug (including any script, story board, rough, or a completed video production of the television advertisement) to the Secretary for review under this section not later than 45 days before dissemination of the television advertisement.

Deadline.

“(b) REVIEW.—In conducting a review of a television advertisement under this section, the Secretary may make recommendations with respect to information included in the label of the drug—

“(1) on changes that are—

“(A) necessary to protect the consumer good and well-being; or

“(B) consistent with prescribing information for the product under review; and

“(2) if appropriate and if information exists, on statements for inclusion in the advertisement to address the specific efficacy of the drug as it relates to specific population groups, including elderly populations, children, and racial and ethnic minorities.

“(c) NO AUTHORITY TO REQUIRE CHANGES.—Except as provided by subsection (e), this section does not authorize the Secretary to make or direct changes in any material submitted pursuant to subsection (a).

“(d) ELDERLY POPULATIONS, CHILDREN, RACIALLY AND ETHNICALLY DIVERSE COMMUNITIES.—In formulating recommendations under subsection (b), the Secretary shall take into consideration the impact of the advertised drug on elderly populations, children, and racially and ethnically diverse communities.

“(e) SPECIFIC DISCLOSURES.—

“(1) SERIOUS RISK; SAFETY PROTOCOL.—In conducting a review of a television advertisement under this section, if the Secretary determines that the advertisement would be false or misleading without a specific disclosure about a serious risk listed in the labeling of the drug involved, the Secretary may require inclusion of such disclosure in the advertisement.

“(2) DATE OF APPROVAL.—In conducting a review of a television advertisement under this section, the Secretary may require the advertisement to include, for a period not to exceed 2 years from the date of the approval of the drug under section 505 or section 351 of the Public Health Service Act, a specific disclosure of such date of approval if the Secretary determines that the advertisement would otherwise be false or misleading.

“(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed as having any effect on requirements under section 502(n) or on the authority of the Secretary under section 314.550, 314.640, 601.45, or 601.94 of title 21, Code of Federal Regulations (or successor regulations).”.

(3) DIRECT-TO-CONSUMER ADVERTISEMENTS.—

(A) IN GENERAL.—Section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) is amended by adding at the end the following: “In the case of an advertisement for a drug subject to section 503(b)(1) presented directly to consumers in television or radio format and stating the name of the drug and its conditions of use, the major statement relating to side effects and contraindications shall be presented in a clear, conspicuous, and neutral manner.”.

(B) REGULATIONS TO DETERMINE CLEAR, CONSPICUOUS, AND NEUTRAL MANNER.—Not later than 30 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary of Health and Human Services shall by regulation establish standards for determining whether a major statement relating to side effects and contraindications of a drug, described in section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) (as amended by subparagraph (A)) is presented in the manner required under such section.

(4) CIVIL PENALTIES.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as amended by section 801(b), is amended by adding at the end the following:

“(g)(1) With respect to a person who is a holder of an approved application under section 505 for a drug subject to section 503(b) or under section 351 of the Public Health Service Act, any such person who disseminates or causes another party to disseminate a direct-to-consumer advertisement that is false or misleading shall be liable to the United States for a civil penalty in an amount not to exceed \$250,000 for the first such violation in any 3-year period, and not to exceed \$500,000 for each subsequent violation in any 3-year period. No other civil monetary penalties in this Act (including the civil penalty in section 303(f)(4)) shall apply to a violation regarding direct-to-consumer advertising. For purposes of this paragraph: (A) Repeated dissemination of the same or similar advertisement prior to the receipt of the written notice referred to in paragraph (2) for such advertisements shall be considered one violation. (B) On and after the date of the receipt of such a notice, all violations under this paragraph occurring in a single day shall be considered one violation. With respect to advertisements that appear in magazines or other publications that are published less frequently than daily, each issue date (whether weekly or monthly) shall be treated as a single day for the purpose of calculating the number of violations under this paragraph.

Deadline.
21 USC 352 note.

“(2) A civil penalty under paragraph (1) shall be assessed by the Secretary by an order made on the record after providing written notice to the person to be assessed a civil penalty and an opportunity for a hearing in accordance with this paragraph and section 554 of title 5, United States Code. If upon receipt of the written notice, the person to be assessed a civil penalty objects and requests a hearing, then in the course of any investigation related to such hearing, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation, including information pertaining to the factors described in paragraph (3).

Public record.
Notification.

“(3) The Secretary, in determining the amount of the civil penalty under paragraph (1), shall take into account the nature, circumstances, extent, and gravity of the violation or violations, including the following factors:

“(A) Whether the person submitted the advertisement or a similar advertisement for review under section 736A.

“(B) Whether the person submitted the advertisement for review if required under section 503B.

“(C) Whether, after submission of the advertisement as described in subparagraph (A) or (B), the person disseminated or caused another party to disseminate the advertisement before the end of the 45-day comment period.

“(D) Whether the person incorporated any comments made by the Secretary with regard to the advertisement into the advertisement prior to its dissemination.

“(E) Whether the person ceased distribution of the advertisement upon receipt of the written notice referred to in paragraph (2) for such advertisement.

“(F) Whether the person had the advertisement reviewed by qualified medical, regulatory, and legal reviewers prior to its dissemination.

“(G) Whether the violations were material.

“(H) Whether the person who created the advertisement or caused the advertisement to be created acted in good faith.

“(I) Whether the person who created the advertisement or caused the advertisement to be created has been assessed a civil penalty under this provision within the previous 1-year period.

“(J) The scope and extent of any voluntary, subsequent remedial action by the person.

“(K) Such other matters, as justice may require.

“(4)(A) Subject to subparagraph (B), no person shall be required to pay a civil penalty under paragraph (1) if the person submitted the advertisement to the Secretary and disseminated or caused another party to disseminate such advertisement after incorporating each comment received from the Secretary.

“(B) The Secretary may retract or modify any prior comments the Secretary has provided to an advertisement submitted to the Secretary based on new information or changed circumstances, so long as the Secretary provides written notice to the person of the new views of the Secretary on the advertisement and provides a reasonable time for modification or correction of the advertisement prior to seeking any civil penalty under paragraph (1).

“(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which may be assessed

under paragraph (1). The amount of such penalty, when finally determined, or the amount charged upon in compromise, may be deducted from any sums owed by the United States to the person charged.

Deadline.

“(6) Any person who requested, in accordance with paragraph (2), a hearing with respect to the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty, may file a petition for de novo judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 60-day period beginning on the date the order making such assessments was issued.

“(7) If any person fails to pay an assessment of a civil penalty under paragraph (1)—

“(A) after the order making the assessment becomes final, and if such person does not file a petition for judicial review of the order in accordance with paragraph (6), or

“(B) after a court in an action brought under paragraph (6) has entered a final judgment in favor of the Secretary, the Attorney General of the United States shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 60-day period referred to in paragraph (6) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.”.

(5) REPORT ON DIRECT-TO-CONSUMER ADVERTISING.—Not later than 24 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Congress on direct-to-consumer advertising and its ability to communicate to subsets of the general population, including elderly populations, children, and racial and ethnic minority communities. The Secretary shall utilize the Advisory Committee on Risk Communication established under this Act to advise the Secretary with respect to such report. The Advisory Committee shall study direct-to-consumer advertising as it relates to increased access to health information and decreased health disparities for these populations. The report required by this paragraph shall recommend effective ways to present and disseminate information to these populations. Such report shall also make recommendations regarding impediments to the participation of elderly populations, children, racially and ethnically diverse communities, and medically underserved populations in clinical drug trials and shall recommend best practice approaches for increasing the inclusion of such subsets of the general population. The Secretary of Health and Human Services shall submit the report under this paragraph to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(6) RULEMAKING.—Section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) is amended by striking “the procedure specified in section 701(e) of this Act” and inserting “section 701(a)”.

21 USC 355a
note.

(e) RULE OF CONSTRUCTION REGARDING PEDIATRIC STUDIES.—This title and the amendments made by this title may not be

construed as affecting the authority of the Secretary of Health and Human Services to request pediatric studies under section 505A of the Federal Food, Drug, and Cosmetic Act or to require such studies under section 505B of such Act.

SEC. 902. ENFORCEMENT.

(a) MISBRANDING.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end the following:

“(y) If it is a drug subject to an approved risk evaluation and mitigation strategy pursuant to section 505(p) and the responsible person (as such term is used in section 505–1) fails to comply with a requirement of such strategy provided for under subsection (d), (e), or (f) of section 505–1.

“(z) If it is a drug, and the responsible person (as such term is used in section 505(o)) is in violation of a requirement established under paragraph (3) (relating to postmarket studies and clinical trials) or paragraph (4) (relating to labeling) of section 505(o) with respect to such drug.”.

(b) CIVIL PENALTIES.—Section 303(f) of the Federal Food, Drug, and Cosmetic Act, as amended by section 801(b), is amended—

(1) by inserting after paragraph (3), as added by section 801(b)(2), the following:

“(4)(A) Any responsible person (as such term is used in section 505–1) that violates a requirement of section 505(o), 505(p), or 505–1 shall be subject to a civil monetary penalty of—

“(i) not more than \$250,000 per violation, and not to exceed \$1,000,000 for all such violations adjudicated in a single proceeding; or

“(ii) in the case of a violation that continues after the Secretary provides written notice to the responsible person, the responsible person shall be subject to a civil monetary penalty of \$250,000 for the first 30-day period (or any portion thereof) that the responsible person continues to be in violation, and such amount shall double for every 30-day period thereafter that the violation continues, not to exceed \$1,000,000 for any 30-day period, and not to exceed \$10,000,000 for all such violations adjudicated in a single proceeding.

“(B) In determining the amount of a civil penalty under subparagraph (A)(ii), the Secretary shall take into consideration whether the responsible person is making efforts toward correcting the violation of the requirement of section 505(o), 505(p), or 505–1 for which the responsible person is subject to such civil penalty.”; and

(2) in paragraph (5), as redesignated by section 801(b)(2)(A), by striking “paragraph (1), (2), or (3)” each place it appears and inserting “paragraph (1), (2), (3), or (4)”.

SEC. 903. NO EFFECT ON WITHDRAWAL OR SUSPENSION OF APPROVAL.

Section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) is amended by adding at the end the following: “The Secretary may withdraw the approval of an application submitted under this section, or suspend the approval of such an application, as provided under this subsection, without first ordering the applicant to submit an assessment of the approved risk evaluation and mitigation strategy for the drug under section 505–1(g)(2)(D).”.

Deadline.
Reports.

SEC. 904. BENEFIT-RISK ASSESSMENTS.

Not later than 1 year after the date of the enactment of this Act, the Commissioner of Food and Drugs shall submit to the Congress a report on how best to communicate to the public the risks and benefits of new drugs and the role of the risk evaluation and mitigation strategy in assessing such risks and benefits. As part of such study, the Commissioner may consider the possibility of including in the labeling and any direct-to-consumer advertisements of a newly approved drug or indication a unique symbol indicating the newly approved status of the drug or indication for a period after approval.

SEC. 905. ACTIVE POSTMARKET RISK IDENTIFICATION AND ANALYSIS.

(a) IN GENERAL.—Subsection (k) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

“(3) ACTIVE POSTMARKET RISK IDENTIFICATION.—

“(A) DEFINITION.—In this paragraph, the term ‘data’ refers to information with respect to a drug approved under this section or under section 351 of the Public Health Service Act, including claims data, patient survey data, standardized analytic files that allow for the pooling and analysis of data from disparate data environments, and any other data deemed appropriate by the Secretary.

Deadline.

“(B) DEVELOPMENT OF POSTMARKET RISK IDENTIFICATION AND ANALYSIS METHODS.—The Secretary shall, not later than 2 years after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, in collaboration with public, academic, and private entities—

“(i) develop methods to obtain access to disparate data sources including the data sources specified in subparagraph (C);

“(ii) develop validated methods for the establishment of a postmarket risk identification and analysis system to link and analyze safety data from multiple sources, with the goals of including, in aggregate—

“(I) at least 25,000,000 patients by July 1, 2010; and

“(II) at least 100,000,000 patients by July 1, 2012; and

Committee.

“(iii) convene a committee of experts, including individuals who are recognized in the field of protecting data privacy and security, to make recommendations to the Secretary on the development of tools and methods for the ethical and scientific uses for, and communication of, postmarketing data specified under subparagraph (C), including recommendations on the development of effective research methods for the study of drug safety questions.

“(C) ESTABLISHMENT OF THE POSTMARKET RISK IDENTIFICATION AND ANALYSIS SYSTEM.—

Deadline.
Procedures.

“(i) IN GENERAL.—The Secretary shall, not later than 1 year after the development of the risk identification and analysis methods under subparagraph (B), establish and maintain procedures—

“(I) for risk identification and analysis based on electronic health data, in compliance with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996, and in a manner that does not disclose individually identifiable health information in violation of paragraph (4)(B);

“(II) for the reporting (in a standardized form) of data on all serious adverse drug experiences (as defined in section 505–1(b)) submitted to the Secretary under paragraph (1), and those adverse events submitted by patients, providers, and drug sponsors, when appropriate;

“(III) to provide for active adverse event surveillance using the following data sources, as available:

“(aa) Federal health-related electronic data (such as data from the Medicare program and the health systems of the Department of Veterans Affairs);

“(bb) private sector health-related electronic data (such as pharmaceutical purchase data and health insurance claims data); and

“(cc) other data as the Secretary deems necessary to create a robust system to identify adverse events and potential drug safety signals;

“(IV) to identify certain trends and patterns with respect to data accessed by the system;

“(V) to provide regular reports to the Secretary concerning adverse event trends, adverse event patterns, incidence and prevalence of adverse events, and other information the Secretary determines appropriate, which may include data on comparative national adverse event trends; and

“(VI) to enable the program to export data in a form appropriate for further aggregation, statistical analysis, and reporting.

“(ii) TIMELINESS OF REPORTING.—The procedures established under clause (i) shall ensure that such data are accessed, analyzed, and reported in a timely, routine, and systematic manner, taking into consideration the need for data completeness, coding, cleansing, and standardized analysis and transmission.

“(iii) PRIVATE SECTOR RESOURCES.—To ensure the establishment of the active postmarket risk identification and analysis system under this subsection not later than 1 year after the development of the risk identification and analysis methods under subparagraph (B), as required under clause (i), the Secretary may, on a temporary or permanent basis, implement systems or products developed by private entities.

“(iv) COMPLEMENTARY APPROACHES.—To the extent the active postmarket risk identification and analysis system under this subsection is not sufficient to gather data and information relevant to a priority drug safety question, the Secretary shall develop, support, and

Reports.

Deadline.

participate in complementary approaches to gather and analyze such data and information, including—

“(I) approaches that are complementary with respect to assessing the safety of use of a drug in domestic populations not included, or underrepresented, in the trials used to approve the drug (such as older people, people with comorbidities, pregnant women, or children); and

“(II) existing approaches such as the Vaccine Adverse Event Reporting System and the Vaccine Safety Datalink or successor databases.

“(v) AUTHORITY FOR CONTRACTS.—The Secretary may enter into contracts with public and private entities to fulfill the requirements of this subparagraph.

“(4) ADVANCED ANALYSIS OF DRUG SAFETY DATA.—

“(A) PURPOSE.—The Secretary shall establish collaborations with public, academic, and private entities, which may include the Centers for Education and Research on Therapeutics under section 912 of the Public Health Service Act, to provide for advanced analysis of drug safety data described in paragraph (3)(C) and other information that is publicly available or is provided by the Secretary, in order to—

“(i) improve the quality and efficiency of postmarket drug safety risk-benefit analysis;

“(ii) provide the Secretary with routine access to outside expertise to study advanced drug safety questions; and

“(iii) enhance the ability of the Secretary to make timely assessments based on drug safety data.

“(B) PRIVACY.—Such analysis shall not disclose individually identifiable health information when presenting such drug safety signals and trends or when responding to inquiries regarding such drug safety signals and trends.

“(C) PUBLIC PROCESS FOR PRIORITY QUESTIONS.—At least biannually, the Secretary shall seek recommendations from the Drug Safety and Risk Management Advisory Committee (or any successor committee) and from other advisory committees, as appropriate, to the Food and Drug Administration on—

“(i) priority drug safety questions; and

“(ii) mechanisms for answering such questions, including through—

“(I) active risk identification under paragraph (3); and

“(II) when such risk identification is not sufficient, postapproval studies and clinical trials under subsection (o)(3).

“(D) PROCEDURES FOR THE DEVELOPMENT OF DRUG SAFETY COLLABORATIONS.—

“(i) IN GENERAL.—Not later than 180 days after the date of the establishment of the active postmarket risk identification and analysis system under this subsection, the Secretary shall establish and implement procedures under which the Secretary may routinely contract with one or more qualified entities to—

Deadline.

“(I) classify, analyze, or aggregate data described in paragraph (3)(C) and information that is publicly available or is provided by the Secretary;

“(II) allow for prompt investigation of priority drug safety questions, including—

“(aa) unresolved safety questions for drugs or classes of drugs; and

“(bb) for a newly-approved drugs, safety signals from clinical trials used to approve the drug and other preapproval trials; rare, serious drug side effects; and the safety of use in domestic populations not included, or underrepresented, in the trials used to approve the drug (such as older people, people with comorbidities, pregnant women, or children);

“(III) perform advanced research and analysis on identified drug safety risks;

“(IV) focus postapproval studies and clinical trials under subsection (o)(3) more effectively on cases for which reports under paragraph (1) and other safety signal detection is not sufficient to resolve whether there is an elevated risk of a serious adverse event associated with the use of a drug; and

“(V) carry out other activities as the Secretary deems necessary to carry out the purposes of this paragraph.

“(ii) REQUEST FOR SPECIFIC METHODOLOGY.—The procedures described in clause (i) shall permit the Secretary to request that a specific methodology be used by the qualified entity. The qualified entity shall work with the Secretary to finalize the methodology to be used.

“(E) USE OF ANALYSES.—The Secretary shall provide the analyses described in this paragraph, including the methods and results of such analyses, about a drug to the sponsor or sponsors of such drug.

“(F) QUALIFIED ENTITIES.—

Contracts.

“(i) IN GENERAL.—The Secretary shall enter into contracts with a sufficient number of qualified entities to develop and provide information to the Secretary in a timely manner.

“(ii) QUALIFICATION.—The Secretary shall enter into a contract with an entity under clause (i) only if the Secretary determines that the entity has a significant presence in the United States and has one or more of the following qualifications:

“(I) The research, statistical, epidemiologic, or clinical capability and expertise to conduct and complete the activities under this paragraph, including the capability and expertise to provide the Secretary de-identified data consistent with the requirements of this subsection.

“(II) An information technology infrastructure in place to support electronic data and operational standards to provide security for such data.

“(III) Experience with, and expertise on, the development of drug safety and effectiveness research using electronic population data.

“(IV) An understanding of drug development or risk/benefit balancing in a clinical setting.

“(V) Other expertise which the Secretary deems necessary to fulfill the activities under this paragraph.

“(G) CONTRACT REQUIREMENTS.—Each contract with a qualified entity under subparagraph (F)(i) shall contain the following requirements:

“(i) ENSURING PRIVACY.—The qualified entity shall ensure that the entity will not use data under this subsection in a manner that—

“(I) violates the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996;

“(II) violates sections 552 or 552a of title 5, United States Code, with regard to the privacy of individually-identifiable beneficiary health information; or

“(III) discloses individually identifiable health information when presenting drug safety signals and trends or when responding to inquiries regarding drug safety signals and trends.

Nothing in this clause prohibits lawful disclosure for other purposes.

“(ii) COMPONENT OF ANOTHER ORGANIZATION.—If a qualified entity is a component of another organization—

“(I) the qualified entity shall establish appropriate security measures to maintain the confidentiality and privacy of such data; and

“(II) the entity shall not make an unauthorized disclosure of such data to the other components of the organization in breach of such confidentiality and privacy requirement.

“(iii) TERMINATION OR NONRENEWAL.—If a contract with a qualified entity under this subparagraph is terminated or not renewed, the following requirements shall apply:

“(I) CONFIDENTIALITY AND PRIVACY PROTECTIONS.—The entity shall continue to comply with the confidentiality and privacy requirements under this paragraph with respect to all data disclosed to the entity.

“(II) DISPOSITION OF DATA.—The entity shall return any data disclosed to such entity under this subsection to which it would not otherwise have access or, if returning the data is not practicable, destroy the data.

“(H) COMPETITIVE PROCEDURES.—The Secretary shall use competitive procedures (as defined in section 4(5) of the Federal Procurement Policy Act) to enter into contracts under subparagraph (G).

“(I) REVIEW OF CONTRACT IN THE EVENT OF A MERGER OR ACQUISITION.—The Secretary shall review the contract

Applicability.

with a qualified entity under this paragraph in the event of a merger or acquisition of the entity in order to ensure that the requirements under this paragraph will continue to be met.

“(J) COORDINATION.—In carrying out this paragraph, the Secretary shall provide for appropriate communications to the public, scientific, public health, and medical communities, and other key stakeholders, and to the extent practicable shall coordinate with the activities of private entities, professional associations, or other entities that may have sources of drug safety data.”.

(b) RULE OF CONSTRUCTION.—Nothing in this section or the amendment made by this section shall be construed to prohibit the lawful disclosure or use of data or information by an entity other than as described in paragraph (4)(B) or (4)(G) of section 505(k) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a). 21 USC 355 note.

(c) REPORT TO CONGRESS.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall report to the Congress on the ways in which the Secretary has used the active postmarket risk identification and analysis system described in paragraphs (3) and (4) of section 505(k) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), to identify specific drug safety signals and to better understand the outcomes associated with drugs marketed in the United States.

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out activities under the amendment made by this section for which funds are made available under section 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h), there are authorized to be appropriated to carry out the amendment made by this section, in addition to such funds, \$25,000,000 for each of fiscal years 2008 through 2012.

(e) GAO REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall evaluate data privacy, confidentiality, and security issues relating to accessing, transmitting, and maintaining data for the active postmarket risk identification and analysis system described in paragraphs (3) and (4) of section 505(k) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), and make recommendations to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate, and any other congressional committees of relevant jurisdiction, regarding the need for any additional legislative or regulatory actions to ensure privacy, confidentiality, and security of this data or otherwise address privacy, confidentiality, and security issues to ensure the effective operation of such active postmarket identification and analysis system.

SEC. 906. STATEMENT FOR INCLUSION IN DIRECT-TO-CONSUMER ADVERTISEMENTS OF DRUGS.

(a) PUBLISHED DIRECT-TO-CONSUMER ADVERTISEMENTS.—Section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352), as amended by section 901(d)(6), is further amended by inserting “and in the case of published direct-to-consumer advertisements the following statement printed in conspicuous text: ‘You are encouraged to report negative side effects of prescription

drugs to the FDA. Visit www.fda.gov/medwatch, or call 1–800-FDA-1088;” after “section 701(a),”.

21 USC 352 note.
Deadline.

(b) STUDY.—

(1) IN GENERAL.—In the case of direct-to-consumer television advertisements, the Secretary of Health and Human Services, in consultation with the Advisory Committee on Risk Communication under section 567 of the Federal Food, Drug, and Cosmetic Act (as added by section 917), shall, not later than 6 months after the date of the enactment of this Act, conduct a study to determine if the statement in section 502(n) of such Act (as added by subsection (a)) required with respect to published direct-to-consumer advertisements is appropriate for inclusion in such television advertisements.

Reports.

(2) CONTENT.—As part of the study under paragraph (1), such Secretary shall consider whether the information in the statement described in paragraph (1) would detract from the presentation of risk information in a direct-to-consumer television advertisement. If such Secretary determines the inclusion of such statement is appropriate in direct-to-consumer television advertisements, such Secretary shall issue regulations requiring the implementation of such statement in direct-to-consumer television advertisements, including determining a reasonable length of time for displaying the statement in such advertisements. The Secretary shall report to the appropriate committees of Congress the findings of such study and any plans to issue regulations under this paragraph.

21 USC 355 note.

SEC. 907. NO EFFECT ON VETERINARY MEDICINE.

This subtitle, and the amendments made by this subtitle, shall have no effect on the use of drugs approved under section 505 of the Federal Food, Drug, and Cosmetic Act by, or on the lawful written or oral order of, a licensed veterinarian within the context of a veterinarian-client-patient relationship, as provided for under section 512(a)(5) of such Act.

SEC. 908. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For carrying out this subtitle and the amendments made by this subtitle, there is authorized to be appropriated \$25,000,000 for each of fiscal years 2008 through 2012.

(b) RELATION TO OTHER FUNDING.—The authorization of appropriations under subsection (a) is in addition to any other funds available for carrying out this subtitle and the amendments made by this subtitle.

21 USC 331 note.

SEC. 909. EFFECTIVE DATE AND APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle takes effect 180 days after the date of the enactment of this Act.

(b) DRUGS DEEMED TO HAVE RISK EVALUATION AND MITIGATION STRATEGIES.—

(1) IN GENERAL.—A drug that was approved before the effective date of this Act is, in accordance with paragraph (2), deemed to have in effect an approved risk evaluation and mitigation strategy under section 505–1 of the Federal Food, Drug, and Cosmetic Act (as added by section 901) (referred to in this section as the “Act”) if there are in effect on the effective date of this Act elements to assure safe use—

(A) required under section 314.520 or section 601.42 of title 21, Code of Federal Regulations; or

(B) otherwise agreed to by the applicant and the Secretary for such drug.

(2) ELEMENTS OF STRATEGY; ENFORCEMENT.—The approved risk evaluation and mitigation strategy in effect for a drug under paragraph (1)—

(A) is deemed to consist of the timetable required under section 505–1(d) and any additional elements under subsections (e) and (f) of such section in effect for such drug on the effective date of this Act; and

(B) is subject to enforcement by the Secretary to the same extent as any other risk evaluation and mitigation strategy under section 505–1 of the Act, except that sections 303(f)(4) and 502(y) and (z) of the Act (as added by section 902) shall not apply to such strategy before the Secretary has completed review of, and acted on, the first assessment of such strategy under such section 505–1.

(3) SUBMISSION.—Not later than 180 days after the effective date of this Act, the holder of an approved application for which a risk evaluation and mitigation strategy is deemed to be in effect under paragraph (1) shall submit to the Secretary a proposed risk evaluation and mitigation strategy. Such proposed strategy is subject to section 505–1 of the Act as if included in such application at the time of submission of the application to the Secretary.

Deadline.

Subtitle B—Other Provisions to Ensure Drug Safety and Surveillance

SEC. 911. CLINICAL TRIAL GUIDANCE FOR ANTIBIOTIC DRUGS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 510 the following:

“SEC. 511. CLINICAL TRIAL GUIDANCE FOR ANTIBIOTIC DRUGS.

“(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue guidance for the conduct of clinical trials with respect to antibiotic drugs, including antimicrobials to treat acute bacterial sinusitis, acute bacterial otitis media, and acute bacterial exacerbation of chronic bronchitis. Such guidance shall indicate the appropriate models and valid surrogate markers.

“(b) REVIEW.—Not later than 5 years after the date of the enactment of this section, the Secretary shall review and update the guidance described under subsection (a) to reflect developments in scientific and medical information and technology.”.

Deadlines.
21 USC 360a.

SEC. 912. PROHIBITION AGAINST FOOD TO WHICH DRUGS OR BIOLOGICAL PRODUCTS HAVE BEEN ADDED.

(a) PROHIBITION.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), as amended by section 901(d), is amended by adding at the end the following:

“(1) The introduction or delivery for introduction into interstate commerce of any food to which has been added a drug approved under section 505, a biological product licensed under section 351 of the Public Health Service Act, or a drug or a biological product for which substantial clinical investigations have been instituted

and for which the existence of such investigations has been made public, unless—

“(1) such drug or such biological product was marketed in food before any approval of the drug under section 505, before licensure of the biological product under such section 351, and before any substantial clinical investigations involving the drug or the biological product have been instituted;

“(2) the Secretary, in the Secretary’s discretion, has issued a regulation, after notice and comment, approving the use of such drug or such biological product in the food;

“(3) the use of the drug or the biological product in the food is to enhance the safety of the food to which the drug or the biological product is added or applied and not to have independent biological or therapeutic effects on humans, and the use is in conformity with—

“(A) a regulation issued under section 409 prescribing conditions of safe use in food;

“(B) a regulation listing or affirming conditions under which the use of the drug or the biological product in food is generally recognized as safe;

“(C) the conditions of use identified in a notification to the Secretary of a claim of exemption from the premarket approval requirements for food additives based on the notifier’s determination that the use of the drug or the biological product in food is generally recognized as safe, provided that the Secretary has not questioned the general recognition of safety determination in a letter to the notifier;

“(D) a food contact substance notification that is effective under section 409(h); or

“(E) such drug or biological product had been marketed for smoking cessation prior to the date of the enactment of the Food and Drug Administration Amendments Act of 2007; or

“(4) the drug is a new animal drug whose use is not unsafe under section 512.”.

(b) CONFORMING CHANGES.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

21 USC 334. (1) in section 304(a)(1), by striking “section 404 or 505” and inserting “section 301(l), 404, or 505”; and

21 USC 381. (2) in section 801(a), by striking “is adulterated, misbranded, or in violation of section 505,” and inserting “is adulterated, misbranded, or in violation of section 505, or prohibited from introduction or delivery for introduction into interstate commerce under section 301(l),”.

SEC. 913. ASSURING PHARMACEUTICAL SAFETY.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.), as amended in section 403, is amended by inserting after section 505C the following:

21 USC 355e. **“SEC. 505D. PHARMACEUTICAL SECURITY.**

Standards.

“(a) IN GENERAL.—The Secretary shall develop standards and identify and validate effective technologies for the purpose of securing the drug supply chain against counterfeit, diverted, subpotent, substandard, adulterated, misbranded, or expired drugs.

“(b) STANDARDS DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary shall, in consultation with the agencies specified in paragraph (4), manufacturers, distributors, pharmacies, and other supply chain stakeholders, prioritize and develop standards for the identification, validation, authentication, and tracking and tracing of prescription drugs.

“(2) STANDARDIZED NUMERAL IDENTIFIER.—Not later than 30 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary shall develop a standardized numerical identifier (which, to the extent practicable, shall be harmonized with international consensus standards for such an identifier) to be applied to a prescription drug at the point of manufacturing and repackaging (in which case the numerical identifier shall be linked to the numerical identifier applied at the point of manufacturing) at the package or pallet level, sufficient to facilitate the identification, validation, authentication, and tracking and tracing of the prescription drug.

Deadline.

“(3) PROMISING TECHNOLOGIES.—The standards developed under this subsection shall address promising technologies, which may include—

“(A) radio frequency identification technology;

“(B) nanotechnology;

“(C) encryption technologies; and

“(D) other track-and-trace or authentication technologies.

“(4) INTERAGENCY COLLABORATION.—In carrying out this subsection, the Secretary shall consult with Federal health and security agencies, including—

“(A) the Department of Justice;

“(B) the Department of Homeland Security;

“(C) the Department of Commerce; and

“(D) other appropriate Federal and State agencies.

“(c) INSPECTION AND ENFORCEMENT.—

“(1) IN GENERAL.—The Secretary shall expand and enhance the resources and facilities of agency components of the Food and Drug Administration involved with regulatory and criminal enforcement of this Act to secure the drug supply chain against counterfeit, diverted, subpotent, substandard, adulterated, misbranded, or expired drugs including biological products and active pharmaceutical ingredients from domestic and foreign sources.

“(2) ACTIVITIES.—The Secretary shall undertake enhanced and joint enforcement activities with other Federal and State agencies, and establish regional capacities for the validation of prescription drugs and the inspection of the prescription drug supply chain.

“(d) DEFINITION.—In this section, the term ‘prescription drug’ means a drug subject to section 503(b)(1).”.

SEC. 914. CITIZEN PETITIONS AND PETITIONS FOR STAY OF AGENCY ACTION.

(a) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by section 901(a), is amended by adding at the end the following:

“(q) PETITIONS AND CIVIL ACTIONS REGARDING APPROVAL OF CERTAIN APPLICATIONS.—

“(1) IN GENERAL.—

“(A) DETERMINATION.—The Secretary shall not delay approval of a pending application submitted under subsection (b)(2) or (j) because of any request to take any form of action relating to the application, either before or during consideration of the request, unless—

“(i) the request is in writing and is a petition submitted to the Secretary pursuant to section 10.30 or 10.35 of title 21, Code of Federal Regulations (or any successor regulations); and

“(ii) the Secretary determines, upon reviewing the petition, that a delay is necessary to protect the public health.

Deadline.

“(B) NOTIFICATION.—If the Secretary determines under subparagraph (A) that a delay is necessary with respect to an application, the Secretary shall provide to the applicant, not later than 30 days after making such determination, the following information:

“(i) Notification of the fact that a determination under subparagraph (A) has been made.

“(ii) If applicable, any clarification or additional data that the applicant should submit to the docket on the petition to allow the Secretary to review the petition promptly.

“(iii) A brief summary of the specific substantive issues raised in the petition which form the basis of the determination.

“(C) FORMAT.—The information described in subparagraph (B) shall be conveyed via either, at the discretion of the Secretary—

“(i) a document; or

“(ii) a meeting with the applicant involved.

“(D) PUBLIC DISCLOSURE.—Any information conveyed by the Secretary under subparagraph (C) shall be considered part of the application and shall be subject to the disclosure requirements applicable to information in such application.

“(E) DENIAL BASED ON INTENT TO DELAY.—If the Secretary determines that a petition or a supplement to the petition was submitted with the primary purpose of delaying the approval of an application and the petition does not on its face raise valid scientific or regulatory issues, the Secretary may deny the petition at any point based on such determination. The Secretary may issue guidance to describe the factors that will be used to determine under this subparagraph whether a petition is submitted with the primary purpose of delaying the approval of an application.

Deadline.

“(F) FINAL AGENCY ACTION.—The Secretary shall take final agency action on a petition not later than 180 days after the date on which the petition is submitted. The Secretary shall not extend such period for any reason, including—

“(i) any determination made under subparagraph (A);

“(ii) the submission of comments relating to the petition or supplemental information supplied by the petitioner; or

“(iii) the consent of the petitioner.

“(G) EXTENSION OF 30-MONTH PERIOD.—If the filing of an application resulted in first-applicant status under subsection (j)(5)(D)(i)(IV) and approval of the application was delayed because of a petition, the 30-month period under such subsection is deemed to be extended by a period of time equal to the period beginning on the date on which the Secretary received the petition and ending on the date of final agency action on the petition (inclusive of such beginning and ending dates), without regard to whether the Secretary grants, in whole or in part, or denies, in whole or in part, the petition.

“(H) CERTIFICATION.—The Secretary shall not consider a petition for review unless the party submitting such petition does so in written form and the subject document is signed and contains the following certification: ‘I certify that, to my best knowledge and belief: (a) this petition includes all information and views upon which the petition relies; (b) this petition includes representative data and/or information known to the petitioner which are unfavorable to the petition; and (c) I have taken reasonable steps to ensure that any representative data and/or information which are unfavorable to the petition were disclosed to me. I further certify that the information upon which I have based the action requested herein first became known to the party on whose behalf this petition is submitted on or about the following date: _____. If I received or expect to receive payments, including cash and other forms of consideration, to file this information or its contents, I received or expect to receive those payments from the following persons or organizations: _____. I verify under penalty of perjury that the foregoing is true and correct as of the date of the submission of this petition.’, with the date on which such information first became known to such party and the names of such persons or organizations inserted in the first and second blank space, respectively.

“(I) VERIFICATION.—The Secretary shall not accept for review any supplemental information or comments on a petition unless the party submitting such information or comments does so in written form and the subject document is signed and contains the following verification: ‘I certify that, to my best knowledge and belief: (a) I have not intentionally delayed submission of this document or its contents; and (b) the information upon which I have based the action requested herein first became known to me on or about _____. If I received or expect to receive payments, including cash and other forms of consideration, to file this information or its contents, I received or expect to receive those payments from the following persons or organizations: _____. I verify under penalty of perjury that the foregoing is true and correct as of the date of the submission of this petition.’, with the date on which such information first became known

to the party and the names of such persons or organizations inserted in the first and second blank space, respectively.

“(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—

“(A) FINAL AGENCY ACTION WITHIN 180 DAYS.—The Secretary shall be considered to have taken final agency action on a petition if—

“(i) during the 180-day period referred to in paragraph (1)(F), the Secretary makes a final decision within the meaning of section 10.45(d) of title 21, Code of Federal Regulations (or any successor regulation); or

“(ii) such period expires without the Secretary having made such a final decision.

Courts.

“(B) DISMISSAL OF CERTAIN CIVIL ACTIONS.—If a civil action is filed against the Secretary with respect to any issue raised in the petition before the Secretary has taken final agency action on the petition within the meaning of subparagraph (A), the court shall dismiss without prejudice the action for failure to exhaust administrative remedies.

“(C) ADMINISTRATIVE RECORD.—For purposes of judicial review related to the approval of an application for which a petition under paragraph (1) was submitted, the administrative record regarding any issue raised by the petition shall include—

“(i) the petition filed under paragraph (1) and any supplements and comments thereto;

“(ii) the Secretary’s response to such petition, if issued; and

“(iii) other information, as designated by the Secretary, related to the Secretary’s determinations regarding the issues raised in such petition, as long as the information was considered by the agency no later than the date of final agency action as defined under subparagraph (2)(A), and regardless of whether the Secretary responded to the petition at or before the approval of the application at issue in the petition.

“(3) ANNUAL REPORT ON DELAYS IN APPROVALS PER PETITIONS.—The Secretary shall annually submit to the Congress a report that specifies—

“(A) the number of applications that were approved during the preceding 12-month period;

“(B) the number of such applications whose effective dates were delayed by petitions referred to in paragraph (1) during such period;

“(C) the number of days by which such applications were so delayed; and

“(D) the number of such petitions that were submitted during such period.

“(4) EXCEPTIONS.—This subsection does not apply to—

“(A) a petition that relates solely to the timing of the approval of an application pursuant to subsection (j)(5)(B)(iv); or

“(B) a petition that is made by the sponsor of an application and that seeks only to have the Secretary take or refrain from taking any form of action with respect to that application.

“(5) DEFINITIONS.—

“(A) APPLICATION.—For purposes of this subsection, the term ‘application’ means an application submitted under subsection (b)(2) or (j).

“(B) PETITION.—For purposes of this subsection, other than paragraph (1)(A)(i), the term ‘petition’ means a request described in paragraph (1)(A)(i).”.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to encourage the early submission of petitions under section 505(q), as added by subsection (a).

SEC. 915. POSTMARKET DRUG SAFETY INFORMATION FOR PATIENTS AND PROVIDERS.

Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by section 914(a), is amended by adding at the end the following:

“(r) POSTMARKET DRUG SAFETY INFORMATION FOR PATIENTS AND PROVIDERS.—

“(1) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary shall improve the transparency of information about drugs and allow patients and health care providers better access to information about drugs by developing and maintaining an Internet Web site that—

Deadline.
Website.

“(A) provides links to drug safety information listed in paragraph (2) for prescription drugs that are approved under this section or licensed under section 351 of the Public Health Service Act; and

“(B) improves communication of drug safety information to patients and providers.

“(2) INTERNET WEB SITE.—The Secretary shall carry out paragraph (1) by—

“(A) developing and maintaining an accessible, consolidated Internet Web site with easily searchable drug safety information, including the information found on United States Government Internet Web sites, such as the United States National Library of Medicine’s Daily Med and Medline Plus Web sites, in addition to other such Web sites maintained by the Secretary;

“(B) ensuring that the information provided on the Internet Web site is comprehensive and includes, when available and appropriate—

“(i) patient labeling and patient packaging inserts;

“(ii) a link to a list of each drug, whether approved under this section or licensed under such section 351, for which a Medication Guide, as provided for under part 208 of title 21, Code of Federal Regulations (or any successor regulations), is required;

“(iii) a link to the registry and results data bank provided for under subsections (i) and (j) of section 402 of the Public Health Service Act;

“(iv) the most recent safety information and alerts issued by the Food and Drug Administration for drugs approved by the Secretary under this section, such as product recalls, warning letters, and import alerts;

- “(v) publicly available information about implemented RiskMAPs and risk evaluation and mitigation strategies under subsection (o);
 - “(vi) guidance documents and regulations related to drug safety; and
 - “(vii) other material determined appropriate by the Secretary;
- “(C) providing access to summaries of the assessed and aggregated data collected from the active surveillance infrastructure under subsection (k)(3) to provide information of known and serious side-effects for drugs approved under this section or licensed under such section 351;
- Reports. “(D) preparing, by 18 months after approval of a drug or after use of the drug by 10,000 individuals, whichever is later, a summary analysis of the adverse drug reaction reports received for the drug, including identification of any new risks not previously identified, potential new risks, or known risks reported in unusual number;
- Reports. “(E) enabling patients, providers, and drug sponsors to submit adverse event reports through the Internet Web site;
- “(F) providing educational materials for patients and providers about the appropriate means of disposing of expired, damaged, or unusable medications; and
- “(G) supporting initiatives that the Secretary determines to be useful to fulfill the purposes of the Internet Web site.
- Deadline. “(3) POSTING OF DRUG LABELING.—The Secretary shall post on the Internet Web site established under paragraph (1) the approved professional labeling and any required patient labeling of a drug approved under this section or licensed under such section 351 not later than 21 days after the date the drug is approved or licensed, including in a supplemental application with respect to a labeling change.
- “(4) PRIVATE SECTOR RESOURCES.—To ensure development of the Internet Web site by the date described in paragraph (1), the Secretary may, on a temporary or permanent basis, implement systems or products developed by private entities.
- “(5) AUTHORITY FOR CONTRACTS.—The Secretary may enter into contracts with public and private entities to fulfill the requirements of this subsection.
- “(6) REVIEW.—The Advisory Committee on Risk Communication under section 567 shall, on a regular basis, perform a comprehensive review and evaluation of the types of risk communication information provided on the Internet Web site established under paragraph (1) and, through other means, shall identify, clarify, and define the purposes and types of information available to facilitate the efficient flow of information to patients and providers, and shall recommend ways for the Food and Drug Administration to work with outside entities to help facilitate the dispensing of risk communication information to patients and providers.”.

SEC. 916. ACTION PACKAGE FOR APPROVAL.

Section 505(l) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(l)) is amended by—

(1) redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E), respectively;

(2) striking “(1) Safety and” and inserting “(1)(1) Safety and”; and

(3) adding at the end the following:

“(2) ACTION PACKAGE FOR APPROVAL.—

Publication.

Website.

Deadlines.

“(A) ACTION PACKAGE.—The Secretary shall publish the action package for approval of an application under subsection (b) or section 351 of the Public Health Service Act on the Internet Web site of the Food and Drug Administration—

“(i) not later than 30 days after the date of approval of such application for a drug no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under this section or section 351 of the Public Health Service Act; and

“(ii) not later than 30 days after the third request for such action package for approval received under section 552 of title 5, United States Code, for any other drug.

“(B) IMMEDIATE PUBLICATION OF SUMMARY REVIEW.—Notwithstanding subparagraph (A), the Secretary shall publish, on the Internet Web site of the Food and Drug Administration, the materials described in subparagraph (C)(iv) not later than 48 hours after the date of approval of the drug, except where such materials require redaction by the Secretary.

“(C) CONTENTS.—An action package for approval of an application under subparagraph (A) shall be dated and shall include the following:

“(i) Documents generated by the Food and Drug Administration related to review of the application.

“(ii) Documents pertaining to the format and content of the application generated during drug development.

“(iii) Labeling submitted by the applicant.

“(iv) A summary review that documents conclusions from all reviewing disciplines about the drug, noting any critical issues and disagreements with the applicant and within the review team and how they were resolved, recommendations for action, and an explanation of any non-concurrence with review conclusions.

“(v) The Division Director and Office Director’s decision document which includes—

“(I) a brief statement of concurrence with the summary review;

“(II) a separate review or addendum to the review if disagreeing with the summary review; and

“(III) a separate review or addendum to the review to add further analysis.

“(vi) Identification by name of each officer or employee of the Food and Drug Administration who—

“(I) participated in the decision to approve the application; and

“(II) consents to have his or her name included in the package.

“(D) REVIEW.—A scientific review of an application is considered the work of the reviewer and shall not be altered by management or the reviewer once final.

“(E) CONFIDENTIAL INFORMATION.—This paragraph does not authorize the disclosure of any trade secret, confidential commercial or financial information, or other matter listed in section 552(b) of title 5, United States Code.”.

SEC. 917. RISK COMMUNICATION.

Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.), as amended by section 603, is amended by adding at the end the following:

21 USC
360bbb–6.
Establishment.

“SEC. 567. RISK COMMUNICATION.

“(a) ADVISORY COMMITTEE ON RISK COMMUNICATION.—

“(1) IN GENERAL.—The Secretary shall establish an advisory committee to be known as the ‘Advisory Committee on Risk Communication’ (referred to in this section as the ‘Committee’).

“(2) DUTIES OF COMMITTEE.—The Committee shall advise the Commissioner on methods to effectively communicate risks associated with the products regulated by the Food and Drug Administration.

“(3) MEMBERS.—The Secretary shall ensure that the Committee is composed of experts on risk communication, experts on the risks described in subsection (b), and representatives of patient, consumer, and health professional organizations.

“(4) PERMANENCE OF COMMITTEE.—Section 14 of the Federal Advisory Committee Act shall not apply to the Committee established under this subsection.

“(b) PARTNERSHIPS FOR RISK COMMUNICATION.—

“(1) IN GENERAL.—The Secretary shall partner with professional medical societies, medical schools, academic medical centers, and other stakeholders to develop robust and multi-faceted systems for communication to health care providers about emerging postmarket drug risks.

“(2) PARTNERSHIPS.—The systems developed under paragraph (1) shall—

“(A) account for the diversity among physicians in terms of practice, willingness to adopt technology, and medical specialty; and

“(B) include the use of existing communication channels, including electronic communications, in place at the Food and Drug Administration.”.

21 USC 355.

SEC. 918. REFERRAL TO ADVISORY COMMITTEE.

Section 505 of the Federal Food, Drug, and Cosmetic Act, as amended by section 915, is further amended by adding at the end the following:

“(s) REFERRAL TO ADVISORY COMMITTEE.—Prior to the approval of a drug no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under this section or section 351 of the Public Health Service Act, the Secretary shall—

“(1) refer such drug to a Food and Drug Administration advisory committee for review at a meeting of such advisory committee; or

“(2) if the Secretary does not refer such a drug to a Food and Drug Administration advisory committee prior to the approval of the drug, provide in the action letter on the application for the drug a summary of the reasons why the Secretary

did not refer the drug to an advisory committee prior to approval.”.

SEC. 919. RESPONSE TO THE INSTITUTE OF MEDICINE.

(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this title, the Secretary shall issue a report responding to the 2006 report of the Institute of Medicine entitled “The Future of Drug Safety—Promoting and Protecting the Health of the Public”. Deadline.
Reports.

(b) **CONTENT OF REPORT.**—The report issued by the Secretary under subsection (a) shall include—

(1) an update on the implementation by the Food and Drug Administration of its plan to respond to the Institute of Medicine report described under such subsection; and

(2) an assessment of how the Food and Drug Administration has implemented—

(A) the recommendations described in such Institute of Medicine report; and

(B) the requirement under section 505–1(c)(2) of the Federal Food, Drug, and Cosmetic Act (as added by this title), that the appropriate office responsible for reviewing a drug and the office responsible for postapproval safety with respect to the drug work together to assess, implement, and ensure compliance with the requirements of such section 505–1.

SEC. 920. DATABASE FOR AUTHORIZED GENERIC DRUGS.

Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by section 918, is further amended by adding at the end the following:

“(t) **DATABASE FOR AUTHORIZED GENERIC DRUGS.**—

“(1) **IN GENERAL.**—

“(A) **PUBLICATION.**—The Commissioner shall—

“(i) not later than 9 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, publish a complete list on the Internet Web site of the Food and Drug Administration of all authorized generic drugs (including drug trade name, brand company manufacturer, and the date the authorized generic drug entered the market); and

“(ii) update the list quarterly to include each authorized generic drug included in an annual report submitted to the Secretary by the sponsor of a listed drug during the preceding 3-month period.

“(B) **NOTIFICATION.**—The Commissioner shall notify relevant Federal agencies, including the Centers for Medicare & Medicaid Services and the Federal Trade Commission, when the Commissioner first publishes the information described in subparagraph (A) that the information has been published and that the information will be updated quarterly.

“(2) **INCLUSION.**—The Commissioner shall include in the list described in paragraph (1) each authorized generic drug included in an annual report submitted to the Secretary by the sponsor of a listed drug after January 1, 1999.

“(3) **AUTHORIZED GENERIC DRUG.**—In this section, the term ‘authorized generic drug’ means a listed drug (as that term is used in subsection (j)) that—

Deadlines.

“(A) has been approved under subsection (c); and

“(B) is marketed, sold, or distributed directly or indirectly to retail class of trade under a different labeling, packaging (other than repackaging as the listed drug in blister packs, unit doses, or similar packaging for use in institutions), product code, labeler code, trade name, or trade mark than the listed drug.”.

SEC. 921. ADVERSE DRUG REACTION REPORTS AND POSTMARKET SAFETY.

Subsection (k) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by section 905, is amended by adding at the end the following:

“(5) The Secretary shall—

“(A) conduct regular, bi-weekly screening of the Adverse Event Reporting System database and post a quarterly report on the Adverse Event Reporting System Web site of any new safety information or potential signal of a serious risk identified by Adverse Event Reporting System within the last quarter;

“(B) report to Congress not later than 2 year after the date of the enactment of the Food and Drug Administration Amendments Act of 2007 on procedures and processes of the Food and Drug Administration for addressing ongoing post market safety issues identified by the Office of Surveillance and Epidemiology and how recommendations of the Office of Surveillance and Epidemiology are handled within the agency; and

“(C) on an annual basis, review the entire backlog of postmarket safety commitments to determine which commitments require revision or should be eliminated, report to the Congress on these determinations, and assign start dates and estimated completion dates for such commitments.”.

TITLE X—FOOD SAFETY

21 USC 2101.

SEC. 1001. FINDINGS.

Congress finds that—

(1) the safety and integrity of the United States food supply are vital to public health, to public confidence in the food supply, and to the success of the food sector of the Nation’s economy;

(2) illnesses and deaths of individuals and companion animals caused by contaminated food—

(A) have contributed to a loss of public confidence in food safety; and

(B) have caused significant economic losses to manufacturers and producers not responsible for contaminated food items;

(3) the task of preserving the safety of the food supply of the United States faces tremendous pressures with regard to—

(A) emerging pathogens and other contaminants and the ability to detect all forms of contamination;

(B) an increasing volume of imported food from a wide variety of countries; and

(C) a shortage of adequate resources for monitoring and inspection;

(4) according to the Economic Research Service of the Department of Agriculture, the United States is increasing the amount of food that it imports such that—

(A) from 2003 to 2007, the value of food imports has increased from \$45,600,000,000 to \$64,000,000,000; and

(B) imported food accounts for 13 percent of the average American diet including 31 percent of fruits, juices, and nuts, 9.5 percent of red meat, and 78.6 percent of fish and shellfish; and

(5) the number of full-time equivalent Food and Drug Administration employees conducting inspections has decreased from 2003 to 2007.

SEC. 1002. ENSURING THE SAFETY OF PET FOOD.

21 USC 2102.

(a) **PROCESSING AND INGREDIENT STANDARDS.**—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services (referred to in this title as the “Secretary”), in consultation with the Association of American Feed Control Officials and other relevant stakeholder groups, including veterinary medical associations, animal health organizations, and pet food manufacturers, shall by regulation establish—

Deadline.

Regulations.

(1) ingredient standards and definitions with respect to pet food;

(2) processing standards for pet food; and

(3) updated standards for the labeling of pet food that include nutritional and ingredient information.

(b) **EARLY WARNING SURVEILLANCE SYSTEMS AND NOTIFICATION DURING PET FOOD RECALLS.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish an early warning and surveillance system to identify adulteration of the pet food supply and outbreaks of illness associated with pet food. In establishing such system, the Secretary shall—

Deadline.

(1) consider using surveillance and monitoring mechanisms similar to, or in coordination with, those used to monitor human or animal health, such as the Foodborne Diseases Active Surveillance Network (FoodNet) and PulseNet of the Centers for Disease Control and Prevention, the Food Emergency Response Network of the Food and Drug Administration and the Department of Agriculture, and the National Animal Health Laboratory Network of the Department of Agriculture;

(2) consult with relevant professional associations and private sector veterinary hospitals;

(3) work with the National Companion Animal Surveillance Program, the Health Alert Network, or other notification networks as appropriate to inform veterinarians and relevant stakeholders during any recall of pet food; and

(4) use such information and conduct such other activities as the Secretary deems appropriate.

SEC. 1003. ENSURING EFFICIENT AND EFFECTIVE COMMUNICATIONS DURING A RECALL.

21 USC 2103.

The Secretary shall, during an ongoing recall of human or pet food regulated by the Secretary—

Website.

(1) work with companies, relevant professional associations, and other organizations to collect and aggregate information pertaining to the recall;

(2) use existing networks of communication, including electronic forms of information dissemination, to enhance the quality and speed of communication with the public; and

(3) post information regarding recalled human and pet foods on the Internet Web site of the Food and Drug Administration in a single location, which shall include a searchable database of recalled human foods and a searchable database of recalled pet foods, that is easily accessed and understood by the public.

21 USC 2104.

SEC. 1004. STATE AND FEDERAL COOPERATION.

(a) IN GENERAL.—The Secretary shall work with the States in undertaking activities and programs that assist in improving the safety of food, including fresh and processed produce, so that State food safety programs and activities conducted by the Secretary function in a coordinated and cost-effective manner. With the assistance provided under subsection (b), the Secretary shall encourage States to—

(1) establish, continue, or strengthen State food safety programs, especially with respect to the regulation of retail commercial food establishments; and

(2) establish procedures and requirements for ensuring that processed produce under the jurisdiction of State food safety programs is not unsafe for human consumption.

(b) ASSISTANCE.—The Secretary may provide to a State, for planning, developing, and implementing such a food safety program—

(1) advisory assistance;

(2) technical assistance, training, and laboratory assistance (including necessary materials and equipment); and

(3) financial and other assistance.

(c) SERVICE AGREEMENTS.—The Secretary may, under an agreement entered into with a Federal, State, or local agency, use, on a reimbursable basis or otherwise, the personnel, services, and facilities of the agency to carry out the responsibilities of the agency under this section. An agreement entered into with a State agency under this subsection may provide for training of State employees.

21 USC 350f note.

SEC. 1005. REPORTABLE FOOD REGISTRY.

(a) FINDINGS.—Congress makes the following findings:

(1) In 1994, Congress passed the Dietary Supplement Health and Education Act of 1994 (Public Law 103–417) to provide the Food and Drug Administration the legal framework which is intended to ensure that dietary supplements are safe and properly labeled foods.

(2) In 2006, Congress passed the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Public Law 109–462) to establish a mandatory reporting system of serious adverse events for nonprescription drugs and dietary supplements sold and consumed in the United States.

(3) The adverse event reporting system created under the Dietary Supplement and Nonprescription Drug Consumer Protection Act is intended to serve as an early warning system for potential public health issues associated with the use of these products.

(4) A reliable mechanism to track patterns of adulteration in food would support efforts by the Food and Drug Administration to target limited inspection resources to protect the public health.

(b) IN GENERAL.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

“SEC. 417. REPORTABLE FOOD REGISTRY.

21 USC 350f.

“(a) DEFINITIONS.—In this section:

“(1) RESPONSIBLE PARTY.—The term ‘responsible party’, with respect to an article of food, means a person that submits the registration under section 415(a) for a food facility that is required to register under section 415(a), at which such article of food is manufactured, processed, packed, or held.

“(2) REPORTABLE FOOD.—The term ‘reportable food’ means an article of food (other than infant formula) for which there is a reasonable probability that the use of, or exposure to, such article of food will cause serious adverse health consequences or death to humans or animals.

“(b) ESTABLISHMENT.—

“(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this section, the Secretary shall establish within the Food and Drug Administration a Reportable Food Registry to which instances of reportable food may be submitted by the Food and Drug Administration after receipt of reports under subsection (d), via an electronic portal, from—

Deadline.

“(A) Federal, State, and local public health officials;

or

“(B) responsible parties.

“(2) REVIEW BY SECRETARY.—The Secretary shall promptly review and assess the information submitted under paragraph (1) for the purposes of identifying reportable food, submitting entries to the Reportable Food Registry, acting under subsection (c), and exercising other existing food safety authorities under this Act to protect the public health.

“(c) ISSUANCE OF AN ALERT BY THE SECRETARY.—

“(1) IN GENERAL.—The Secretary shall issue, or cause to be issued, an alert or a notification with respect to a reportable food using information from the Reportable Food Registry as the Secretary deems necessary to protect the public health.

“(2) EFFECT.—Paragraph (1) shall not affect the authority of the Secretary to issue an alert or a notification under any other provision of this Act.

“(d) REPORTING AND NOTIFICATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), as soon as practicable, but in no case later than 24 hours after a responsible party determines that an article of food is a reportable food, the responsible party shall—

Deadline.

“(A) submit a report to the Food and Drug Administration through the electronic portal established under subsection (b) that includes the data elements described in subsection (e) (except the elements described in paragraphs (8), (9), and (10) of such subsection); and

“(B) investigate the cause of the adulteration if the adulteration of the article of food may have originated with the responsible party.

“(2) NO REPORT REQUIRED.—A responsible party is not required to submit a report under paragraph (1) if—

“(A) the adulteration originated with the responsible party;

“(B) the responsible party detected the adulteration prior to any transfer to another person of such article of food; and

“(C) the responsible party—

“(i) corrected such adulteration; or

“(ii) destroyed or caused the destruction of such article of food.

“(3) REPORTS BY PUBLIC HEALTH OFFICIALS.—A Federal, State, or local public health official may submit a report about a reportable food to the Food and Drug Administration through the electronic portal established under subsection (b) that includes the data elements described in subsection (e) that the official is able to provide.

“(4) REPORT NUMBER.—The Secretary shall ensure that, upon submission of a report under paragraph (1) or (3), a unique number is issued through the electronic portal established under subsection (b) to the person submitting such report, by which the Secretary is able to link reports about the reportable food submitted and amended under this subsection and identify the supply chain for such reportable food.

“(5) REVIEW.—The Secretary shall promptly review a report submitted under paragraph (1) or (3).

“(6) RESPONSE TO REPORT SUBMITTED BY A RESPONSIBLE PARTY.—After consultation with the responsible party that submitted a report under paragraph (1), the Secretary may require such responsible party to perform, as soon as practicable, but in no case later than a time specified by the Secretary, 1 or more of the following:

“(A) Amend the report submitted by the responsible party under paragraph (1) to include the data element described in subsection (e)(9).

“(B) Provide a notification—

“(i) to the immediate previous source of the article of food, if the Secretary deems necessary;

“(ii) to the immediate subsequent recipient of the article of food, if the Secretary deems necessary; and

“(iii) that includes—

“(I) the data elements described in subsection (e) that the Secretary deems necessary;

“(II) the actions described under paragraph (7) that the recipient of the notification shall perform, as required by the Secretary; and

“(III) any other information that the Secretary may require.

“(7) SUBSEQUENT REPORTS AND NOTIFICATIONS.—Except as provided in paragraph (8), the Secretary may require a responsible party to perform, as soon as practicable, but in no case later than a time specified by the Secretary, after the responsible party receives a notification under subparagraph (C) or paragraph (6)(B), 1 or more of the following:

“(A) Submit a report to the Food and Drug Administration through the electronic portal established under subsection (b) that includes those data elements described

in subsection (e) and other information that the Secretary deems necessary.

“(B) Investigate the cause of the adulteration if the adulteration of the article of food may have originated with the responsible party.

“(C) Provide a notification—

“(i) to the immediate previous source of the article of food, if the Secretary deems necessary;

“(ii) to the immediate subsequent recipient of the article of food, if the Secretary deems necessary; and

“(iii) that includes—

“(I) the data elements described in subsection (e) that the Secretary deems necessary;

“(II) the actions described under this paragraph that the recipient of the notification shall perform, as required by the Secretary; and

“(III) any other information that the Secretary may require.

“(8) AMENDED REPORT.—If a responsible party receives a notification under paragraph (6)(B) or paragraph (7)(C) with respect to an article of food after the responsible party has submitted a report to the Food and Drug Administration under paragraph (1) with respect to such article of food—

“(A) the responsible party is not required to submit an additional report or make a notification under paragraph (7); and

“(B) the responsible party shall amend the report submitted by the responsible party under paragraph (1) to include the data elements described in paragraph (9), and, with respect to both such notification and such report, paragraph (11) of subsection (e).

“(e) DATA ELEMENTS.—The data elements described in this subsection are the following:

“(1) The registration numbers of the responsible party under section 415(a)(3).

“(2) The date on which an article of food was determined to be a reportable food.

“(3) A description of the article of food including the quantity or amount.

“(4) The extent and nature of the adulteration.

“(5) If the adulteration of the article of food may have originated with the responsible party, the results of the investigation required under paragraph (1)(B) or (7)(B) of subsection (d), as applicable and when known.

“(6) The disposition of the article of food, when known.

“(7) Product information typically found on packaging including product codes, use-by dates, and names of manufacturers, packers, or distributors sufficient to identify the article of food.

“(8) Contact information for the responsible party.

“(9) The contact information for parties directly linked in the supply chain and notified under paragraph (6)(B) or (7)(C) of subsection (d), as applicable.

“(10) The information required by the Secretary to be included in a notification provided by the responsible party involved under paragraph (6)(B) or (7)(C) of subsection (d) or required in a report under subsection (d)(7)(A).

“(11) The unique number described in subsection (d)(4).

“(f) COORDINATION OF FEDERAL, STATE, AND LOCAL EFFORTS.—

“(1) DEPARTMENT OF AGRICULTURE.—In implementing this section, the Secretary shall—

“(A) share information and coordinate regulatory efforts with the Department of Agriculture; and

“(B) if the Secretary receives a report submitted about a food within the jurisdiction of the Department of Agriculture, promptly provide such report to the Department of Agriculture.

“(2) STATES AND LOCALITIES.—In implementing this section, the Secretary shall work with the State and local public health officials to share information and coordinate regulatory efforts, in order to—

“(A) help to ensure coverage of the safety of the food supply chain, including those food establishments regulated by the States and localities that are not required to register under section 415; and

“(B) reduce duplicative regulatory efforts.

“(g) MAINTENANCE AND INSPECTION OF RECORDS.—The responsible party shall maintain records related to each report received, notification made, and report submitted to the Food and Drug Administration under this section for 2 years. A responsible party shall, at the request of the Secretary, permit inspection of such records as provided for section 414.

Applicability.

“(h) REQUEST FOR INFORMATION.—Except as provided by section 415(a)(4), section 552 of title 5, United States Code, shall apply to any request for information regarding a record in the Reportable Food Registry.

“(i) SAFETY REPORT.—A report or notification under subsection (d) shall be considered to be a safety report under section 756 and may be accompanied by a statement, which shall be part of any report released for public disclosure, that denies that the report or the notification constitutes an admission that the product involved caused or contributed to a death, serious injury, or serious illness.

“(j) ADMISSION.—A report or notification under this section shall not be considered an admission that the article of food involved is adulterated or caused or contributed to a death, serious injury, or serious illness.

“(k) HOMELAND SECURITY NOTIFICATION.—If, after receiving a report under subsection (d), the Secretary believes such food may have been deliberately adulterated, the Secretary shall immediately notify the Secretary of Homeland Security. The Secretary shall make relevant information from the Reportable Food Registry available to the Secretary of Homeland Security.”

(c) DEFINITION.—Section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)) is amended by striking “section 201(g)” and inserting “sections 201(g) and 417”.

(d) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), as amended by section 912, is further amended—

(1) in subsection (e), by—

(A) striking “414,” and inserting “414, 417(g),”; and

(B) striking “414(b)” and inserting “414(b), 417”; and

(2) by adding at the end the following:

“(mm) The failure to submit a report or provide a notification required under section 417(d).

“(nn) The falsification of a report or notification required under section 417(d).”.

(e) **EFFECTIVE DATE.**—The requirements of section 417(d) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall become effective 1 year after the date of the enactment of this Act. 21 USC 350f note.

(f) **GUIDANCE.**—Not later than 9 months after the date of the enactment of this Act, the Secretary shall issue a guidance to industry about submitting reports to the electronic portal established under section 417 of the Federal Food, Drug, and Cosmetic Act (as added by this section) and providing notifications to other persons in the supply chain of an article of food under such section 417. Deadline.
21 USC 350f note.

(g) **EFFECT.**—Nothing in this title, or an amendment made by this title, shall be construed to alter the jurisdiction between the Secretaries of Agriculture and of Health and Human Services, under applicable statutes and regulations. 21 USC 2110 note.

SEC. 1006. ENHANCED AQUACULTURE AND SEAFOOD INSPECTION.

21 USC 2105.

(a) **FINDINGS.**—Congress finds the following:

(1) In 2007, there has been an overwhelming increase in the volume of aquaculture and seafood that has been found to contain substances that are not approved for use in food in the United States.

(2) As of May 2007, inspection programs are not able to satisfactorily accomplish the goals of ensuring the food safety of the United States.

(3) To protect the health and safety of consumers in the United States, the ability of the Secretary to perform inspection functions must be enhanced.

(b) **HEIGHTENED INSPECTIONS.**—The Secretary is authorized to enhance, as necessary, the inspection regime of the Food and Drug Administration for aquaculture and seafood, consistent with obligations of the United States under international agreements and United States law.

(c) **REPORT TO CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report that—

(1) describes the specifics of the aquaculture and seafood inspection program;

(2) describes the feasibility of developing a traceability system for all catfish and seafood products, both domestic and imported, for the purpose of identifying the processing plant of origin of such products; and

(3) provides for an assessment of the risks associated with particular contaminants and banned substances.

(d) **PARTNERSHIPS WITH STATES.**—Upon the request by any State, the Secretary may enter into partnership agreements, as soon as practicable after the request is made, to implement inspection programs to Federal standards regarding the importation of aquaculture and seafood.

SEC. 1007. CONSULTATION REGARDING GENETICALLY ENGINEERED SEAFOOD PRODUCTS.

Reports.
21 USC 2106.

The Commissioner of Food and Drugs shall consult with the Assistant Administrator of the National Marine Fisheries Service

of the National Oceanic and Atmospheric Administration to produce a report on any environmental risks associated with genetically engineered seafood products, including the impact on wild fish stocks.

21 USC 2107.

SEC. 1008. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) it is vital for Congress to provide the Food and Drug Administration with additional resources, authorities, and direction with respect to ensuring the safety of the food supply of the United States;

(2) additional inspectors are required to improve the Food and Drug Administration's ability to safeguard the food supply of the United States;

(3) because of the increasing volume of international trade in food products the Secretary should make it a priority to enter into agreements with the trading partners of the United States with respect to food safety; and

(4) Congress should work to develop a comprehensive response to the issue of food safety.

21 USC 2108.

SEC. 1009. ANNUAL REPORT TO CONGRESS.

The Secretary shall, on an annual basis, submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives a report that includes, with respect to the preceding 1-year period—

(1) the number and amount of food products regulated by the Food and Drug Administration imported into the United States, aggregated by country and type of food;

(2) a listing of the number of Food and Drug Administration inspectors of imported food products referenced in paragraph (1) and the number of Food and Drug Administration inspections performed on such products; and

(3) aggregated data on the findings of such inspections, including data related to violations of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.), and enforcement actions used to follow-up on such findings and violations.

21 USC 2109.

SEC. 1010. PUBLICATION OF ANNUAL REPORTS.

Website.

(a) IN GENERAL.—The Commissioner of Food and Drugs shall annually submit to Congress and publish on the Internet Web site of the Food and Drug Administration, a report concerning the results of the Administration's pesticide residue monitoring program, that includes—

(1) information and analysis similar to that contained in the report entitled "Food and Drug Administration Pesticide Program Residue Monitoring 2003" as released in June of 2005;

(2) based on an analysis of previous samples, an identification of products or countries (for imports) that require special attention and additional study based on a comparison with equivalent products manufactured, distributed, or sold in the United States (including details on the plans for such additional studies), including in the initial report (and subsequent reports as determined necessary) the results and analysis of the Ginseng Dietary Supplements Special Survey as described on page

13 of the report entitled “Food and Drug Administration Pesticide Program Residue Monitoring 2003”;

(3) information on the relative number of interstate and imported shipments of each tested commodity that were sampled, including recommendations on whether sampling is statistically significant, provides confidence intervals or other related statistical information, and whether the number of samples should be increased and the details of any plans to provide for such increase; and

(4) a description of whether certain commodities are being improperly imported as another commodity, including a description of additional steps that are being planned to prevent such smuggling.

(b) INITIAL REPORTS.—Annual reports under subsection (a) for fiscal years 2004 through 2006 may be combined into a single report, by not later than June 1, 2008, for purposes of publication under subsection (a). Thereafter such reports shall be completed by June 1 of each year for the data collected for the year that was 2-years prior to the year in which the report is published.

(c) MEMORANDUM OF UNDERSTANDING.—The Commissioner of Food and Drugs, the Administrator of the Food Safety and Inspection Service, the Department of Commerce, and the head of the Agricultural Marketing Service shall enter into a memorandum of understanding to permit inclusion of data in the reports under subsection (a) relating to testing carried out by the Food Safety and Inspection Service and the Agricultural Marketing Service on meat, poultry, eggs, and certain raw agricultural products, respectively.

SEC. 1011. RULE OF CONSTRUCTION.

21 USC 2110.

Nothing in this title (or an amendment made by this title) shall be construed to affect—

(1) the regulation of dietary supplements under the Dietary Supplement Health and Education Act of 1994 (Public Law 103–417); or

(2) the adverse event reporting system for dietary supplements created under the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Public Law 109–462).

TITLE XI—OTHER PROVISIONS

Subtitle A—In General

SEC. 1101. POLICY ON THE REVIEW AND CLEARANCE OF SCIENTIFIC ARTICLES PUBLISHED BY FDA EMPLOYEES.

Subchapter A of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.), as amended by section 701, is further amended by adding at the end the following:

“SEC. 713. POLICY ON THE REVIEW AND CLEARANCE OF SCIENTIFIC ARTICLES PUBLISHED BY FDA EMPLOYEES.

21 USC 379d–2.

“(a) DEFINITION.—In this section, the term ‘article’ means a paper, poster, abstract, book, book chapter, or other published writing.

“(b) POLICIES.—The Secretary, through the Commissioner of Food and Drugs, shall establish and make publicly available clear

Public
information.

written policies to implement this section and govern the timely submission, review, clearance, and disclaimer requirements for articles.

“(c) **TIMING OF SUBMISSION FOR REVIEW.**—If an officer or employee, including a Staff Fellow and a contractor who performs staff work, of the Food and Drug Administration is directed by the policies established under subsection (b) to submit an article to the supervisor of such officer or employee, or to some other official of the Food and Drug Administration, for review and clearance before such officer or employee may seek to publish or present such an article at a conference, such officer or employee shall submit such article for such review and clearance not less than 30 days before submitting the article for publication or presentation.

“(d) **TIMING FOR REVIEW AND CLEARANCE.**—The supervisor or other reviewing official shall review such article and provide written clearance, or written clearance on the condition of specified changes being made, to such officer or employee not later than 30 days after such officer or employee submitted such article for review.

“(e) **NON-TIMELY REVIEW.**—If, 31 days after such submission under subsection (c), the supervisor or other reviewing official has not cleared or has not reviewed such article and provided written clearance, such officer or employee may consider such article not to have been cleared and may submit the article for publication or presentation with an appropriate disclaimer as specified in the policies established under subsection (b).

“(f) **EFFECT.**—Nothing in this section shall be construed as affecting any restrictions on such publication or presentation provided by other provisions of law.”.

SEC. 1102. PRIORITY REVIEW TO ENCOURAGE TREATMENTS FOR TROPICAL DISEASES.

Subchapter A of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

21 USC 360n.

“SEC. 524. PRIORITY REVIEW TO ENCOURAGE TREATMENTS FOR TROPICAL DISEASES.

“(a) **DEFINITIONS.**—In this section:

“(1) **PRIORITY REVIEW.**—The term ‘priority review’, with respect to a human drug application as defined in section 735(1), means review and action by the Secretary on such application not later than 6 months after receipt by the Secretary of such application, as described in the Manual of Policies and Procedures of the Food and Drug Administration and goals identified in the letters described in section 101(c) of the Food and Drug Administration Amendments Act of 2007.

“(2) **PRIORITY REVIEW VOUCHER.**—The term ‘priority review voucher’ means a voucher issued by the Secretary to the sponsor of a tropical disease product application that entitles the holder of such voucher to priority review of a single human drug application submitted under section 505(b)(1) or section 351 of the Public Health Service Act after the date of approval of the tropical disease product application.

“(3) **TROPICAL DISEASE.**—The term ‘tropical disease’ means any of the following:

“(A) Tuberculosis.

“(B) Malaria.

“(C) Blinding trachoma.

“(D) Buruli Ulcer.

“(E) Cholera.

“(F) Dengue/dengue haemorrhagic fever.

“(G) Dracunculiasis (guinea-worm disease).

“(H) Fascioliasis.

“(I) Human African trypanosomiasis.

“(J) Leishmaniasis.

“(K) Leprosy.

“(L) Lymphatic filariasis.

“(M) Onchocerciasis.

“(N) Schistosomiasis.

“(O) Soil transmitted helminthiasis.

“(P) Yaws.

“(Q) Any other infectious disease for which there is no significant market in developed nations and that disproportionately affects poor and marginalized populations, designated by regulation by the Secretary.

“(4) TROPICAL DISEASE PRODUCT APPLICATION.—The term ‘tropical disease product application’ means an application that—

“(A) is a human drug application as defined in section 735(1)—

“(i) for prevention or treatment of a tropical disease; and

“(ii) the Secretary deems eligible for priority review;

“(B) is approved after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, by the Secretary for use in the prevention, detection, or treatment of a tropical disease; and

“(C) is for a human drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under section 505(b)(1) or section 351 of the Public Health Service Act.

“(b) PRIORITY REVIEW VOUCHER.—

“(1) IN GENERAL.—The Secretary shall award a priority review voucher to the sponsor of a tropical disease product application upon approval by the Secretary of such tropical disease product application.

“(2) TRANSFERABILITY.—The sponsor of a tropical disease product that receives a priority review voucher under this section may transfer (including by sale) the entitlement to such voucher to a sponsor of a human drug for which an application under section 505(b)(1) or section 351 of the Public Health Service Act will be submitted after the date of the approval of the tropical disease product application.

“(3) LIMITATION.—

“(A) NO AWARD FOR PRIOR APPROVED APPLICATION.—

A sponsor of a tropical disease product may not receive a priority review voucher under this section if the tropical disease product application was submitted to the Secretary prior to the date of the enactment of this section.

“(B) ONE-YEAR WAITING PERIOD.—The Secretary shall issue a priority review voucher to the sponsor of a tropical disease product no earlier than the date that is 1 year

Deadline.

after the date of the enactment of the Food and Drug Administration Amendments Act of 2007.

“(4) NOTIFICATION.—The sponsor of a human drug application shall notify the Secretary not later than 365 days prior to submission of the human drug application that is the subject of a priority review voucher of an intent to submit the human drug application, including the date on which the sponsor intends to submit the application. Such notification shall be a legally binding commitment to pay for the user fee to be assessed in accordance with this section.

“(c) PRIORITY REVIEW USER FEE.—

“(1) IN GENERAL.—The Secretary shall establish a user fee program under which a sponsor of a human drug application that is the subject of a priority review voucher shall pay to the Secretary a fee determined under paragraph (2). Such fee shall be in addition to any fee required to be submitted by the sponsor under chapter VII.

“(2) FEE AMOUNT.—The amount of the priority review user fee shall be determined each fiscal year by the Secretary and based on the average cost incurred by the agency in the review of a human drug application subject to priority review in the previous fiscal year.

“(3) ANNUAL FEE SETTING.—The Secretary shall establish, before the beginning of each fiscal year beginning after September 30, 2007, for that fiscal year, the amount of the priority review user fee.

“(4) PAYMENT.—

“(A) IN GENERAL.—The priority review user fee required by this subsection shall be due upon the submission of a human drug application under section 505(b)(1) or section 351 of the Public Health Services Act for which the priority review voucher is used.

“(B) COMPLETE APPLICATION.—An application described under subparagraph (A) for which the sponsor requests the use of a priority review voucher shall be considered incomplete if the fee required by this subsection and all other applicable user fees are not paid in accordance with the Secretary’s procedures for paying such fees.

“(C) NO WAIVERS, EXEMPTIONS, REDUCTIONS, OR REFUNDS.—The Secretary may not grant a waiver, exemption, reduction, or refund of any fees due and payable under this section.

“(5) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year—

“(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Food and Drug Administration; and

“(B) shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.”.

SEC. 1103. IMPROVING GENETIC TEST SAFETY AND QUALITY.

Contracts.
Study.

(a) REPORT.—If the Secretary’s Advisory Committee on Genetics, Health, and Society does not complete and submit the Regulatory Oversight of Genetic/Genomic Testing Report & Action Recommendations to the Secretary of Health and Human Services (referred to in this section as the “Secretary”) by July of 2008, the Secretary shall enter into a contract with the Institute of

Medicine to conduct a study to assess the overall safety and quality of genetic tests and prepare a report that includes recommendations to improve Federal oversight and regulation of genetic tests. Such study shall take into consideration relevant reports by the Secretary's Advisory Committee on Genetics, Health, and Society and other groups and shall be completed not later than 1 year after the date on which the Secretary entered into such contract.

(b) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed as requiring Federal efforts with respect to regulatory oversight of genetic tests to cease or be limited or delayed pending completion of the report by the Secretary's Advisory Committee on Genetics, Health, and Society or the Institute of Medicine.

SEC. 1104. NIH TECHNICAL AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 319C–2(j)(3)(B), by striking “section 319C–1(h)” and inserting “section 319C–1(i)”; 42 USC 247d–3b.

(2) in section 402(b)(4), by inserting “minority and other” after “reducing”; 42 USC 282.

(3) in section 403(a)(4)(C)(iv)(III), by inserting “and postdoctoral training funded through research grants” before the semicolon; 42 USC 283.

(4) by designating the second section 403C (relating to the drug diethylstilbestrol) as section 403D; and 42 USC 283a–3.

(5) in section 403C(a)— 42 USC 283a–2.

(A) in the matter preceding paragraph (1)—

(i) by inserting “graduate students supported by the National Institutes of Health” after “with respect to”; and

(ii) by deleting “each degree-granting program”;

(B) in paragraph (1), by inserting “such” after “percentage of”; and

(C) in paragraph (2), by inserting “(not including any leaves of absence)” after “average time”.

SEC. 1105. SEVERABILITY CLAUSE.

21 USC 301 note.

If any provision of this Act, an amendment made this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

Subtitle B—Antibiotic Access and Innovation

SEC. 1111. IDENTIFICATION OF CLINICALLY SUSCEPTIBLE CONCENTRATIONS OF ANTIMICROBIALS. 42 USC 247d–5a.

(a) **DEFINITION.**—In this section, the term “clinically susceptible concentrations” means specific values which characterize bacteria as clinically susceptible, intermediate, or resistant to the drug (or drugs) tested.

(b) **IDENTIFICATION.**—The Secretary of Health and Human Services (referred to in this section as the “Secretary”), through the Commissioner of Food and Drugs, shall identify (where such

information is reasonably available) and periodically update clinically susceptible concentrations.

Deadline.

(c) **PUBLIC AVAILABILITY.**—The Secretary, through the Commissioner of Food and Drugs, shall make such clinically susceptible concentrations publicly available, such as by posting on the Internet, not later than 30 days after the date of identification and any update under this section.

(d) **EFFECT.**—Nothing in this section shall be construed to restrict, in any manner, the prescribing of antibiotics by physicians, or to limit the practice of medicine, including for diseases such as Lyme and tick-borne diseases.

SEC. 1112. ORPHAN ANTIBIOTIC DRUGS.

(a) **PUBLIC MEETING.**—The Commissioner of Food and Drugs shall convene a public meeting regarding which serious and life threatening infectious diseases, such as diseases due to gram-negative bacteria and other diseases due to antibiotic-resistant bacteria, potentially qualify for available grants and contracts under section 5(a) of the Orphan Drug Act (21 U.S.C. 360ee(a)) or other incentives for development.

(b) **GRANTS AND CONTRACTS FOR THE DEVELOPMENT OF ORPHAN DRUGS.**—Section 5(c) of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended to read as follows:

Appropriation
authorization.

“(c) For grants and contracts under subsection (a), there is authorized to be appropriated \$30,000,000 for each of fiscal years 2008 through 2012.”.

SEC. 1113. EXCLUSIVITY OF CERTAIN DRUGS CONTAINING SINGLE ENANTIOMERS.

Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by section 920, is further amended by adding at the end the following:

“(u) **CERTAIN DRUGS CONTAINING SINGLE ENANTIOMERS.**—

“(1) **IN GENERAL.**—For purposes of subsections (c)(3)(E)(ii) and (j)(5)(F)(ii), if an application is submitted under subsection (b) for a non-racemic drug containing as an active ingredient (including any ester or salt of the active ingredient) a single enantiomer that is contained in a racemic drug approved in another application under subsection (b), the applicant may, in the application for such non-racemic drug, elect to have the single enantiomer not be considered the same active ingredient as that contained in the approved racemic drug, if—

“(A)(i) the single enantiomer has not been previously approved except in the approved racemic drug; and

“(ii) the application submitted under subsection (b) for such non-racemic drug—

“(I) includes full reports of new clinical investigations (other than bioavailability studies)—

“(aa) necessary for the approval of the application under subsections (c) and (d); and

“(bb) conducted or sponsored by the applicant; and

“(II) does not rely on any investigations that are part of an application submitted under subsection (b) for approval of the approved racemic drug; and

“(B) the application submitted under subsection (b) for such non-racemic drug is not submitted for approval of a condition of use—

“(i) in a therapeutic category in which the approved racemic drug has been approved; or

“(ii) for which any other enantiomer of the racemic drug has been approved.

“(2) LIMITATION.—

“(A) NO APPROVAL IN CERTAIN THERAPEUTIC CATEGORIES.—Until the date that is 10 years after the date of approval of a non-racemic drug described in paragraph (1) and with respect to which the applicant has made the election provided for by such paragraph, the Secretary shall not approve such non-racemic drug for any condition of use in the therapeutic category in which the racemic drug has been approved.

“(B) LABELING.—If applicable, the labeling of a non-racemic drug described in paragraph (1) and with respect to which the applicant has made the election provided for by such paragraph shall include a statement that the non-racemic drug is not approved, and has not been shown to be safe and effective, for any condition of use of the racemic drug.

“(3) DEFINITION.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘therapeutic category’ means a therapeutic category identified in the list developed by the United States Pharmacopeia pursuant to section 1860D-4(b)(3)(C)(ii) of the Social Security Act and as in effect on the date of the enactment of this subsection.

“(B) PUBLICATION BY SECRETARY.—The Secretary shall publish the list described in subparagraph (A) and may amend such list by regulation.

“(4) AVAILABILITY.—The election referred to in paragraph (1) may be made only in an application that is submitted to the Secretary after the date of the enactment of this subsection and before October 1, 2012.”. Deadline.

SEC. 1114. REPORT.

Not later than January 1, 2012, the Comptroller General of the United States shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives that examines whether and how this subtitle has—

(1) encouraged the development of new antibiotics and other drugs; and

(2) prevented or delayed timely generic drug entry into the market.

Approved September 27, 2007.

LEGISLATIVE HISTORY—H.R. 3580:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 19, considered and passed House.

Sept. 20, considered and passed Senate.



Public Law 110–86
110th Congress

An Act

To provide authority to the Peace Corps to provide separation pay for host country resident personal services contractors of the Peace Corps.

Sept. 27, 2007
[H.R. 3528]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION FOR PEACE CORPS TO PROVIDE SEPARATION PAY FOR HOST COUNTRY RESIDENT PERSONAL SERVICES CONTRACTORS OF THE PEACE CORPS.

22 USC 2514a.

(a) **ESTABLISHMENT OF FUND.**—There is established in the Treasury of the United States a fund for the Peace Corps to provide separation pay for host country resident personal services contractors of the Peace Corps.

(b) **FUNDING.**—The Director of the Peace Corps may deposit in the fund established under subsection (a)—

(1) amounts previously obligated and not canceled to provide the separation pay described in such subsection; and

(2) amounts obligated for fiscal years after fiscal year 2006 for current and future costs of providing such separation pay.

(c) **AVAILABILITY.**—Beginning in fiscal year 2007, amounts deposited in the fund established under subsection (a) shall be available without fiscal year limitation for severance, retirement, or other separation payments to host country resident personal services contractors of the Peace Corps in countries where such payments are legally authorized.

Approved September 27, 2007.

LEGISLATIVE HISTORY—H.R. 3528:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 17, considered and passed House.

Sept. 19, considered and passed Senate.



Public Law 110–87
110th Congress

An Act

Sept. 28, 2007
[H.R. 954]

To designate the facility of the United States Postal Service located at 365 West 125th Street in New York, New York, as the “Percy Sutton Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERCY SUTTON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 365 West 125th Street in New York, New York, shall be known and designated as the “Percy Sutton Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Percy Sutton Post Office Building”.

Approved September 28, 2007.

LEGISLATIVE HISTORY—H.R. 954:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 5, considered and passed House.

Sept. 11, considered and passed Senate.



Public Law 110–88
110th Congress

An Act

To designate a portion of Interstate Route 395 located in Baltimore, Maryland,
as “Cal Ripken Way”.

Sept. 28, 2007
[H.R. 3218]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. DESIGNATION.

The portion of Interstate Route 395 located in Baltimore, Maryland, beginning at the junction of Interstate Routes 395 and 95 and ending at Conway Street shall be known and designated as “Cal Ripken Way”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the portion of Interstate Route 395 referred to in section 1 shall be deemed to be a reference to the “Cal Ripken Way”.

Approved September 28, 2007.

LEGISLATIVE HISTORY—H.R. 3218:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 5, considered and passed House.

Sept. 12, considered and passed Senate.



Public Law 110–89
110th Congress

An Act

Sept. 28, 2007
[H.R. 3375]

To extend the trade adjustment assistance program under the Trade Act of 1974 for 3 months.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) **ASSISTANCE FOR WORKERS.**—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking “September 30, 2007” and inserting “December 31, 2007”.

(b) **ASSISTANCE FOR FIRMS.**—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by inserting after “2007,” the following: “and \$4,000,000 for the 3-month period beginning on October 1, 2007,”.

(c) **ASSISTANCE FOR FARMERS.**—Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by inserting before the period the following: “, and there are authorized to be appropriated and there are appropriated to the Department of Agriculture to carry out this chapter \$9,000,000 for the 3-month period beginning on October 1, 2007”.

19 USC 2271
note prec.

(d) **EXTENSION OF TERMINATION DATES.**—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by striking “September 30” each place it appears and inserting “December 31”.

19 USC 2317
note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall be effective as of October 1, 2007.

SEC. 2. OFFSETS.

26 USC 6655
note.

(a) **TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**—Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking “114.75 percent” and inserting “115 percent”.

(b) **CUSTOMS USER FEES.**—Section 13031(j)(3)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C.

58c(j)(3)(B)(i)) is amended by striking “September 30, 2014” and inserting “October 7, 2014”.

Approved September 28, 2007.

LEGISLATIVE HISTORY—H.R. 3375:

HOUSE REPORTS: No. 110–345 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 25, considered and passed House and Senate.



Public Law 110–90
110th Congress

An Act

Sept. 29, 2007
[H.R. 3668]

To provide for the extension of transitional medical assistance (TMA), the abstinence education program, and the qualifying individuals (QI) program, and for other purposes.

TMA, Abstinence
Education, and
QI Programs
Extension Act
of 2007.
42 USC 1305
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “TMA, Abstinence Education, and QI Programs Extension Act of 2007”.

SEC. 2. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM THROUGH DECEMBER 31, 2007.

Ante, p. 244.

Section 401 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432), as amended by section 1 of Public Law 110–48, is amended—

(1) by striking “September 30” and inserting “December 31”;

(2) by striking “for fiscal year 2006” and inserting “for fiscal year 2007”;

(3) by striking “the fourth quarter of fiscal year 2007” and inserting “the first quarter of fiscal year 2008”; and

(4) by striking “the fourth quarter of fiscal year 2006” and inserting “the first quarter of fiscal year 2007”.

SEC. 3. EXTENSION OF QUALIFYING INDIVIDUAL (QI) PROGRAM THROUGH DECEMBER 2007.

(a) **THROUGH DECEMBER 2007.**—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking “September 2007” and inserting “December 2007”.

(b) **EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.**—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

(1) in paragraph (2)—

(A) by striking “and” at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(H) for the period that begins on October 1, 2007, and ends on December 31, 2007, the total allocation amount is \$100,000,000.”; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking “or (F)” and inserting “(F), or (H)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall be effective as of September 30, 2007. 42 USC 1396a note.

SEC. 4. EXTENSION OF SSI WEB-BASED ASSET DEMONSTRATION PROJECT TO THE MEDICAID PROGRAM. 42 USC 1396a note.

(a) **IN GENERAL.**—Beginning on October 1, 2007, and ending on September 30, 2012, the Secretary of Health and Human Services shall provide for the application to asset eligibility determinations under the Medicaid program under title XIX of the Social Security Act of the automated, secure, web-based asset verification request and response process being applied for determining eligibility for benefits under the Supplemental Security Income (SSI) program under title XVI of such Act under a demonstration project conducted under the authority of section 1631(e)(1)(B)(ii) of such Act (42 U.S.C. 1383(e)(1)(B)(ii)). Effective date. Termination date.

(b) **LIMITATION.**—Such application shall only extend to those States in which such demonstration project is operating and only for the period in which such project is otherwise provided.

(c) **RULES OF APPLICATION.**—For purposes of carrying out subsection (a), notwithstanding any other provision of law, information obtained from a financial institution that is used for purposes of eligibility determinations under such demonstration project with respect to the Secretary of Health and Human Services under the SSI program may also be shared and used by States for purposes of eligibility determinations under the Medicaid program. In applying section 1631(e)(1)(B)(ii) of the Social Security Act under this subsection, references to the Commissioner of Social Security and benefits under title XVI of such Act shall be treated as including a reference to a State described in subsection (b) and medical assistance under title XIX of such Act provided by such a State.

SEC. 5. 6-MONTH DELAY IN REQUIREMENT TO USE TAMPER-RESISTANT PRESCRIPTION PADS UNDER MEDICAID. 42 USC 1396b note.

Effective as if included in the enactment of section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28, 121 Sta. 187), paragraph (2) of such section is amended by striking “September 30, 2007” and inserting “March 31, 2008”. Effective date. 42 USC 1396b note.

SEC. 6. ADDITIONAL FUNDING FOR THE MEDICARE PHYSICIAN ASSISTANCE AND QUALITY INITIATIVE FUND.

Section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)) is amended—

(1) in subparagraph (A), by adding at the end the following: “In addition, there shall be available to the Fund for expenditures during 2009 an amount equal to \$325,000,000 and for expenditures during or after 2013 an amount equal to \$60,000,000.”; and

(2) in subparagraph (B)—

(A) in the heading, by striking “FURNISHED DURING 2008”;

(B) by striking “specified in subparagraph (A)” and inserting “specified in the first sentence of subparagraph (A)”;

(C) by inserting after “furnished during 2008” the following: “and for the obligation of the entire first amount specified in the second sentence of such subparagraph for payment with respect to physicians’ services furnished

during 2009 and of the entire second amount so specified for payment with respect to physicians' services furnished on or after January 1, 2013”.

SEC. 7. LIMITATION ON IMPLEMENTATION FOR FISCAL YEARS 2008 AND 2009 OF A PROSPECTIVE DOCUMENTATION AND CODING ADJUSTMENT IN RESPONSE TO THE IMPLEMENTATION OF THE MEDICARE SEVERITY DIAGNOSIS RELATED GROUP (MS-DRG) SYSTEM UNDER THE MEDICARE PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES.

(a) **IN GENERAL.**—In implementing the final rule published on August 22, 2007, on pages 47130 through 48175 of volume 72 of the Federal Register, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall apply prospective documentation and coding adjustments (made in response to the implementation of a Medicare Severity Diagnosis Related Group (MS-DRG) system under the hospital inpatient prospective payment system under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) of—

(1) for discharges occurring during fiscal year 2008, 0.6 percent rather than the 1.2 percent specified in such final rule; and

(2) for discharges occurring during fiscal year 2009, 0.9 percent rather than the 1.8 percent specified in such final rule.

(b) **SUBSEQUENT ADJUSTMENTS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, if the Secretary determines that implementation of such Medicare Severity Diagnosis Related Group (MS-DRG) system resulted in changes in coding and classification that did not reflect real changes in case mix under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) for discharges occurring during fiscal year 2008 or 2009 that are different than the prospective documentation and coding adjustments applied under subsection (a), the Secretary shall—

(A) make an appropriate adjustment under paragraph (3)(A)(vi) of such section 1886(d); and

(B) make an additional adjustment to the standardized amounts under such section 1886(d) for discharges occurring only during fiscal years 2010, 2011, and 2012 to offset the estimated amount of the increase or decrease in aggregate payments (including interest as determined by the Secretary) determined, based upon a retrospective evaluation of claims data submitted under such Medicare Severity Diagnosis Related Group (MS-DRG) system, by the Secretary with respect to discharges occurring during fiscal years 2008 and 2009.

(2) **REQUIREMENT.**—Any adjustment under paragraph (1)(B) shall reflect the difference between the amount the Secretary estimates that implementation of such Medicare Severity Diagnosis Related Group (MS-DRG) system resulted in changes in coding and classification that did not reflect real changes in case mix and the prospective documentation and coding adjustments applied under subsection (a). An adjustment made under paragraph (1)(B) for discharges occurring in a year shall not be included in the determination of standardized amounts for discharges occurring in a subsequent year.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as—

(A) requiring the Secretary to adjust the average standardized amounts under paragraph (3)(A)(vi) of such section 1886(d) other than as provided under this section; or

(B) providing authority to apply the adjustment under paragraph (1)(B) other than for discharges occurring during fiscal years 2010, 2011, and 2012.

(4) JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1878 of the Social Security Act (42 U.S.C. 1395oo) or otherwise of any determination or adjustments made under this subsection.

Approved September 29, 2007.

LEGISLATIVE HISTORY—H.R. 3668:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 26, considered and passed House.

Sept. 27, considered and passed Senate.



Public Law 110–91
110th Congress

Joint Resolution

Sept. 29, 2007

[H.J. Res. 43]

Increasing the statutory limit on the public debt.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof \$9,815,000,000,000.

Approved September 29, 2007.

LEGISLATIVE HISTORY—H.J. Res. 43:

SENATE REPORTS: No. 110–184 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 17, considered and passed House pursuant to S. Con. Res. 21.

Sept. 27, considered and passed Senate.



Public Law 110-92
110th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 2008, and for other purposes.

Sept. 29, 2007

[H.J. Res. 52]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2008, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2007 and under the authority and conditions provided in such Acts, for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this joint resolution, that were conducted in fiscal year 2007, and for which appropriations, funds, or other authority were made available in the following appropriations Acts:

(1) The Department of Defense Appropriations Act, 2007 (division A of Public Law 109-289).

(2) The Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295).

(3) The Continuing Appropriations Resolution, 2007 (division B of Public Law 109-289, as amended by Public Law 110-5).

SEC. 102. (a) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for: (1) the new production of items not funded for production in fiscal year 2007 or prior years; (2) the increase in production rates above those sustained with fiscal year 2007 funds; or (3) the initiation, resumption, or continuation of any project, activity, operation, or organization (defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for any investment items defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item that includes a program element and subprogram element within an appropriation account) for which appropriations, funds, or other authority were not available during fiscal year 2007.

(b) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

Notification.

(c) Notwithstanding this section, the Secretary of Defense may, following notification of the congressional defense committees, initiate projects or activities required to be undertaken for force protection purposes using funds available from the Iraq Freedom Fund.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

SEC. 104. Except as otherwise provided in section 102, no appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2007.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

Expiration date.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act for fiscal year 2008, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this joint resolution; (2) the enactment into law of the applicable appropriations Act for fiscal year 2008 without any provision for such project or activity; or (3) November 16, 2007.

SEC. 107. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. Appropriations made and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this joint resolution may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that would otherwise have high initial rates of operation or complete distribution of appropriations at the beginning of fiscal year 2008 because of distributions of funding to States, foreign countries, grantees, or others, such high initial rates of operation or complete distribution shall not be made, and no grants shall be awarded for such programs funded by this joint resolution that would impinge on final funding prerogatives.

SEC. 110. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 111. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2007, and for activities under the Food Stamp Act of 1977, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2007, to be continued through the date specified in section 106(3).

(b) Notwithstanding section 106, obligations for mandatory payments due on or about the first day of any month that begins after October 2007 but not later than 30 days after the date specified in section 106(3) may continue to be made, and funds shall be available for such payments.

SEC. 112. Amounts made available under section 101 for civilian personnel compensation and benefits in each department and agency may be apportioned up to the rate for operations necessary to avoid furloughs within such department or agency, consistent with the applicable appropriations Act for fiscal year 2007, except that such authority provided under this section shall not be used until after the department or agency has taken all necessary actions to reduce or defer non-personnel-related administrative expenses.

SEC. 113. Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 114. Notwithstanding section 20106 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109-289, as amended by Public Law 110-5), the Secretary of Agriculture is authorized to enter into or renew contracts under section 521(a)(2) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)) for 1 year.

Contracts.

SEC. 115. The authority provided by section 3a of the Act of March 3, 1927 (commonly known as the “Cotton Statistics and Estimates Act”) (7 U.S.C. 473a) shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 116. The authority of the Secretary of Agriculture to carry out the adjusted gross income limitation contained in section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a) shall continue through the end of the period specified in subsection (e) of such section or the date specified in section 106(3) of this joint resolution, whichever occurs later.

SEC. 117. The provisions of title VIII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108-447, division B) that apply during fiscal year 2007 shall continue to apply through the date specified in section 106(3) of this joint resolution.

SEC. 118. The authority provided by section 1202 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163) shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

SEC. 119. The authority provided by section 1477(d) of title 10, United States Code, as amended by section 3306 of Public Law 110-28, shall continue in effect through the date of enactment of the National Defense Authorization Act for Fiscal Year 2008.

SEC. 120. The authority provided by section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

SEC. 121. The authority provided by section 1022 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136), as amended by section 1022 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163), shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

SEC. 122. The authority provided by section 1051a of title 10, United States Code, shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

Expiration date.

SEC. 123. (a) Notwithstanding any other provision of law or this joint resolution, and in addition to amounts otherwise made available by this joint resolution, there is appropriated \$5,200,000,000 for a “Mine Resistant Ambush Protected Vehicle Fund”, to remain available until September 30, 2008.

(b) The funds provided by subsection (a) shall be available to the Secretary of Defense to continue technological research and development and upgrades, to procure Mine Resistant Ambush Protected vehicles and associated support equipment, and to sustain, transport, and field Mine Resistant Ambush Protected vehicles.

(c)(1) The Secretary of Defense shall transfer funds provided by subsection (a) to appropriations for operation and maintenance; procurement; and research, development, test and evaluation to accomplish the purposes specified in subsection (b). Such transferred funds shall be merged with and be available for the same purposes and for the same time period as the appropriation to which they are transferred.

(2) The transfer authority provided by this subsection shall be in addition to any other transfer authority available to the Department of Defense.

Deadline.
Notification.

(3) The Secretary of Defense shall, not less than 5 days prior to making any transfer under this subsection, notify the congressional defense committees in writing of the details of the transfer.

(d) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SEC. 124. Section 14704 of title 40, United States Code, shall be applied by substituting the date specified in section 106(3) of this joint resolution for “October 1, 2007”.

SEC. 125. Section 382N of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-13) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “October 1, 2007”.

SEC. 126. Of the funds made available to the Department of Energy under this joint resolution, \$484,000 may be transferred to another agency for carrying out the provisions of division C of Public Law 108-324. Funds so transferred shall be refunded to the Department after passage of the regular appropriations Act for that agency.

SEC. 127. (a) In addition to the amounts otherwise provided under section 101, an additional amount is available under “General Services Administration—Operating Expenses Account”, at a rate

for operations of \$4,340,000, for the costs of agency activities transferred to the Civilian Board of Contract Appeals pursuant to section 847 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163).

(b) For purposes of section 101, the rate for operations for each of the accounts from which funds were transferred in fiscal year 2007 pursuant to section 847(b) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 41 U.S.C. 607 note) is reduced by an amount equal to the annualized level of the funds transferred.

SEC. 128. Notwithstanding any other provision of this joint resolution, except section 106, the District of Columbia may expend local funds for programs and activities under the heading “District of Columbia Funds” for such programs and activities under title IV of H.R. 2829 (110th Congress), as passed by the House of Representatives, at the rate set forth under “District of Columbia Funds—Summary of Expenses” as included in the Fiscal Year 2008 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 7, 2007, as amended on June 29, 2007.

SEC. 129. Section 403(f) of the Government Management Reform Act of 1994 (Public Law 103-356; 31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “October 1, 2006”.

SEC. 130. Section 204(e) of the Veterans Benefits Improvement Act of 2004 (Public Law 108-454; 38 U.S.C. 4301 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “September 30, 2007”.

SEC. 131. Any funds made available pursuant to section 101 for United States Customs and Border Protection may be obligated to support hiring, training, and equipping of new border patrol agents at a rate for operations not exceeding that necessary to sustain the numbers of new border patrol agents hired, trained, and equipped in the final quarter of fiscal year 2007. The Commissioner of United States Customs and Border Protection shall notify the Committees on Appropriations of the House of Representatives and the Senate on each use of the authority provided in this section.

Notification.

SEC. 132. The Secretary of Homeland Security may continue, through the date specified in section 106(3) of this joint resolution, to obligate funds at the rate the Secretary determines necessary to maintain not more than the average monthly number of detention bed spaces in use during September 2007 at detention facilities operated or contracted by the Department of Homeland Security.

SEC. 133. During the period specified in section 106 of this joint resolution, section 517(b) of Public Law 109-295 shall not be in effect.

SEC. 134. Section 105(f)(1)(B)(ix) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)(ix)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “the end of fiscal year 2007”.

SEC. 135. (a) Activities authorized by chapters 2, 3, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) shall continue through the date specified in section 106(3) of this joint resolution.

(b) Notwithstanding any other provision of this joint resolution, except section 106, there is appropriated to carry out chapter 6

of title II of the Trade Act of 1974 (19 U.S.C. 2401 et seq.) \$5,000,000.

SEC. 136. (a) APPROPRIATION FOR CHIP PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of this joint resolution, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated for fiscal year 2008, \$5,000,000,000 for purposes of providing allotments to States, the District of Columbia, and commonwealths and territories under section 2104 of the Social Security Act (42 U.S.C. 1397dd), and, in addition, \$40,000,000 for the purpose of providing additional allotments under subsection (c)(4)(A) of such section.

(2) AVAILABILITY.—Funds made available from any allotment under subsection (b) shall not be available for obligation for child health assistance for items and services furnished after the termination date specified in section 106(3) of this joint resolution, or, if earlier, the date of the enactment of an Act that provides funding for fiscal year 2008 and for one or more subsequent fiscal years for the Children's Health Insurance Program under title XXI of the Social Security Act.

(b) ALLOTMENTS.—Notwithstanding any other provision of this joint resolution, the Secretary of Health and Human Services shall make allotments to States, the District of Columbia, and commonwealths and territories under section 2104 of the Social Security Act (42 U.S.C. 1397dd) from the amounts appropriated under subsection (a) for the entire fiscal year 2008.

(c) REDISTRIBUTION OF UNUSED FISCAL YEAR 2005 ALLOTMENTS TO STATES WITH ESTIMATED FUNDING SHORTFALLS FOR FISCAL YEAR 2008.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

“(i) REDISTRIBUTION OF UNUSED FISCAL YEAR 2005 ALLOTMENTS TO STATES WITH ESTIMATED FUNDING SHORTFALLS FOR FISCAL YEAR 2008.—

“(1) IN GENERAL.—Notwithstanding subsection (f) and subject to paragraphs (3) and (4), with respect to months beginning during fiscal year 2008, the Secretary shall provide for a redistribution under such subsection from the allotments for fiscal year 2005 under subsection (b) that are not expended by the end of fiscal year 2007, to a fiscal year 2008 shortfall State described in paragraph (2), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for such State for the month.

“(2) FISCAL YEAR 2008 SHORTFALL STATE DESCRIBED.—A fiscal year 2008 shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on a monthly basis using the most recent data available to the Secretary as of such month, that the projected expenditures under such plan for such State for fiscal year 2008 will exceed the sum of—

“(A) the amount of the State's allotments for each of fiscal years 2006 and 2007 that was not expended by the end of fiscal year 2007; and

“(B) the amount of the State's allotment for fiscal year 2008.

“(3) FUNDS REDISTRIBUTED IN THE ORDER IN WHICH STATES REALIZE FUNDING SHORTFALLS.—The Secretary shall redistribute the amounts available for redistribution under paragraph (1) to fiscal year 2008 shortfall States described in paragraph (2) in the order in which such States realize monthly funding shortfalls under this title for fiscal year 2008. The Secretary shall only make redistributions under this subsection to the extent that there are unexpended fiscal year 2005 allotments under subsection (b) available for such redistributions.

“(4) PRORATION RULE.—If the amounts available for redistribution under paragraph (1) are less than the total amounts of the estimated shortfalls determined for the month under that paragraph, the amount computed under such paragraph for each fiscal year 2008 shortfall State for the month shall be reduced proportionally.

“(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

Deadline.

“(6) 1-YEAR AVAILABILITY; NO FURTHER REDISTRIBUTION.—Notwithstanding subsections (e) and (f), amounts redistributed to a State pursuant to this subsection for fiscal year 2008 shall only remain available for expenditure by the State through September 30, 2008, and any amounts of such redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f).”

(d) EXTENDING AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—Section 2105(g)(1)(A) of such Act (42 U.S.C. 1397ee) is amended by striking “or 2007” and inserting “2007, or 2008”.

(e) APPLICABILITY.—The amendments made by subsections (c) and (d) shall be in effect through the date specified in section 106(3) of this joint resolution or, if earlier, the date of the enactment of an Act that provides funding for fiscal year 2008 and for one or more subsequent fiscal years for the Children’s Health Insurance Program under title XXI of the Social Security Act.

42 USC 1397dd
note.

SEC. 137. Notwithstanding any other provision of this joint resolution, there is appropriated for payment to Susan Thomas, widow of Craig Thomas, late a Senator from the State of Wyoming, \$165,200, and for payment to Karen L. Gillmor, widow of Paul E. Gillmor, late a Representative from the State of Ohio, \$165,200.

Susan Thomas.
Karen L. Gillmor.

SEC. 138. The Secretary of Veterans Affairs shall carry out subparagraph (B) of section 1710(f)(2) of title 38, United States Code, and subparagraph (E) of section 1729(a)(2) of such title by substituting the date specified in section 106(3) of this joint resolution for the date specified in each such subparagraph.

SEC. 139. Notwithstanding section 101, amounts are provided for “Department of Defense Base Closure Account 2005” at a rate for operations of \$5,626,223,000.

SEC. 140. Notwithstanding any other provision of this joint resolution, except section 106, the Department of Veterans Affairs may expend funds for programs and activities under the heading “Information Technology Systems” for pay and associated cost for operations and maintenance associated staff.

SEC. 141. Notwithstanding any other provision of this joint resolution, except section 106, in addition to the amount made available for fiscal year 2008 to carry out section 3674 of title 38, United States Code, there is appropriated to carry out that section an additional amount equal to \$6,000,000 multiplied by the ratio of the number of days covered by this joint resolution to 366.

SEC. 142. Notwithstanding section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)), the authority of subsections (a) through (c) of section 234 of such Act shall remain in effect through the date specified in section 106(3) of this joint resolution.

SEC. 143. Notwithstanding section 101, amounts are provided for “Department of State—Administration of Foreign Affairs—Diplomatic and Consular Programs” at a rate for operations of \$4,435,013,000, of which not less than \$778,449,000 shall be for worldwide security upgrades.

SEC. 144. The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act, through the earlier of: (1) the date specified in section 106(3) of this joint resolution; or (2) the date of enactment of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

SEC. 145. Funds made available under section 101 for the National Transportation Safety Board shall include amounts necessary to make lease payments due in fiscal year 2008 only, on an obligation incurred in 2001 under a capital lease.

SEC. 146. Notwithstanding the limitation in the first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)), the Secretary of Housing and Urban Development may, until the date specified in section 106(3) of this joint resolution, insure and may enter into commitments to insure mortgages under section 255 of the National Housing Act (12 U.S.C. 1715z–20(g)).

SEC. 147. Section 24(o) of the United States Housing Act of 1937 (42 U.S.C. 1437v(o)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “September 30, 2007”.

SEC. 148. (a) Section 48103(4) of title 49, United States Code, shall be applied: (1) by substituting the amount specified in such section with an amount that equals \$3,675,000,000 multiplied by the ratio of the number of days covered by this joint resolution to 366; and (2) by substituting the fiscal year specified in such section with the period beginning October 1, 2007, through the date specified in section 106(3) of this joint resolution.

(b) Section 47104(c) of title 49, United States Code, shall be applied by substituting “2008” for “2007”.

(c) Nothing in this section shall affect the availability of any balances of contract authority provided under section 48103 of title 49, United States Code, for fiscal year 2007 and any prior fiscal year.

SEC. 149. (a) Sections 4081(d)(2)(B), 4261(j)(1)(A)(ii), 4271(d)(1)(A)(ii), 9502(d)(1), and 9502(f)(2) of the Internal Revenue Code of 1986 shall each be applied by substituting the date specified in section 106(3) of this joint resolution for “September 30, 2007” or “October 1, 2007”, as the case may be.

(b) Subparagraph (A) of section 9502(d)(1) of the Internal Revenue Code of 1986 is amended by inserting “or any joint resolution

making continuing appropriations for the fiscal year 2008” before the semicolon at the end.

SEC. 150. (a) Congress makes the following findings:

David H.
Petraeus.

(1) General David H. Petraeus was confirmed by a unanimous vote of 81–0 in the Senate on January 26, 2007, to be the Commander of the Multi-National Forces—Iraq.

(2) General David H. Petraeus assumed command of the Multi-National Forces—Iraq on February 10, 2007.

(3) General David H. Petraeus previously served in Operation Iraqi Freedom as the Commander of the Multi-National Security Transition Command—Iraq, as the Commander of the NATO Training Mission—Iraq, and as Commander of the 101st Airborne Division (Air Assault) during the first year of combat operations in Iraq.

(4) General David H. Petraeus has received numerous awards and distinctions during his career, including the Defense Distinguished Service Medal, two awards of the Distinguished Service Medal, two awards of the Defense Superior Service Medal, four awards of the Legion of Merit, the Bronze Star Medal for valor, the State Department Superior Honor Award, the NATO Meritorious Service Medal, and the Gold Award of the Iraqi Order of the Date Palm.

(5) The leadership of the majority party in both the House of Representatives and the Senate implored the American people and Members of Congress early in January 2007 to listen to the generals on the ground.

(b) It is the sense of the Congress that the House of Representatives—

(1) recognizes the service of General David H. Petraeus, as well as all other members of the Armed Forces serving in good standing, in the defense of the United States and the personal sacrifices made by General Petraeus and his family, and other members of the Armed Forces and their families, to serve with distinction and honor;

(2) commits to judge the merits of the sworn testimony of General David H. Petraeus without prejudice or personal bias, including refraining from unwarranted personal attacks;

(3) condemns in the strongest possible terms the personal attacks made by the advocacy group MoveOn.org impugning the integrity and professionalism of General David H. Petraeus;

MoveOn.org.

(4) honors all members of the Armed Forces and civilian personnel serving in harm’s way, as well as their families; and

(5) pledges to debate any supplemental funding request or any policy decisions regarding the war in Iraq with the solemn respect and the commitment to intellectual integrity

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that the sacrifices of these members of the Armed Forces and civilian personnel deserve.

Approved September 29, 2007.

LEGISLATIVE HISTORY—H.J. Res. 52:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 26, considered and passed House.

Sept. 27, considered and passed Senate.



Public Law 110–93
110th Congress

An Act

To make permanent the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

Sept. 30, 2007
[H.R. 3625]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SENSE OF CONGRESS.

20 USC 1098aa
note.

It is the sense of Congress that—

(1) the Higher Education Relief Opportunities for Students Act of 2003 addresses the unique situations that active duty military personnel and other affected individuals may face in connection with their enrollment in postsecondary institutions and their Federal student loans; and

(2) the provisions authorized by such Act should be made permanent, thereby allowing the Secretary of Education to continue providing assistance to active duty service members and other affected individuals and their families.

SEC. 2. PERMANENT EXTENSION OF WAIVER AUTHORITY.

The Higher Education Relief Opportunities for Students Act of 2003 (Public Law 108–76; 20 U.S.C. 1070, note) is amended by striking section 6.

Approved September 30, 2007.

LEGISLATIVE HISTORY—H.R. 3625:

CONGRESSIONAL RECORD, Vol. 153 (2007):
Sept. 25, considered and passed House.
Sept. 27, considered and passed Senate.



Public Law 110–94
110th Congress

An Act

Oct. 9, 2007
[S. 1983]

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to renew and amend the provisions for the enhanced review of covered pesticide products, to authorize fees for certain pesticide products, to extend and improve the collection of maintenance fees, and for other purposes.

Pesticide
Registration
Improvement
Renewal Act.
7 USC 136 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pesticide Registration Improvement Renewal Act”.

SEC. 2. REVIEW OF APPLICATIONS.

Section 3(c)(3)(B)(ii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(3)(B)(ii)) is amended—

(1) in subparagraph (I), by striking “within 45 days” and all that follows through “and,” and inserting “review the application in accordance with section 33(f)(4)(B) and,”; and

(2) in subparagraph (II), by striking “within” and inserting “not later than the applicable decision review time established pursuant to section 33(f)(4)(B), or, if no review time is established, not later than”.

SEC. 3. REGISTRATION REVIEW.

Section 3(g)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(g)(1)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence, by striking “The registrations” and inserting the following:

“(i) IN GENERAL.—The registrations”;

(B) in the second sentence, by striking “The Administrator” and inserting the following:

“(ii) REGULATIONS.—In accordance with this subparagraph, the Administrator”; and

(C) by striking “The goal” and all that follows through “No registration” and inserting the following:

“(iii) INITIAL REGISTRATION REVIEW.—The Administrator shall complete the registration review of each pesticide or pesticide case, which may be composed of 1 or more active ingredients and the products associated with the active ingredients, not later than the later of—

“(I) October 1, 2022; or

“(II) the date that is 15 years after the date on which the first pesticide containing a new active ingredient is registered.

Deadline.

“(iv) SUBSEQUENT REGISTRATION REVIEW.—Not later than 15 years after the date on which the initial registration review is completed under clause (iii) and each 15 years thereafter, the Administrator shall complete a subsequent registration review for each pesticide or pesticide case. Deadline.

“(v) CANCELLATION.—No registration”;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

“(B) DOCKETING.—

“(i) IN GENERAL.—Subject to clause (ii), after meeting with 1 or more individuals that are not government employees to discuss matters relating to a registration review, the Administrator shall place in the docket minutes of the meeting, a list of attendees, and any documents exchanged at the meeting, not later than the earlier of— Deadline.

“(I) the date that is 45 days after the meeting;

or

“(II) the date of issuance of the registration review decision.

“(ii) PROTECTED INFORMATION.—The Administrator shall identify, but not include in the docket, any confidential business information the disclosure of which is prohibited by section 10.”.

SEC. 4. MAINTENANCE FEES.

(a) TOTAL AMOUNT OF FEES.—Section 4(i)(5)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)(C)) is amended by striking “amount of” and all that follows through the end of clause (v) and inserting “amount of \$22,000,000 for each of fiscal years 2008 through 2012”.

(b) AMOUNTS FOR REGISTRANTS.—Section 4(i)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)) is amended—

(1) in subparagraph (D)—

(A) in clause (i), by striking “shall be” and all that follows through the end of subclause (IV) and inserting “shall be \$71,000 for each of fiscal years 2008 through 2012; and”; and

(B) in clause (ii), by striking “shall be” and all that follows through the end of subclause (IV) and inserting “shall be \$123,000 for each of fiscal years 2008 through 2012.”; and

(2) in subparagraph (E)(i)—

(A) in subclause (I), by striking “shall be” and all that follows through the end of item (dd) and inserting “shall be \$50,000 for each of fiscal years 2008 through 2012; and”; and

(B) in subclause (II), by striking “shall be” and all that follows through the end of item (dd) and inserting “shall be \$86,000 for each of fiscal years 2008 through 2012.”.

(c) EXTENSION OF AUTHORITY FOR COLLECTING MAINTENANCE FEES.—Section 4(i)(5)(H) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)(H)) is amended by striking “2008” and inserting “2012.”

Effective date.
Termination
date.

(d) OTHER FEES.—

(1) IN GENERAL.—Section 4(i)(6) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(6)) is amended by striking “2010” and inserting “2014”.

(2) PROHIBITION ON TOLERANCE FEES.—Section 408(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(m)) is amended by adding at the end the following:

“(3) PROHIBITION.—During the period beginning on the effective date of the Pesticide Registration Improvement Renewal Act and ending on September 30, 2012, the Administrator shall not collect any tolerance fees under paragraph (1).”.

(e) REREGISTRATION AND EXPEDITED PROCESSING FUND.—

(1) SOURCE AND USE.—Section 4(k)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(k)(2)(A)) is amended—

(A) in the first sentence, by inserting “and to offset the costs of registration review under section 3(g)” after “paragraph (3)”;

(B) in clause (i), by inserting “and to offset the costs of registration review under section 3(g)” after “paragraph (3)”; and

(C) in clause (ii), by inserting “and to offset the costs of registration review under section 3(g)” after “paragraph (3)”.

(2) EXPEDITED PROCESSING OF SIMILAR APPLICATIONS.—Section 4(k)(3)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(k)(3)(A)) is amended by striking “2007 and 2008” and inserting “2008 through 2012”.

SEC. 5. PESTICIDE REGISTRATION SERVICE FEES.

(a) DOCUMENTATION.—Section 33(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w-8(b)(2)) is amended—

(1) in subparagraph (C), by striking clause (ii) and inserting the following:

“(ii) payment of at least 25 percent of the registration service fee and a request for a waiver from or reduction of the remaining amount of the registration service fee.”; and

(2) by adding at the end the following:

“(D) PAYMENT.—The registration service fee required under this subsection shall be due upon submission of the application.

“(E) APPLICATIONS SUBJECT TO ADDITIONAL FEES.—An application may be subject to additional fees if—

“(i) the applicant identified the incorrect registration service fee and decision review period;

“(ii) after review of a waiver request, the Administrator denies the waiver request; or

“(iii) after review of the application, the Administrator determines that a different registration service fee and decision review period apply to the application.

“(F) EFFECT OF FAILURE TO PAY FEES.—The Administrator shall reject any application submitted without the required registration service fee.

“(G) NON-REFUNDABLE PORTION OF FEES.—

“(i) IN GENERAL.—The Administrator shall retain 25 percent of the applicable registration service fee.

“(ii) LIMITATION.—Any waiver, refund, credit or other reduction in the registration service fee shall not exceed 75 percent of the registration service fee.

“(H) COLLECTION OF UNPAID FEES.—In any case in which the Administrator does not receive payment of a registration service fee (or applicable portion of the registration service fee) by the date that is 30 days after the fee is due, the fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.”.

Deadline.

(b) AMOUNT OF FEES.—Section 33(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w-8(b)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking “Pesticide Registration Improvement Act of 2003” and inserting “Pesticide Registration Improvement Renewal Act”; and

(B) in subparagraph (B), by striking “S11631” and all that follows through the end of the subparagraph and inserting “S10409 through S10411, dated July 31, 2007.”; and

(2) by striking paragraph (6) and inserting the following:

“(6) FEE ADJUSTMENT.—

“(A) IN GENERAL.—Effective for a covered pesticide registration application received during the period beginning on October 1, 2008, and ending on September 30, 2010, the Administrator shall increase by 5 percent the registration service fee payable for the application under paragraph (3).

Effective date.
Termination date.

“(B) ADDITIONAL ADJUSTMENT.—Effective for a covered pesticide registration application received on or after October 1, 2010, the Administrator shall increase by an additional 5 percent the registration service fee in effect as of September 30, 2010.

Effective date.

“(C) PUBLICATION.—The Administrator shall publish in the Federal Register the revised registration service fee schedules.”.

Federal Register, publication.

(c) WAIVERS AND REDUCTIONS.—Section 33(b)(7)(F) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w-8(b)(7)(F)) is amended—

(1) in clause (ii), by striking “all” and inserting “75 percent”;

and

(2) in clause (iv)(II), by striking “all” and inserting “75 percent of the applicable.”.

(d) REFUNDS.—Section 33(b)(8)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w-8(b)(8)(A)) is amended by striking “10 percent” and inserting “25 percent.”.

(e) PESTICIDE REGISTRATION FUND.—Section 33(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w-8(c)) is amended—

(1) in paragraph (1)(B), by striking “paragraph (4)” and inserting “paragraph (5)”;

(2) in paragraph (3)—

(A) by striking subparagraph (B) and inserting the following:

“(B) WORKER PROTECTION.—

“(i) IN GENERAL.—For each of fiscal years 2008 through 2012, the Administrator shall use approximately $\frac{1}{17}$ of the amount in the Fund (but not less than \$1,000,000) to enhance scientific and regulatory activities relating to worker protection.

“(ii) PARTNERSHIP GRANTS.—Of the amounts in the Fund, the Administrator shall use for partnership grants—

“(I) for each of fiscal years 2008 and 2009, \$750,000; and

“(II) for each of fiscal years 2010 through 2012, \$500,000.

“(iii) PESTICIDE SAFETY EDUCATION PROGRAM.—Of the amounts in the Fund, the Administrator shall use \$500,000 for each of fiscal years 2008 through 2012 to carry out the pesticide safety education program.”; and

(B) by striking subparagraph (C); and

(3) in paragraph (5)—

(A) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(B) by striking “Amounts” and inserting the following:

“(A) IN GENERAL.—Amounts”; and

(C) by adding at the end the following:

“(B) USE OF INVESTMENT INCOME.—After consultation with the Secretary of the Treasury, the Administrator may use income from investments described in clauses (ii) and (iii) of subparagraph (A) to carry out this section.”.

(f) ASSESSMENT OF FEES.—Section 33(d)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8(d)(2)) is amended by striking “For fiscal years 2004, 2005 and 2006 only, registration” and inserting “Registration”.

(g) DECISION REVIEW TIMES.—Section 33(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8(f)) is amended—

(1) in paragraph (1), by striking “Pesticide Registration Improvement Act of 2003” and inserting “Pesticide Registration Improvement Renewal Act”;

(2) in paragraph (2), by striking “S11631” and all that follows through the end of the paragraph and inserting “S10409 through S10411, dated July 31, 2007.”; and

(3) in paragraph (4), by striking subparagraph (B) and inserting the following:

“(B) COMPLETENESS OF APPLICATION.—

“(i) IN GENERAL.—Not later than 21 days after receiving an application and the required registration service fee, the Administrator shall conduct an initial screening of the contents of the application in accordance with clause (iii).

“(ii) REJECTION.—If the Administrator determines under clause (i) that the application does not pass the initial screening and cannot be corrected within the 21-day period, the Administrator shall reject the application not later than 10 days after making the determination.

Deadlines.

“(iii) REQUIREMENTS OF SCREENING.—In conducting an initial screening of an application, the Administrator shall determine whether—

“(I)(aa) the applicable registration service fee has been paid; or

“(bb) at least 25 percent of the applicable registration service fee has been paid and the application contains a waiver or refund request for the outstanding amount and documentation establishing the basis for the waiver request; and

“(II) the application contains all the necessary forms, data, and draft labeling, formatted in accordance with guidance published by the Administrator.”.

(h) REPORTS.—Section 33(k) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w-8(k)) is amended—

(1) in paragraph (1), by striking “March 1, 2009” and inserting “March 1, 2014”; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by redesignating clauses (ii) through and (iv) as clauses (v) through (vii), respectively;

(ii) by inserting after clause (i) the following:

“(ii) the number of label amendments that have been reviewed using electronic means;

“(iii) the amount of money from the Reregistration and Expedited Processing Fund used to carry out inert ingredient review and review of similar applications under section 4(k)(3);

“(iv) the number of applications completed for identical or substantially similar applications under section 3(c)(3)(B), including the number of such applications completed within 90 days pursuant to that section;”; and

(iii) in clause (vi) (as redesignated by clause (i))—

(I) in subclause (II), by striking “and” at the end;

(II) in subclause (III), by striking “and” at the end; and

(III) by adding at the end the following:

“(IV) providing for electronic submission and review of labels, including process improvements to further enhance the procedures used in electronic label review; and

“(V) the allowance and use of summaries of acute toxicity studies; and”;

(B) in subparagraph (B), by striking “and” at the end;

(C) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

“(D) a review of the progress in carrying out section 3(g), including—

“(i) the number of pesticides or pesticide cases reviewed;

“(ii) a description of the staffing and resources relating to the costs associated with the review and

decision making relating to reregistration and registration review for compliance with the deadlines specified in this Act;

“(iii) to the extent determined appropriate by the Administrator and consistent with the authorities of the Administrator and limitations on delegation of functions by the Administrator, recommendations for—

“(I) process improvements in the handling of registration review under section 3(g);

“(II) providing for accreditation of outside reviewers and the use of outside reviewers in the registration review process; and

“(III) streamlining the registration review process, consistent with section 3(g);

“(E) a review of the progress in meeting the timeline requirements for the review of antimicrobial pesticide products under section 3(h); and

“(F) a review of the progress in carrying out the review of inert ingredients, including the number of applications pending, the number of new applications, the number of applications reviewed, staffing, and resources devoted to the review of inert ingredients and recommendations to improve the timeliness of review of inert ingredients.”.

(i) TERMINATION OF EFFECTIVENESS.—Section 33(m) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w-8(m)) is amended—

(1) in paragraph (1), by striking “2008” and inserting “2012”; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in the subparagraph heading, by striking “2009” and inserting “2013”; and

(ii) by striking “2009” and inserting “2013”; and

(B) in subparagraphs (B) and (C)—

(i) in the subparagraph headings, by striking “2010” each place it appears and inserting “2014”; and

(ii) by striking “2010” each place it appears and inserting “2014”; and

(C) in subparagraph (D), by striking “2008” each place it appears and inserting “2012”.

SEC. 6. EFFECTIVE DATE.

7 USC 136a note.

This Act and the amendments made by this Act take effect on October 1, 2007.

Approved October 9, 2007.

LEGISLATIVE HISTORY—S. 1983:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Aug. 2, considered and passed Senate.

Sept. 24, considered and passed House.



Public Law 110–95
110th Congress

An Act

Oct. 16, 2007

[S. 474]

31 USC 5111
note.

To award a congressional gold medal to Michael Ellis DeBakey, M.D.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) Michael Ellis DeBakey, M.D., was born on September 7, 1908, in Lake Charles, Louisiana, to Shaker and Raheaja DeBakey.

(2) Dr. DeBakey, at the age of 23 and still a medical student, reported a major invention, a roller pump for blood transfusions, which later became a major component of the heart-lung machine used in the first successful open-heart operation.

(3) Even though Dr. DeBakey had already achieved a national reputation as an authority on vascular disease and had a promising career as a surgeon and teacher, he volunteered for military service during World War II, joining the Surgeon General's staff and rising to the rank of Colonel and Chief of the Surgical Consultants Division.

(4) As a result of this first-hand knowledge of military service, Dr. DeBakey made numerous recommendations for the proper staged management of war wounds, which led to the development of mobile army surgical hospitals or "MASH" units, and earned Dr. DeBakey the Legion of Merit in 1945.

(5) After the war, Dr. DeBakey proposed the systematic medical follow-up of veterans and recommended the creation of specialized medical centers in different areas of the United States to treat wounded military personnel returning from war, and from this recommendation evolved the Veterans Affairs Medical Center System and the establishment of the Commission on Veterans Medical Problems of the National Research Council.

(6) In 1948, Dr. DeBakey joined the Baylor University College of Medicine, where he developed the first surgical residency program in the city of Houston, and today, guided by Dr. DeBakey's vision, the College is one of the most respected health science centers in the Nation.

(7) In 1953, Dr. DeBakey performed the first successful procedures to treat patients who suffered aneurysms leading to severe strokes, and he later developed a series of innovative surgical techniques for the treatment of aneurysms enabling thousands of lives to be saved in the years ahead.

(8) In 1964, Dr. DeBakey triggered the most explosive era in modern cardiac surgery, when he performed the first successful coronary bypass, once again paving the way for surgeons worldwide to offer hope to thousands of patients who might otherwise succumb to heart disease.

(9) Two years later, Dr. DeBakey made medical history again, when he was the first to successfully use a partial artificial heart to solve the problems of a patient who could not be weaned from a heart-lung machine following open-heart surgery.

(10) In 1968, Dr. DeBakey supervised the first successful multi-organ transplant, in which a heart, both kidneys, and lung were transplanted from a single donor into 4 separate recipients.

(11) In 1964, President Lyndon B. Johnson appointed Dr. DeBakey to the position of Chairman of the President's Commission on Heart Disease, Cancer and Stroke, leading to the creation of Regional Medical Programs established "to encourage and assist in the establishment of regional cooperative arrangements among medical schools, research institutions, and hospitals, for research and training".

(12) In the mid-1960s, Dr. DeBakey pioneered the field of telemedicine with the first demonstration of open-heart surgery to be transmitted overseas by satellite.

(13) In 1969, Dr. DeBakey was elected the first President of Baylor College of Medicine.

(14) In 1969, President Lyndon B. Johnson bestowed on Dr. DeBakey the Presidential Medal of Freedom with Distinction, and in 1985, President Ronald Reagan conferred on him the National Medal of Science.

(15) Working with NASA engineers, he refined existing technology to create the DeBakey Ventricular Assist Device, one-tenth the size of current versions, which may eliminate the need for heart transplantation in some patients.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) **PRESENTATION AUTHORIZED.**—The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design, to Michael Ellis DeBakey, M.D., in recognition of his many outstanding contributions to the Nation.

(b) **DESIGN AND STRIKING.**—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. STATUS OF MEDALS.

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

SEC. 5. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 3 shall be deposited into the United States Mint Public Enterprise Fund.

Approved October 16, 2007.

LEGISLATIVE HISTORY—S. 474 (H.R. 1154):
CONGRESSIONAL RECORD, Vol. 153 (2007):
Mar. 27, considered and passed Senate.
Oct. 2, considered and passed House.



Public Law 110–96
110th Congress

An Act

To amend the penalty provisions in the International Emergency Economic Powers Act, and for other purposes.

Oct. 16, 2007

[S. 1612]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “International Emergency Economic Powers Enhancement Act”.

International
Emergency
Economic Powers
Enhancement
Act.
50 USC 1701
note.

SEC. 2. INCREASED PENALTIES FOR VIOLATIONS OF IEEPA.

(a) IN GENERAL.—Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended to read as follows:

“SEC. 206. PENALTIES.

“(a) UNLAWFUL ACTS.—It shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition issued under this title.

“(b) CIVIL PENALTY.—A civil penalty may be imposed on any person who commits an unlawful act described in subsection (a) in an amount not to exceed the greater of—

“(1) \$250,000; or

“(2) an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

“(c) CRIMINAL PENALTY.—A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, an unlawful act described in subsection (a) shall, upon conviction, be fined not more than \$1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.”.

(b) EFFECTIVE DATE.—

(1) CIVIL PENALTIES.—Section 206(b) of the International Emergency Economic Powers Act, as amended by subsection (a), shall apply to violations described in section 206(a) of such Act with respect to which enforcement action is pending or commenced on or after the date of the enactment of this Act.

(2) CRIMINAL PENALTIES.—Section 206(c) of the International Emergency Economic Powers Act, as amended by subsection (a), shall apply to violations described in section 206(a)

Applicability.
50 USC 1705
note.

of such Act with respect to which enforcement action is commenced on or after the date of the enactment of this Act.

Approved October 16, 2007.

LEGISLATIVE HISTORY—S. 1612:

SENATE REPORTS: No. 110–82 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 26, considered and passed Senate.

Oct. 2, considered and passed House.



Public Law 110–97
110th Congress

An Act

To extend the District of Columbia College Access Act of 1999.

Oct. 24, 2007

[H.R. 1124]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FIVE-YEAR REAUTHORIZATION OF TUITION ASSISTANCE PROGRAMS.

(a) PUBLIC SCHOOL PROGRAM.—Section 3(i) of the District of Columbia College Access Act of 1999 (sec. 38–2702(i), DC Official Code) is amended by striking “each of the 7 succeeding fiscal years” and inserting “each of the 12 succeeding fiscal years”.

(b) PRIVATE SCHOOL PROGRAM.—Section 5(f) of such Act (sec. 38–2704(f), DC Official Code) is amended by striking “each of the 7 succeeding fiscal years” and inserting “each of the 12 succeeding fiscal years”.

SEC. 2. MEANS TESTING.

(a) IN GENERAL.—Section 3(c)(2) of the District of Columbia College Access Act of 1999 (113 Stat. 1324; Public Law 106–98) is amended—

(1) in subparagraph (E), by striking “and” after the semicolon at the end;

(2) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(G) is from a family with a taxable annual income of less than \$1,000,000.”.

(b) CONFORMING AMENDMENT.—Section 5(c)(2) of the District of Columbia College Access Act of 1999 (113 Stat. 1328; Public Law 106–98) is amended by striking “through (F)” and inserting “through (G)”.

Approved October 24, 2007.

LEGISLATIVE HISTORY—H.R. 1124 (S. 343):

HOUSE REPORTS: No. 110–112 (Comm. on Oversight and Government Reform).

SENATE REPORTS: No. 110–52 accompanying S. 343 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 14, considered and passed House.

Sept. 18, considered and passed Senate, amended.

Oct. 9, House concurred in Senate amendment.



Public Law 110–98
110th Congress

An Act

Oct. 24, 2007
[H.R. 2467]

To designate the facility of the United States Postal Service located at 69 Montgomery Street in Jersey City, New Jersey, as the “Frank J. Guarini Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FRANK J. GUARINI POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 69 Montgomery Street in Jersey City, New Jersey, shall be known and designated as the “Frank J. Guarini Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Frank J. Guarini Post Office Building”.

Approved October 24, 2007.

LEGISLATIVE HISTORY—H.R. 2467:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 10, considered and passed House.

Oct. 3, considered and passed Senate.



Public Law 110–99
110th Congress

An Act

To designate the facility of the United States Postal Service located at 555 South 3rd Street Lobby in Memphis, Tennessee, as the “Kenneth T. Whalum, Sr. Post Office Building”.

Oct. 24, 2007
[H.R. 2587]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. KENNETH T. WHALUM, SR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 555 South 3rd Street Lobby in Memphis, Tennessee, shall be known and designated as the “Kenneth T. Whalum, Sr. Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Kenneth T. Whalum, Sr. Post Office Building”.

Approved October 24, 2007.

LEGISLATIVE HISTORY—H.R. 2587:

CONGRESSIONAL RECORD, Vol. 153 (2007):
Sept. 10, considered and passed House.
Oct. 3, considered and passed Senate.



Public Law 110–100
110th Congress

An Act

Oct. 24, 2007
[H.R. 2654]

To designate the facility of the United States Postal Service located at 202 South Dumont Avenue in Woonsocket, South Dakota, as the “Eleanor McGovern Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELEANOR MCGOVERN POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 202 South Dumont Avenue in Woonsocket, South Dakota, shall be known and designated as the “Eleanor McGovern Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Eleanor McGovern Post Office Building”.

Approved October 24, 2007.

LEGISLATIVE HISTORY—H.R. 2654:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 10, considered and passed House.

Oct. 3, considered and passed Senate.



Public Law 110–101
110th Congress

An Act

To designate the facility of the United States Postal Service located at 44 North Main Street in Hughesville, Pennsylvania, as the “Master Sergeant Sean Michael Thomas Post Office”.

Oct. 24, 2007
[H.R. 2765]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MASTER SERGEANT SEAN MICHAEL THOMAS POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 44 North Main Street in Hughesville, Pennsylvania, shall be known and designated as the “Master Sergeant Sean Michael Thomas Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Master Sergeant Sean Michael Thomas Post Office”.

Approved October 24, 2007.

LEGISLATIVE HISTORY—H.R. 2765:

CONGRESSIONAL RECORD, Vol. 153 (2007):
July 30, considered and passed House.
Oct. 3, considered and passed Senate.



Public Law 110–102
110th Congress

An Act

Oct. 24, 2007
[H.R. 2778]

To designate the facility of the United States Postal Service located at 3 Quaker Ridge Road in New Rochelle, New York, as the “Robert Merrill Postal Station”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROBERT MERRILL POSTAL STATION.

(a) DESIGNATION.—The facility of the United States Postal Service located at 3 Quaker Ridge Road in New Rochelle, New York, shall be known and designated as the “Robert Merrill Postal Station”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Robert Merrill Postal Station”.

Approved October 24, 2007.

LEGISLATIVE HISTORY—H.R. 2778:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 10, considered and passed House.

Oct. 3, considered and passed Senate.



Public Law 110–103
110th Congress

An Act

To designate the facility of the United States Postal Service located at 326 South Main Street in Princeton, Illinois, as the “Owen Lovejoy Princeton Post Office Building”.

Oct. 24, 2007
[H.R. 2825]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OWEN LOVEJOY PRINCETON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 326 South Main Street in Princeton, Illinois, shall be known and designated as the “Owen Lovejoy Princeton Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Owen Lovejoy Princeton Post Office Building”.

Approved October 24, 2007.

LEGISLATIVE HISTORY—H.R. 2825:

CONGRESSIONAL RECORD, Vol. 153 (2007):
Sept. 10, considered and passed House.
Oct. 3, considered and passed Senate.



Public Law 110–104
110th Congress

An Act

Oct. 24, 2007
[H.R. 3052]

To designate the facility of the United States Postal Service located at 954 Wheeling Avenue in Cambridge, Ohio, as the “John Herschel Glenn, Jr. Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JOHN HERSCHEL GLENN, JR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 954 Wheeling Avenue in Cambridge, Ohio, shall be known and designated as the “John Herschel Glenn, Jr. Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “John Herschel Glenn, Jr. Post Office Building”.

Approved October 24, 2007.

LEGISLATIVE HISTORY—H.R. 3052:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 5, considered and passed House.

Oct. 3, considered and passed Senate.



Public Law 110–105
110th Congress

An Act

To designate the facility of the United States Postal Service located at 805 Main Street in Ferdinand, Indiana, as the “Staff Sergeant David L. Nord Post Office”.

Oct. 24, 2007
[H.R. 3106]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STAFF SERGEANT DAVID L. NORD POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 805 Main Street in Ferdinand, Indiana, shall be known and designated as the “Staff Sergeant David L. Nord Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Staff Sergeant David L. Nord Post Office”.

Approved October 24, 2007.

LEGISLATIVE HISTORY—H.R. 3106 (S. 2023):

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 5, considered and passed House.

Oct. 3, considered and passed Senate.



Public Law 110–106
110th Congress

An Act

Oct. 25, 2007
[H.R. 995]

To amend Public Law 106–348 to extend the authorization for establishing a memorial in the District of Columbia or its environs to honor veterans who became disabled while serving in the Armed Forces of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

40 USC 8903
note.

SECTION 1. EXTENSION OF AUTHORITY FOR ESTABLISHING DISABLED VETERANS MEMORIAL.

Public Law 106–348 is amended—

(1) in subsection (b)—

(A) by striking “The establishment” and inserting “Except as provided in subsection (e), the establishment”; and

(B) by striking “the Commemorative Works Act (40 U.S.C. 1001 et seq.)” and inserting “chapter 89 of title 40, United States Code”;

(2) in subsection (d)—

(A) by striking “section 8(b) of the Commemorative Works Act (40 U.S.C. 1008(b))” and inserting “section 8906 of title 40, United States Code”;

(B) by striking “or upon expiration of the authority for the memorial under section 10(b) of such Act (40 U.S.C. 1010(b)),”; and

(C) by striking “section 8(b)(1) of such Act (40 U.S.C. 1008(b)(1))” and inserting “8906(b)(2) or (3) of such title”; and

(3) by adding at the end the following new subsection:

“(e) **TERMINATION OF AUTHORITY.**—Notwithstanding section 8903(e) of title 40, United States Code, the authority to establish a memorial under this section shall expire on October 24, 2015.”.

Approved October 25, 2007.

LEGISLATIVE HISTORY—H.R. 995:

SENATE REPORTS: No. 110–165 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 5, considered and passed House.

Oct. 24, considered and passed Senate.



Public Law 110–107
110th Congress

An Act

To designate the facility of the United States Postal Service located at Highway 49 South in Piney Woods, Mississippi, as the “Laurence C. and Grace M. Jones Post Office Building”.

Oct. 26, 2007
[H.R. 3233]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAURENCE C. AND GRACE M. JONES POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at Highway 49 South in Piney Woods, Mississippi, shall be known and designated as the “Laurence C. and Grace M. Jones Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Laurence C. and Grace M. Jones Post Office Building”.

Approved October 26, 2007.

LEGISLATIVE HISTORY—H.R. 3233 (S. 2131):

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 1, considered and passed House.

Oct. 19, considered and passed Senate.



Public Law 110–108
110th Congress

An Act

Oct. 31, 2007
[H.R. 3678]

To amend the Internet Tax Freedom Act to extend the moratorium on certain taxes relating to the Internet and to electronic commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internet Tax
Freedom Act
Amendments Act
of 2007.
Communications
and tele-
communications.
47 USC 609 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Internet Tax Freedom Act Amendments Act of 2007”.

SEC. 2. MORATORIUM.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

- (1) in section 1101(a) by striking “2007” and inserting “2014”, and
- (2) in section 1104(a)(2)(A) by striking “2007” and inserting “2014”.

SEC. 3. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

Section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

“(c) APPLICATION OF DEFINITION.—

“(1) IN GENERAL.—Effective as of November 1, 2003—

“(A) for purposes of subsection (a), the term ‘Internet access’ shall have the meaning given such term by section 1104(5) of this Act, as enacted on October 21, 1998; and

“(B) for purposes of subsection (b), the term ‘Internet access’ shall have the meaning given such term by section 1104(5) of this Act as enacted on October 21, 1998, and amended by section 2(c) of the Internet Tax Nondiscrimination Act (Public Law 108–435).

“(2) EXCEPTIONS.—Paragraph (1) shall not apply until June 30, 2008, to a tax on Internet access that is—

“(A) generally imposed and actually enforced on telecommunications service purchased, used, or sold by a provider of Internet access, but only if the appropriate administrative agency of a State or political subdivision thereof issued a public ruling prior to July 1, 2007, that applied such tax to such service in a manner that is inconsistent with paragraph (1); or

“(B) the subject of litigation instituted in a judicial court of competent jurisdiction prior to July 1, 2007, in which a State or political subdivision is seeking to enforce, in a manner that is inconsistent with paragraph (1), such

Effective date.

Applicability.

tax on telecommunications service purchased, used, or sold by a provider of Internet access.

“(3) NO INFERENCE.—No inference of legislative construction shall be drawn from this subsection or the amendments to section 1105(5) made by the Internet Tax Freedom Act Amendments Act of 2007 for any period prior to June 30, 2008, with respect to any tax subject to the exceptions described in subparagraphs (A) and (B) of paragraph (2).”.

SEC. 4. DEFINITIONS.

Section 1105 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) in paragraph (1) by striking “services”,

(2) by amending paragraph (5) to read as follows:

“(5) INTERNET ACCESS.—The term ‘Internet access’—

“(A) means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

“(B) includes the purchase, use or sale of telecommunications by a provider of a service described in subparagraph (A) to the extent such telecommunications are purchased, used or sold—

“(i) to provide such service; or

“(ii) to otherwise enable users to access content, information or other services offered over the Internet;

“(C) includes services that are incidental to the provision of the service described in subparagraph (A) when furnished to users as part of such service, such as a home page, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity;

“(D) does not include voice, audio or video programming, or other products and services (except services described in subparagraph (A), (B), (C), or (E)) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated with the charge for services described in subparagraph (A), (B), (C), or (E); and

“(E) includes a homepage, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity, that are provided independently or not packaged with Internet access.”;

(3) by amending paragraph (9) to read as follows:

“(9) TELECOMMUNICATIONS.—The term ‘telecommunications’ means ‘telecommunications’ as such term is defined in section 3(43) of the Communications Act of 1934 (47 U.S.C. 153(43)) and ‘telecommunications service’ as such term is defined in section 3(46) of such Act (47 U.S.C. 153(46)), and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986 (26 U.S.C. 4251)).”, and

(4) in paragraph (10) by adding at the end the following:

“(C) SPECIFIC EXCEPTION.—

“(i) SPECIFIED TAXES.—Effective November 1, 2007, the term ‘tax on Internet access’ also does not include a State tax expressly levied on commercial activity,

Effective date.

modified gross receipts, taxable margin, or gross income of the business, by a State law specifically using one of the foregoing terms, that—

“(I) was enacted after June 20, 2005, and before November 1, 2007 (or, in the case of a State business and occupation tax, was enacted after January 1, 1932, and before January 1, 1936);

“(II) replaced, in whole or in part, a modified value-added tax or a tax levied upon or measured by net income, capital stock, or net worth (or, is a State business and occupation tax that was enacted after January 1, 1932 and before January 1, 1936);

“(III) is imposed on a broad range of business activity; and

“(IV) is not discriminatory in its application to providers of communication services, Internet access, or telecommunications.

“(ii) MODIFICATIONS.—Nothing in this subparagraph shall be construed as a limitation on a State’s ability to make modifications to a tax covered by clause (i) of this subparagraph after November 1, 2007, as long as the modifications do not substantially narrow the range of business activities on which the tax is imposed or otherwise disqualify the tax under clause (i).

“(iii) NO INFERENCE.—No inference of legislative construction shall be drawn from this subparagraph regarding the application of subparagraph (A) or (B) to any tax described in clause (i) for periods prior to November 1, 2007.”.

SEC. 5. CONFORMING AMENDMENTS.

(a) ACCOUNTING RULE.—Section 1106 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by striking “telecommunications services” each place it appears and inserting “telecommunications”, and

(2) in subsection (b)(2)—

(A) in the heading by striking “SERVICES”,

(B) by striking “such services” and inserting “such telecommunications”, and

(C) by inserting before the period at the end the following: “or to otherwise enable users to access content, information or other services offered over the Internet”.

(b) VOICE SERVICES.—The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking section 1108.

SEC. 6. SUNSET OF GRANDFATHER PROVISIONS.

Section 1104(a) of the Internet Tax Freedom Act is amended by adding at the end thereof the following:

“(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to any State that has, more than 24 months prior to the date of enactment of this paragraph, enacted legislation to repeal the State’s taxes on Internet access or issued a rule or other proclamation made by the appropriate agency of the State that such State agency has decided to no longer apply such tax to Internet access.”.

SEC. 7. EFFECTIVE DATE.

47 USC 151 note.

This Act, and the amendments made by this Act, shall take effect on November 1, 2007, and shall apply with respect to taxes in effect as of such date or thereafter enacted, except as provided in section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note).

Approved October 31, 2007.

LEGISLATIVE HISTORY—H.R. 3678 (S. 2128):**HOUSE REPORTS:** No. 110–372 (Comm. on the Judiciary).**CONGRESSIONAL RECORD**, Vol. 153 (2007):

Oct. 16, considered and passed House.

Oct. 25, considered and passed Senate, amended.

Oct. 30, House concurred in Senate amendment.



Public Law 110–109
110th Congress

An Act

Oct. 31, 2007
[S. 2258]

To temporarily extend the programs under the Higher Education Act of 1965, to amend the definition of an eligible not-for-profit holder, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Third Higher
Education
Extension Act of
2007.
20 USC 1001
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Third Higher Education Extension Act of 2007”.

SEC. 2. EXTENSION OF PROGRAMS.

Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking “October 31, 2007” and inserting “March 31, 2008”.

20 USC 1001
note.

SEC. 3. RULE OF CONSTRUCTION.

Nothing in this Act, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) or by the College Cost Reduction and Access Act (Public Law 110–84) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

SEC. 4. DEFINITION OF ELIGIBLE NOT-FOR-PROFIT HOLDER.

Section 435(p) of the Higher Education Act of 1965 (20 U.S.C. 1085(p)) is amended—

(1) in paragraph (1), by striking subparagraph (D) and inserting the following:

“(D) acting as a trustee on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d).”; and

(2) in paragraph (2)—

(A) in subparagraph (A)(i), by striking subclause (II) and inserting the following:

“(II) is acting as a trustee on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), and such

State, political subdivision, authority, agency, instrumentality, or other entity, on the date of enactment of the College Cost Reduction and Access Act, was the sole beneficial owner of a loan eligible for any special allowance payment under section 438.”;

(B) in subparagraph (A)(ii), by inserting “of” after “waive the requirements”;

(C) by amending subparagraph (B) to read as follows:

“(B) NO FOR-PROFIT OWNERSHIP OR CONTROL.—

“(i) IN GENERAL.—No State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) shall be an eligible not-for-profit holder under this Act if such State, political subdivision, authority, agency, instrumentality, or other entity is owned or controlled, in whole or in part, by a for-profit entity.

“(ii) TRUSTEES.—A trustee described in paragraph (1)(D) shall not be an eligible not-for-profit holder under this Act with respect to a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), if such State, political subdivision, authority, agency, instrumentality, or other entity is owned or controlled, in whole or in part, by a for-profit entity.”;

(D) by amending subparagraph (C) to read as follows:

“(C) SOLE OWNERSHIP OF LOANS AND INCOME.—No State, political subdivision, authority, agency, instrumentality, trustee, or other entity described in paragraph (1)(A), (B), (C), or (D) shall be an eligible not-for-profit holder under this Act with respect to any loan, or income from any loan, unless—

“(i) such State, political subdivision, authority, agency, instrumentality, or other entity is the sole beneficial owner of such loan and the income from such loan; or

“(ii) such trustee holds the loan on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), and such State, political subdivision, authority, agency, instrumentality, or other entity is the sole beneficial owner of such loan and the income from such loan.”;

(E) in subparagraph (D), by striking “an entity described in paragraph (1)(A), (B), or (C)” and inserting “a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d),”; and

(F) by amending subparagraph (E) to read as follows:

“(E) RULE OF CONSTRUCTION.—For purposes of subparagraphs (A), (B), (C), and (D) of this paragraph, a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), shall not—

“(i) be deemed to be owned or controlled, in whole or in part, by a for-profit entity; or

“(ii) lose its status as the sole owner of a beneficial interest in a loan and the income from a loan, by such State, political subdivision, authority, agency, instrumentality, or other entity, or by the trustee described in paragraph (1)(D), granting a security interest in, or otherwise pledging as collateral, such loan, or the income from such loan, to secure a debt obligation for which such State, political subdivision, authority, agency, instrumentality, or other entity is the issuer of the debt obligation.”.

Approved October 31, 2007.

LEGISLATIVE HISTORY—S. 2258 (H.R. 3927):

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 30, considered and passed Senate and House.



Public Law 110–110
110th Congress

An Act

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to develop and implement a comprehensive program designed to reduce the incidence of suicide among veterans.

Nov. 5, 2007
[H.R. 327]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Joshua Omvig Veterans Suicide Prevention Act”.

Joshua Omvig
Veterans Suicide
Prevention Act.
38 USC 101 note.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) suicide among veterans suffering from post-traumatic stress disorder (in this section referred to as “PTSD”) is a serious problem; and

(2) the Secretary of Veterans Affairs should take into consideration the special needs of veterans suffering from PTSD and the special needs of elderly veterans who are at high risk for depression and experience high rates of suicide in developing and implementing the comprehensive program under this Act.

38 USC 1720F
note.

SEC. 3. COMPREHENSIVE PROGRAM FOR SUICIDE PREVENTION AMONG VETERANS.

(a) IN GENERAL.—

(1) COMPREHENSIVE PROGRAM FOR SUICIDE PREVENTION AMONG VETERANS.—Chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 1720F. Comprehensive program for suicide prevention among veterans

“(a) ESTABLISHMENT.—The Secretary shall develop and carry out a comprehensive program designed to reduce the incidence of suicide among veterans incorporating the components described in this section.

“(b) STAFF EDUCATION.—In carrying out the comprehensive program under this section, the Secretary shall provide for mandatory training for appropriate staff and contractors (including all medical personnel) of the Department who interact with veterans. This training shall cover information appropriate to the duties being performed by such staff and contractors. The training shall include information on—

“(1) recognizing risk factors for suicide;

“(2) proper protocols for responding to crisis situations involving veterans who may be at high risk for suicide; and

“(3) best practices for suicide prevention.

“(c) HEALTH ASSESSMENTS OF VETERANS.—In carrying out the comprehensive program, the Secretary shall direct that medical staff offer mental health in their overall health assessment when veterans seek medical care at a Department medical facility (including a center established under section 1712A of this title) and make referrals, at the request of the veteran concerned, to appropriate counseling and treatment programs for veterans who show signs or symptoms of mental health problems.

“(d) DESIGNATION OF SUICIDE PREVENTION COUNSELORS.—In carrying out the comprehensive program, the Secretary shall designate a suicide prevention counselor at each Department medical facility other than centers established under section 1712A of this title. Each counselor shall work with local emergency rooms, police departments, mental health organizations, and veterans service organizations to engage in outreach to veterans and improve the coordination of mental health care to veterans.

“(e) BEST PRACTICES RESEARCH.—In carrying out the comprehensive program, the Secretary shall provide for research on best practices for suicide prevention among veterans. Research shall be conducted under this subsection in consultation with the heads of the following entities:

“(1) The Department of Health and Human Services.

“(2) The National Institute of Mental Health.

“(3) The Substance Abuse and Mental Health Services Administration.

“(4) The Centers for Disease Control and Prevention.

“(f) SEXUAL TRAUMA RESEARCH.—In carrying out the comprehensive program, the Secretary shall provide for research on mental health care for veterans who have experienced sexual trauma while in military service. The research design shall include consideration of veterans of a reserve component.

“(g) 24-HOUR MENTAL HEALTH CARE.—In carrying out the comprehensive program, the Secretary shall provide for mental health care availability to veterans on a 24-hour basis.

“(h) HOTLINE.—In carrying out the comprehensive program, the Secretary may provide for a toll-free hotline for veterans to be staffed by appropriately trained mental health personnel and available at all times.

“(i) OUTREACH AND EDUCATION FOR VETERANS AND FAMILIES.—In carrying out the comprehensive program, the Secretary shall provide for outreach to and education for veterans and the families of veterans, with special emphasis on providing information to veterans of Operation Iraqi Freedom and Operation Enduring Freedom and the families of such veterans. Education to promote mental health shall include information designed to—

“(1) remove the stigma associated with mental illness;

“(2) encourage veterans to seek treatment and assistance for mental illness;

“(3) promote skills for coping with mental illness; and

“(4) help families of veterans with—

“(A) understanding issues arising from the readjustment of veterans to civilian life;

“(B) identifying signs and symptoms of mental illness; and

“(C) encouraging veterans to seek assistance for mental illness.

“(j) PEER SUPPORT COUNSELING PROGRAM.—(1) In carrying out the comprehensive program, the Secretary may establish and carry out a peer support counseling program, under which veterans shall be permitted to volunteer as peer counselors—

“(A) to assist other veterans with issues related to mental health and readjustment; and

“(B) to conduct outreach to veterans and the families of veterans.

“(2) In carrying out the peer support counseling program under this subsection, the Secretary shall provide adequate training for peer counselors.

“(k) OTHER COMPONENTS.—In carrying out the comprehensive program, the Secretary may provide for other actions to reduce the incidence of suicide among veterans that the Secretary considers appropriate.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1720F. Comprehensive program for suicide prevention among veterans.”.

(b) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report on the comprehensive program under section 1720F of title 38, United States Code, as added by subsection (a).

(2) CONTENTS OF REPORT.—The report shall contain the following:

(A) Information on the status of the implementation of such program.

(B) Information on the time line and costs for complete implementation of the program within two years.

(C) A plan for additional programs and activities designed to reduce the occurrence of suicide among veterans.

(D) Recommendations for further legislation or administrative action that the Secretary considers appropriate to improve suicide prevention programs within the Department of Veterans Affairs.

Approved November 5, 2007.

LEGISLATIVE HISTORY—H.R. 327 (S. 479):

HOUSE REPORTS: No. 110–55 (Comm. on Veterans' Affairs).

SENATE REPORTS: No. 110–132 accompanying S. 479 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 21, considered and passed House.

Sept. 27, considered and passed Senate, amended.

Oct. 23, House concurred in Senate amendment.



Public Law 110–111
110th Congress

An Act

To increase, effective as of December 1, 2007, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

Nov. 5, 2007
[H.R. 1284]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2007”.

Veterans’
Compensation
Cost-of-Living
Adjustment Act
of 2007.
38 USC 101 note.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

38 USC 1114
note.

(a) **RATE ADJUSTMENT.**—Effective on December 1, 2007, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on November 30, 2007, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

(b) **AMOUNTS TO BE INCREASED.**—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) **WARTIME DISABILITY COMPENSATION.**—Each of the dollar amounts under section 1114 of title 38, United States Code.

(2) **ADDITIONAL COMPENSATION FOR DEPENDENTS.**—Each of the dollar amounts under sections 1115(1) of such title.

(3) **CLOTHING ALLOWANCE.**—The dollar amount under section 1162 of such title.

(4) **DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.**—Each of the dollar amounts under subsections (a) through (d) of section 1311 of such title.

(5) **DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.**—Each of the dollar amounts under sections 1313(a) and 1314 of such title.

(c) **DETERMINATION OF INCREASE.**—

(1) **PERCENTAGE.**—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2007, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) **ROUNDING.**—Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

38 USC 1114
note.

(d) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38, United States Code.

Federal Register,
publication.
38 USC 1114
note.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 2(b), as increased under that section, not later than the date on which the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2008.

Approved November 5, 2007.

LEGISLATIVE HISTORY—H.R. 1284 (S. 423):

HOUSE REPORTS: No. 110–56 (Comm. on Veterans' Affairs).

SENATE REPORTS: No. 110–135 accompanying S. 423 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 21, considered and passed House.

Oct. 18, considered and passed Senate.



Public Law 110–112
110th Congress

An Act

To designate the Department of Veterans Affairs Medical Center in Augusta, Georgia, as the “Charlie Norwood Department of Veterans Affairs Medical Center”.

Nov. 8, 2007
[H.R. 1808]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) Charlie Norwood volunteered for service in the United States Army Dental Corps in a time of war, providing dental and medical services in the Republic of Vietnam in 1968, earning the Combat Medical Badge and two awards of the Bronze Star.

(2) Captain Norwood, under combat conditions, helped develop the Dental Corps operating procedures, that are now standard, of delivering dentists to forward-fire bases, and providing dental treatment for military service dogs.

(3) Captain Norwood provided dental, emergency medical, and surgical care for United States personnel, Vietnamese civilians, and prisoners-of-war.

(4) Dr. Norwood provided military dental care at Fort Gordon, Georgia, following his service in Vietnam, then provided private-practice dental care for the next 25 years for patients in the greater Augusta, Georgia, area, including care for military personnel, retirees, and dependents under Department of Defense programs and for low-income patients under Georgia Medicaid.

(5) Congressman Norwood, upon being sworn into the United States House of Representatives in 1995, pursued the advancement of health and dental care for active duty and retired military personnel and dependents, and for veterans, through his public advocacy for strengthened Federal support for military and veterans’ health care programs and facilities.

(6) Congressman Norwood co-authored and helped pass into law the Keep our Promises to America’s Military Retirees Act, which restored lifetime healthcare benefits to veterans who are military retirees through the creation of the Department of Defense TRICARE for Life Program.

(7) Congressman Norwood supported and helped pass into law the Retired Pay Restoration Act providing relief from the concurrent receipt rule penalizing disabled veterans who were also military retirees.

(8) Throughout his congressional service from 1995 to 2007, Congressman Norwood repeatedly defeated attempts to reduce Federal support for the Department of Veterans Affairs Medical

Center in Augusta, Georgia, and succeeded in maintaining and increasing Federal funding for the center.

(9) Congressman Norwood maintained a life membership in the American Legion, the Veterans of Foreign Wars, and the Military Order of the World Wars.

(10) Congressman Norwood's role in protecting and improving military and veteran's health care was recognized by the Association of the United States Army through the presentation of the Cocklin Award in 1998, and through his induction into the Association's Audie Murphy Society in 1999.

SEC. 2. DESIGNATION OF CHARLIE NORWOOD DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

(a) DESIGNATION.—The Department of Veterans Affairs Medical Center located at 1 Freedom Way in Augusta, Georgia, shall after the date of the enactment of this Act be known and designated as the “Charlie Norwood Department of Veterans Affairs Medical Center”.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Charlie Norwood Department of Veterans Affairs Medical Center.

Approved November 8, 2007.

LEGISLATIVE HISTORY—H.R. 1808:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 23, considered and passed House.

Oct. 31, considered and passed Senate.



Public Law 110–113
110th Congress

An Act

To provide nationwide subpoena authority for actions brought under the September 11 Victim Compensation Fund of 2001.

Nov. 8, 2007
[S. 2106]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Procedural Fairness for September 11 Victims Act of 2007”.

Procedural
Fairness for
September 11
Victims Act of
2007.
49 USC 40101
note.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The September 11th Victims Compensation Fund of 2001 (49 U.S.C. 40101 note) establishes a Federal cause of action in the United States District Court for the Southern District of New York as the exclusive remedy for damages arising out of the hijacking and subsequent crash of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001.

(2) Rules 45(b)(2) and 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure effectively limit service of a subpoena to any place within, or within 100 miles of, the district of the court by which it is issued, unless a statute of the United States expressly provides that the court, upon proper application and cause shown, may authorize the service of a subpoena at any other place.

(3) Litigating a Federal cause of action under the September 11 Victims Compensation Fund of 2001 is likely to involve the testimony and the production of other documents and tangible things by a substantial number of witnesses, many of whom may not reside, be employed, or regularly transact business in, or within 100 miles of, the Southern District of New York.

SEC. 3. NATIONWIDE SUBPOENAS.

Section 408(b) of the September 11 Victims Compensation Fund of 2001 (49 U.S.C. 40101 note) is amended by adding at the end the following:

“(4) NATIONWIDE SUBPOENAS.—

“(A) IN GENERAL.—A subpoena requiring the attendance of a witness at trial or a hearing conducted under this section may be served at any place in the United States.

“(B) RULE OF CONSTRUCTION.—Nothing in this subsection is intended to diminish the authority of a court

to quash or modify a subpoena for the reasons provided in clause (i), (iii), or (iv) of subparagraph (A) or subparagraph (B) of rule 45(c)(3) of the Federal Rules of Civil Procedure.”.

Approved November 8, 2007.

LEGISLATIVE HISTORY—S. 2106:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 3, considered and passed Senate.

Oct. 30, considered and passed House.



Public Law 110–114
110th Congress

An Act

To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

Nov. 8, 2007
[H.R. 1495]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Water Resources Development Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of Secretary.

TITLE I—WATER RESOURCES PROJECTS

- Sec. 1001. Project authorizations.
- Sec. 1002. Small projects for flood damage reduction.
- Sec. 1003. Small projects for emergency streambank protection.
- Sec. 1004. Small projects for navigation.
- Sec. 1005. Small projects for improvement of the quality of the environment.
- Sec. 1006. Small projects for aquatic ecosystem restoration.
- Sec. 1007. Small projects for shoreline protection.
- Sec. 1008. Small projects for snagging and sediment removal.
- Sec. 1009. Small projects to prevent or mitigate damage caused by navigation projects.
- Sec. 1010. Small projects for aquatic plant control.

TITLE II—GENERAL PROVISIONS

- Sec. 2001. Non-Federal contributions.
- Sec. 2002. Funding to process permits.
- Sec. 2003. Written agreement for water resources projects.
- Sec. 2004. Compilation of laws.
- Sec. 2005. Dredged material disposal.
- Sec. 2006. Remote and subsistence harbors.
- Sec. 2007. Use of other Federal funds.
- Sec. 2008. Revision of project partnership agreement; cost sharing.
- Sec. 2009. Expedited actions for emergency flood damage reduction.
- Sec. 2010. Watershed and river basin assessments.
- Sec. 2011. Tribal partnership program.
- Sec. 2012. Wildfire firefighting.
- Sec. 2013. Technical assistance.
- Sec. 2014. Lakes program.
- Sec. 2015. Cooperative agreements.
- Sec. 2016. Training funds.
- Sec. 2017. Access to water resource data.
- Sec. 2018. Shore protection projects.
- Sec. 2019. Ability to pay.
- Sec. 2020. Aquatic ecosystem and estuary restoration.
- Sec. 2021. Small flood damage reduction projects.
- Sec. 2022. Small river and harbor improvement projects.
- Sec. 2023. Protection of highways, bridge approaches, public works, and nonprofit public services.

Water Resources
Development Act
of 2007.
Inter-
governmental
relations.
33 USC 2201
note.

- Sec. 2024. Modification of projects for improvement of the quality of the environment.
- Sec. 2025. Remediation of abandoned mine sites.
- Sec. 2026. Leasing authority.
- Sec. 2027. Fiscal transparency report.
- Sec. 2028. Support of Army civil works program.
- Sec. 2029. Sense of Congress on criteria for operation and maintenance of harbor dredging projects.
- Sec. 2030. Interagency and international support authority.
- Sec. 2031. Water resources principles and guidelines.
- Sec. 2032. Water resource priorities report.
- Sec. 2033. Planning.
- Sec. 2034. Independent peer review.
- Sec. 2035. Safety assurance review.
- Sec. 2036. Mitigation for fish and wildlife and wetlands losses.
- Sec. 2037. Regional sediment management.
- Sec. 2038. National shoreline erosion control development program.
- Sec. 2039. Monitoring ecosystem restoration.
- Sec. 2040. Electronic submission of permit applications.
- Sec. 2041. Project administration.
- Sec. 2042. Program administration.
- Sec. 2043. Studies and reports for water resources projects.
- Sec. 2044. Coordination and scheduling of Federal, State, and local actions.
- Sec. 2045. Project streamlining.
- Sec. 2046. Project deauthorization.
- Sec. 2047. Federal hopper dredges.

TITLE III—PROJECT-RELATED PROVISIONS

- Sec. 3001. Black Warrior-Tombigbee Rivers, Alabama.
- Sec. 3002. Cook Inlet, Alaska.
- Sec. 3003. King Cove Harbor, Alaska.
- Sec. 3004. Seward Harbor, Alaska.
- Sec. 3005. Sitka, Alaska.
- Sec. 3006. Tatitlek, Alaska.
- Sec. 3007. Rio De Flag, Flagstaff, Arizona.
- Sec. 3008. Nogales Wash and tributaries flood control project, Arizona.
- Sec. 3009. Tucson drainage area, Arizona.
- Sec. 3010. Osceola Harbor, Arkansas.
- Sec. 3011. St. Francis River Basin, Arkansas and Missouri.
- Sec. 3012. Pine Mountain Dam, Arkansas.
- Sec. 3013. Red-Ouachita River Basin Levees, Arkansas and Louisiana.
- Sec. 3014. Cache Creek Basin, California.
- Sec. 3015. CALFED stability program, California.
- Sec. 3016. Compton Creek, California.
- Sec. 3017. Grayson Creek/Murderer's Creek, California.
- Sec. 3018. Hamilton Airfield, California.
- Sec. 3019. John F. Baldwin Ship Channel and Stockton Ship Channel, California.
- Sec. 3020. Kaweah River, California.
- Sec. 3021. Larkspur Ferry Channel, Larkspur, California.
- Sec. 3022. Llagas Creek, California.
- Sec. 3023. Magpie Creek, California.
- Sec. 3024. Pacific Flyway Center, Sacramento, California.
- Sec. 3025. Petaluma River, Petaluma, California.
- Sec. 3026. Pinole Creek, California.
- Sec. 3027. Prado Dam, California.
- Sec. 3028. Redwood City Navigation Channel, California.
- Sec. 3029. Sacramento and American Rivers flood control, California.
- Sec. 3030. Sacramento Deep Water Ship Channel, California.
- Sec. 3031. Sacramento River bank protection, California.
- Sec. 3032. Salton Sea restoration, California.
- Sec. 3033. Santa Ana River Mainstem, California.
- Sec. 3034. Santa Barbara Streams, Lower Mission Creek, California.
- Sec. 3035. Santa Cruz Harbor, California.
- Sec. 3036. Seven Oaks Dam, California.
- Sec. 3037. Upper Guadalupe River, California.
- Sec. 3038. Walnut Creek Channel, California.
- Sec. 3039. Wildcat/San Pablo Creek Phase I, California.
- Sec. 3040. Wildcat/San Pablo Creek Phase II, California.
- Sec. 3041. Yuba River Basin project, California.
- Sec. 3042. South Platte River basin, Colorado.
- Sec. 3043. Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland.

- Sec. 3044. St. George's Bridge, Delaware.
- Sec. 3045. Brevard County, Florida.
- Sec. 3046. Broward County and Hillsboro Inlet, Florida.
- Sec. 3047. Canaveral Harbor, Florida.
- Sec. 3048. Gasparilla and Estero Islands, Florida.
- Sec. 3049. Lido Key Beach, Sarasota, Florida.
- Sec. 3050. Peanut Island, Florida.
- Sec. 3051. Port Sutton, Florida.
- Sec. 3052. Tampa Harbor-Big Bend Channel, Florida.
- Sec. 3053. Tampa Harbor Cut B, Florida.
- Sec. 3054. Allatoona Lake, Georgia.
- Sec. 3055. Latham River, Glynn County, Georgia.
- Sec. 3056. Dworshak Reservoir improvements, Idaho.
- Sec. 3057. Little Wood River, Gooding, Idaho.
- Sec. 3058. Beardstown Community Boat Harbor, Beardstown, Illinois.
- Sec. 3059. Cache River Levee, Illinois.
- Sec. 3060. Chicago River, Illinois.
- Sec. 3061. Chicago Sanitary and Ship Canal dispersal barriers project, Illinois.
- Sec. 3062. Emiquon, Illinois.
- Sec. 3063. Lasalle, Illinois.
- Sec. 3064. Spunky Bottoms, Illinois.
- Sec. 3065. Cedar Lake, Indiana.
- Sec. 3066. Koontz Lake, Indiana.
- Sec. 3067. White River, Indiana.
- Sec. 3068. Des Moines River and Greenbelt, Iowa.
- Sec. 3069. Perry Creek, Iowa.
- Sec. 3070. Rathbun Lake, Iowa.
- Sec. 3071. Hickman Bluff stabilization, Kentucky.
- Sec. 3072. Mcalpine Lock and Dam, Kentucky and Indiana.
- Sec. 3073. Prestonsburg, Kentucky.
- Sec. 3074. Amite River and tributaries, Louisiana, East Baton Rouge Parish Watershed.
- Sec. 3075. Atchafalaya Basin Floodway System, Louisiana.
- Sec. 3076. Atchafalaya Basin Floodway System, regional visitor center, Louisiana.
- Sec. 3077. Atchafalaya River and Bayous Chene, Boeuf, and Black, Louisiana.
- Sec. 3078. Bayou Plaquemine, Louisiana.
- Sec. 3079. Calcasieu River and Pass, Louisiana.
- Sec. 3080. Red River (J. Bennett Johnston) Waterway, Louisiana.
- Sec. 3081. Mississippi Delta Region, Louisiana.
- Sec. 3082. Mississippi River-Gulf Outlet relocation assistance, Louisiana.
- Sec. 3083. Violet, Louisiana.
- Sec. 3084. West bank of the Mississippi River (East of Harvey Canal), Louisiana.
- Sec. 3085. Camp Ellis, Saco, Maine.
- Sec. 3086. Cumberland, Maryland.
- Sec. 3087. Poplar Island, Maryland.
- Sec. 3088. Detroit River shoreline, Detroit, Michigan.
- Sec. 3089. St. Clair River and Lake St. Clair, Michigan.
- Sec. 3090. St. Joseph Harbor, Michigan.
- Sec. 3091. Sault Sainte Marie, Michigan.
- Sec. 3092. Ada, Minnesota.
- Sec. 3093. Duluth Harbor, McQuade Road, Minnesota.
- Sec. 3094. Grand Marais, Minnesota.
- Sec. 3095. Grand Portage Harbor, Minnesota.
- Sec. 3096. Granite Falls, Minnesota.
- Sec. 3097. Knife River Harbor, Minnesota.
- Sec. 3098. Red Lake River, Minnesota.
- Sec. 3099. Silver Bay, Minnesota.
- Sec. 3100. Taconite Harbor, Minnesota.
- Sec. 3101. Two Harbors, Minnesota.
- Sec. 3102. Deer Island, Harrison County, Mississippi.
- Sec. 3103. Jackson County, Mississippi.
- Sec. 3104. Pearl River Basin, Mississippi.
- Sec. 3105. Festus and Crystal City, Missouri.
- Sec. 3106. L-15 levee, Missouri.
- Sec. 3107. Monarch-Chesterfield, Missouri.
- Sec. 3108. River Des Peres, Missouri.
- Sec. 3109. Lower Yellowstone project, Montana.
- Sec. 3110. Yellowstone River and tributaries, Montana and North Dakota.
- Sec. 3111. Antelope Creek, Lincoln, Nebraska.
- Sec. 3112. Sand Creek watershed, Wahoo, Nebraska.
- Sec. 3113. Western Sarpy and Clear Creek, Nebraska.
- Sec. 3114. Lower Truckee River, McCarran Ranch, Nevada.

- Sec. 3115. Lower Cape May Meadows, Cape May Point, New Jersey.
- Sec. 3116. Passaic River basin flood management, New Jersey.
- Sec. 3117. Cooperative agreements, New Mexico.
- Sec. 3118. Middle Rio Grande restoration, New Mexico.
- Sec. 3119. Buffalo Harbor, New York.
- Sec. 3120. Long Island Sound oyster restoration, New York and Connecticut.
- Sec. 3121. Mamaroneck and Sheldrake Rivers watershed management, New York.
- Sec. 3122. Orchard Beach, Bronx, New York.
- Sec. 3123. Port of New York and New Jersey, New York and New Jersey.
- Sec. 3124. New York State Canal System.
- Sec. 3125. Susquehanna River and Upper Delaware River watershed management, New York.
- Sec. 3126. Missouri River restoration, North Dakota.
- Sec. 3127. Wahpeton, North Dakota.
- Sec. 3128. Ohio.
- Sec. 3129. Lower Girard Lake Dam, Girard, Ohio.
- Sec. 3130. Mahoning River, Ohio.
- Sec. 3131. Arcadia Lake, Oklahoma.
- Sec. 3132. Arkansas River Corridor, Oklahoma.
- Sec. 3133. Lake Eufaula, Oklahoma.
- Sec. 3134. Oklahoma lakes demonstration program, Oklahoma.
- Sec. 3135. Ottawa County, Oklahoma.
- Sec. 3136. Red River chloride control, Oklahoma and Texas.
- Sec. 3137. Waurika Lake, Oklahoma.
- Sec. 3138. Upper Willamette River watershed ecosystem restoration, Oregon.
- Sec. 3139. Delaware River, Pennsylvania, New Jersey, and Delaware.
- Sec. 3140. Raystown Lake, Pennsylvania.
- Sec. 3141. Sheraden Park Stream and Chartiers Creek, Allegheny County, Pennsylvania.
- Sec. 3142. Solomon's Creek, Wilkes-Barre, Pennsylvania.
- Sec. 3143. South Central Pennsylvania.
- Sec. 3144. Wyoming Valley, Pennsylvania.
- Sec. 3145. Narragansett Bay, Rhode Island.
- Sec. 3146. Missouri River Restoration, South Dakota.
- Sec. 3147. Cedar Bayou, Texas.
- Sec. 3148. Freeport Harbor, Texas.
- Sec. 3149. Lake Kemp, Texas.
- Sec. 3150. Lower Rio Grande Basin, Texas.
- Sec. 3151. North Padre Island, Corpus Christi Bay, Texas.
- Sec. 3152. Pat Mayse Lake, Texas.
- Sec. 3153. Proctor Lake, Texas.
- Sec. 3154. San Antonio Channel, San Antonio, Texas.
- Sec. 3155. Connecticut River restoration, Vermont.
- Sec. 3156. Dam remediation, Vermont.
- Sec. 3157. Lake Champlain Eurasian milfoil, water chestnut, and other nonnative plant control, Vermont.
- Sec. 3158. Upper Connecticut River Basin wetland restoration, Vermont and New Hampshire.
- Sec. 3159. Upper Connecticut River basin ecosystem restoration, Vermont and New Hampshire.
- Sec. 3160. Lake Champlain watershed, Vermont and New York.
- Sec. 3161. Sandbridge Beach, Virginia Beach, Virginia.
- Sec. 3162. Tangier Island Seawall, Virginia.
- Sec. 3163. Duwamish/Green, Washington.
- Sec. 3164. McNary Lock and Dam, McNary National Wildlife Refuge, Washington and Idaho.
- Sec. 3165. Snake River project, Washington and Idaho.
- Sec. 3166. Yakima River, Port of Sunnyside, Washington.
- Sec. 3167. Bluestone Lake, Ohio River Basin, West Virginia.
- Sec. 3168. Greenbrier River basin, West Virginia.
- Sec. 3169. Lesage/Greenbottom Swamp, West Virginia.
- Sec. 3170. Lower Mud River, Milton, West Virginia.
- Sec. 3171. McDowell County, West Virginia.
- Sec. 3172. Parkersburg, West Virginia.
- Sec. 3173. Green Bay Harbor, Green Bay, Wisconsin.
- Sec. 3174. Manitowoc Harbor, Wisconsin.
- Sec. 3175. Mississippi River headwaters reservoirs.
- Sec. 3176. Upper basin of Missouri River.
- Sec. 3177. Upper Mississippi River System environmental management program.
- Sec. 3178. Upper Ohio River and Tributaries navigation system new technology pilot program.
- Sec. 3179. Continuation of project authorizations.

- Sec. 3180. Project reauthorizations.
- Sec. 3181. Project deauthorizations.
- Sec. 3182. Land conveyances.
- Sec. 3183. Extinguishment of reversionary interests and use restrictions.

TITLE IV—STUDIES

- Sec. 4001. John Glenn Great Lakes Basin Program.
- Sec. 4002. Lake Erie dredged material disposal sites.
- Sec. 4003. Southwestern United States drought study.
- Sec. 4004. Delaware River.
- Sec. 4005. Eurasian milfoil.
- Sec. 4006. Fire Island, Alaska.
- Sec. 4007. Knik Arm, Cook Inlet, Alaska.
- Sec. 4008. Kuskokwim River, Alaska.
- Sec. 4009. Nome Harbor, Alaska.
- Sec. 4010. St. George Harbor, Alaska.
- Sec. 4011. Susitna River, Alaska.
- Sec. 4012. Valdez, Alaska.
- Sec. 4013. Gila Bend, Maricopa, Arizona.
- Sec. 4014. Searcy County, Arkansas.
- Sec. 4015. Aliso Creek, California.
- Sec. 4016. Fresno, Kings, and Kern counties, California.
- Sec. 4017. Fruitvale Avenue Railroad Bridge, Alameda, California.
- Sec. 4018. Los Angeles River revitalization study, California.
- Sec. 4019. Lytle Creek, Rialto, California.
- Sec. 4020. Mokelumne River, San Joaquin County, California.
- Sec. 4021. Orick, California.
- Sec. 4022. Shoreline study, Oceanside, California.
- Sec. 4023. Rialto, Fontana, and Colton, California.
- Sec. 4024. Sacramento River, California.
- Sec. 4025. San Diego County, California.
- Sec. 4026. San Francisco Bay, Sacramento-San Joaquin Delta, California.
- Sec. 4027. South San Francisco Bay Shoreline, California.
- Sec. 4028. Twentynine Palms, California.
- Sec. 4029. Yucca Valley, California.
- Sec. 4030. Selenium studies, Colorado.
- Sec. 4031. Delaware and Christina Rivers and Shellpot Creek, Wilmington, Delaware.
- Sec. 4032. Delaware inland bays and tributaries and Atlantic coast, Delaware.
- Sec. 4033. Collier County Beaches, Florida.
- Sec. 4034. Lower St. Johns River, Florida.
- Sec. 4035. Herbert Hoover Dike supplemental major rehabilitation report, Florida.
- Sec. 4036. Vanderbilt Beach Lagoon, Florida.
- Sec. 4037. Meriwether County, Georgia.
- Sec. 4038. Boise River, Idaho.
- Sec. 4039. Ballard's Island Side Channel, Illinois.
- Sec. 4040. Chicago, Illinois.
- Sec. 4041. Salem, Indiana.
- Sec. 4042. Buckhorn Lake, Kentucky.
- Sec. 4043. Dewey Lake, Kentucky.
- Sec. 4044. Louisville, Kentucky.
- Sec. 4045. Vidalia Port, Louisiana.
- Sec. 4046. Fall River Harbor, Massachusetts and Rhode Island.
- Sec. 4047. Clinton River, Michigan.
- Sec. 4048. Hamburg and Green Oak Townships, Michigan.
- Sec. 4049. Lake Erie at Luna Pier, Michigan.
- Sec. 4050. Duluth-Superior Harbor, Minnesota and Wisconsin.
- Sec. 4051. Northeast Mississippi.
- Sec. 4052. Dredged material disposal, New Jersey.
- Sec. 4053. Bayonne, New Jersey.
- Sec. 4054. Carteret, New Jersey.
- Sec. 4055. Gloucester County, New Jersey.
- Sec. 4056. Perth Amboy, New Jersey.
- Sec. 4057. Batavia, New York.
- Sec. 4058. Big Sister Creek, Evans, New York.
- Sec. 4059. Finger Lakes, New York.
- Sec. 4060. Lake Erie Shoreline, Buffalo, New York.
- Sec. 4061. Newtown Creek, New York.
- Sec. 4062. Niagara River, New York.
- Sec. 4063. Shore Parkway Greenway, Brooklyn, New York.
- Sec. 4064. Upper Delaware River watershed, New York.

- Sec. 4065. Lincoln County, North Carolina.
- Sec. 4066. Wilkes County, North Carolina.
- Sec. 4067. Yadkinville, North Carolina.
- Sec. 4068. Flood damage reduction, Ohio.
- Sec. 4069. Lake Erie, Ohio.
- Sec. 4070. Ohio River, Ohio.
- Sec. 4071. Toledo Harbor dredged material placement, Toledo, Ohio.
- Sec. 4072. Toledo Harbor, Maumee River, and Lake Channel project, Toledo, Ohio.
- Sec. 4073. Ecosystem restoration and fish passage improvements, Oregon.
- Sec. 4074. Walla Walla River basin, Oregon.
- Sec. 4075. Chartiers Creek watershed, Pennsylvania.
- Sec. 4076. Kinzua Dam and Allegheny Reservoir, Pennsylvania.
- Sec. 4077. Western Pennsylvania flood damage reduction.
- Sec. 4078. Williamsport, Pennsylvania.
- Sec. 4079. Yardley Borough, Pennsylvania.
- Sec. 4080. Rio Valenciano, Juncos, Puerto Rico.
- Sec. 4081. Woonsocket local protection project, Blackstone River basin, Rhode Island.
- Sec. 4082. Crooked Creek, Bennettsville, South Carolina.
- Sec. 4083. Broad River, York County, South Carolina.
- Sec. 4084. Savannah River, South Carolina and Georgia.
- Sec. 4085. Chattanooga, Tennessee.
- Sec. 4086. Cleveland, Tennessee.
- Sec. 4087. Cumberland River, Nashville, Tennessee.
- Sec. 4088. Lewis, Lawrence, and Wayne Counties, Tennessee.
- Sec. 4089. Wolf River and Nonconnah Creek, Memphis, Tennessee.
- Sec. 4090. Abilene, Texas.
- Sec. 4091. Coastal Texas ecosystem protection and restoration, Texas.
- Sec. 4092. Port of Galveston, Texas.
- Sec. 4093. Grand County and Moab, Utah.
- Sec. 4094. Southwestern Utah.
- Sec. 4095. Ecosystem and hydropower generation dams, Vermont.
- Sec. 4096. Elliott Bay Seawall, Seattle, Washington.
- Sec. 4097. Monongahela River Basin, Northern West Virginia.
- Sec. 4098. Kenosha Harbor, Wisconsin.
- Sec. 4099. Johnsonville Dam, Johnsonville, Wisconsin.
- Sec. 4100. Wauwatosa, Wisconsin.
- Sec. 4101. Debris removal.

TITLE V—MISCELLANEOUS

- Sec. 5001. Maintenance of navigation channels.
- Sec. 5002. Watershed management.
- Sec. 5003. Dam safety.
- Sec. 5004. Structural integrity evaluations.
- Sec. 5005. Flood mitigation priority areas.
- Sec. 5006. Additional assistance for authorized projects.
- Sec. 5007. Expedited completion of reports and construction for certain projects.
- Sec. 5008. Expedited completion of reports for certain projects.
- Sec. 5009. Southeastern water resources assessment.
- Sec. 5010. Missouri and Middle Mississippi Rivers enhancement project.
- Sec. 5011. Great Lakes fishery and ecosystem restoration program.
- Sec. 5012. Great Lakes remedial action plans and sediment remediation.
- Sec. 5013. Great Lakes tributary models.
- Sec. 5014. Great Lakes navigation and protection.
- Sec. 5015. Saint Lawrence Seaway.
- Sec. 5016. Upper Mississippi River dispersal barrier project.
- Sec. 5017. Estuary restoration.
- Sec. 5018. Missouri River and tributaries, mitigation, recovery, and restoration, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.
- Sec. 5019. Susquehanna, Delaware, and Potomac River basins, Delaware, Maryland, Pennsylvania, and Virginia.
- Sec. 5020. Chesapeake Bay environmental restoration and protection program.
- Sec. 5021. Chesapeake Bay oyster restoration, Virginia and Maryland.
- Sec. 5022. Hypoxia assessment.
- Sec. 5023. Potomac River watershed assessment and tributary strategy evaluation and monitoring program.
- Sec. 5024. Lock and dam security.
- Sec. 5025. Research and development program for Columbia and Snake River salmon survival.
- Sec. 5026. Wage surveys.

- Sec. 5027. Rehabilitation.
- Sec. 5028. Auburn, Alabama.
- Sec. 5029. Pinhook Creek, Huntsville, Alabama.
- Sec. 5030. Alaska.
- Sec. 5031. Barrow, Alaska.
- Sec. 5032. Lowell Creek Tunnel, Seward, Alaska.
- Sec. 5033. St. Herman and St. Paul Harbors, Kodiak, Alaska.
- Sec. 5034. Tanana River, Alaska.
- Sec. 5035. Wrangell Harbor, Alaska.
- Sec. 5036. Augusta and Clarendon, Arkansas.
- Sec. 5037. Des Arc levee protection, Arkansas.
- Sec. 5038. Loomis Landing, Arkansas.
- Sec. 5039. California.
- Sec. 5040. Calaveras River and Littlejohn Creek and tributaries, Stockton, California.
- Sec. 5041. Cambria, California.
- Sec. 5042. Contra Costa Canal, Oakley and Knightsen, California; Mallard Slough, Pittsburg, California.
- Sec. 5043. Dana Point Harbor, California.
- Sec. 5044. East San Joaquin County, California.
- Sec. 5045. Eastern Santa Clara basin, California.
- Sec. 5046. LA–3 dredged material ocean disposal site designation, California.
- Sec. 5047. Lancaster, California.
- Sec. 5048. Los Osos, California.
- Sec. 5049. Pine Flat Dam fish and wildlife habitat, California.
- Sec. 5050. Raymond Basin, Six Basins, Chino Basin, and San Gabriel Basin, California.
- Sec. 5051. San Francisco, California.
- Sec. 5052. San Francisco, California, waterfront area.
- Sec. 5053. San Pablo Bay, California, watershed and Suisun Marsh ecosystem restoration.
- Sec. 5054. St. Helena, California.
- Sec. 5055. Upper Calaveras River, Stockton, California.
- Sec. 5056. Rio Grande environmental management program, Colorado, New Mexico, and Texas.
- Sec. 5057. Charles Hervey Townshend Breakwater, New Haven Harbor, Connecticut.
- Sec. 5058. Stamford, Connecticut.
- Sec. 5059. Delmarva conservation corridor, Delaware, Maryland, and Virginia.
- Sec. 5060. Anacostia River, District of Columbia and Maryland.
- Sec. 5061. East Central and Northeast Florida.
- Sec. 5062. Florida Keys water quality improvements.
- Sec. 5063. Lake Worth, Florida.
- Sec. 5064. Big Creek, Georgia, watershed management and restoration program.
- Sec. 5065. Metropolitan North Georgia Water Planning District.
- Sec. 5066. Savannah, Georgia.
- Sec. 5067. Idaho, Montana, rural Nevada, New Mexico, rural Utah, and Wyoming.
- Sec. 5068. Riley Creek Recreation Area, Idaho.
- Sec. 5069. Floodplain mapping, Little Calumet River, Chicago, Illinois.
- Sec. 5070. Reconstruction of Illinois and Missouri flood protection projects.
- Sec. 5071. Illinois River basin restoration.
- Sec. 5072. Promontory Point third-party review, Chicago shoreline, Chicago, Illinois.
- Sec. 5073. Kaskaskia River basin, Illinois, restoration.
- Sec. 5074. Southwest Illinois.
- Sec. 5075. Calumet region, Indiana.
- Sec. 5076. Floodplain mapping, Missouri River, Iowa.
- Sec. 5077. Paducah, Kentucky.
- Sec. 5078. Southern and eastern Kentucky.
- Sec. 5079. Winchester, Kentucky.
- Sec. 5080. Baton Rouge, Louisiana.
- Sec. 5081. Calcasieu Ship Channel, Louisiana.
- Sec. 5082. East Atchafalaya basin and Amite River basin region, Louisiana.
- Sec. 5083. Inner Harbor Navigation Canal Lock project, Louisiana.
- Sec. 5084. Lake Pontchartrain, Louisiana.
- Sec. 5085. Southeast Louisiana region, Louisiana.
- Sec. 5086. West Baton Rouge Parish, Louisiana.
- Sec. 5087. Charlestown, Maryland.
- Sec. 5088. St. Mary's River, Maryland.
- Sec. 5089. Massachusetts dredged material disposal sites.
- Sec. 5090. Ontonagon Harbor, Michigan.
- Sec. 5091. Crookston, Minnesota.

- Sec. 5092. Garrison and Kathio Township, Minnesota.
- Sec. 5093. Itasca County, Minnesota.
- Sec. 5094. Minneapolis, Minnesota.
- Sec. 5095. Northeastern Minnesota.
- Sec. 5096. Wild Rice River, Minnesota.
- Sec. 5097. Mississippi.
- Sec. 5098. Harrison, Hancock, and Jackson Counties, Mississippi.
- Sec. 5099. Mississippi River, Missouri and Illinois.
- Sec. 5100. St. Louis, Missouri.
- Sec. 5101. St. Louis Regional Greenways, St. Louis, Missouri.
- Sec. 5102. Missoula, Montana.
- Sec. 5103. St. Mary project, Glacier County, Montana.
- Sec. 5104. Lower Platte River watershed restoration, Nebraska.
- Sec. 5105. Hackensack Meadowlands area, New Jersey.
- Sec. 5106. Atlantic Coast of New York.
- Sec. 5107. College Point, New York City, New York.
- Sec. 5108. Flushing Bay and Creek, New York City, New York.
- Sec. 5109. Hudson River, New York.
- Sec. 5110. Mount Morris Dam, New York.
- Sec. 5111. North Hempstead and Glen Cove North Shore watershed restoration, New York.
- Sec. 5112. Rochester, New York.
- Sec. 5113. North Carolina.
- Sec. 5114. Stanly County, North Carolina.
- Sec. 5115. John H. Kerr Dam and Reservoir, North Carolina.
- Sec. 5116. Cincinnati, Ohio.
- Sec. 5117. Ohio River basin environmental management.
- Sec. 5118. Toussaint River navigation project, Carroll Township, Ohio.
- Sec. 5119. Statewide comprehensive water planning, Oklahoma.
- Sec. 5120. Fern Ridge Dam, Oregon.
- Sec. 5121. Allegheny County, Pennsylvania.
- Sec. 5122. Clinton County, Pennsylvania.
- Sec. 5123. Kehly Run Dams, Pennsylvania.
- Sec. 5124. Lehigh River, Lehigh County, Pennsylvania.
- Sec. 5125. Northeast Pennsylvania.
- Sec. 5126. Upper Susquehanna River basin, Pennsylvania and New York.
- Sec. 5127. Cano Martin Pena, San Juan, Puerto Rico.
- Sec. 5128. Lakes Marion and Moultrie, South Carolina.
- Sec. 5129. Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and terrestrial wildlife habitat restoration, South Dakota.
- Sec. 5130. East Tennessee.
- Sec. 5131. Fritz Landing, Tennessee.
- Sec. 5132. J. Percy Priest Dam and Reservoir, Tennessee.
- Sec. 5133. Nashville, Tennessee.
- Sec. 5134. Nonconnah Weir, Memphis, Tennessee.
- Sec. 5135. Tennessee River partnership.
- Sec. 5136. Town Creek, Lenoir City, Tennessee.
- Sec. 5137. Upper Mississippi embayment, Tennessee, Arkansas, and Mississippi.
- Sec. 5138. Texas.
- Sec. 5139. Bosque River watershed, Texas.
- Sec. 5140. Dallas County region, Texas.
- Sec. 5141. Dallas Floodway, Dallas, Texas.
- Sec. 5142. Harris County, Texas.
- Sec. 5143. Johnson Creek, Arlington, Texas.
- Sec. 5144. Onion Creek, Texas.
- Sec. 5145. Connecticut River dams, Vermont.
- Sec. 5146. Lake Champlain Canal, Vermont and New York.
- Sec. 5147. Dyke Marsh, Fairfax County, Virginia.
- Sec. 5148. Eastern Shore and Southwest Virginia.
- Sec. 5149. James River, Virginia.
- Sec. 5150. Baker Bay and Ilwaco Harbor, Washington.
- Sec. 5151. Hamilton Island campground, Washington.
- Sec. 5152. Erosion control, Puget Island, Wahkiakum County, Washington.
- Sec. 5153. Willapa Bay, Washington.
- Sec. 5154. West Virginia and Pennsylvania flood control.
- Sec. 5155. Central West Virginia.
- Sec. 5156. Southern West Virginia.
- Sec. 5157. Construction of flood control projects by non-Federal interests.
- Sec. 5158. Additional assistance for critical projects.

TITLE VI—FLORIDA EVERGLADES

- Sec. 6001. Hillsboro and Okeechobee Aquifer, Florida.

- Sec. 6002. Pilot projects.
- Sec. 6003. Maximum costs.
- Sec. 6004. Credit.
- Sec. 6005. Outreach and assistance.
- Sec. 6006. Critical restoration projects.
- Sec. 6007. Regional engineering model for environmental restoration.

TITLE VII—LOUISIANA COASTAL AREA

- Sec. 7001. Definitions.
- Sec. 7002. Comprehensive plan.
- Sec. 7003. Louisiana coastal area.
- Sec. 7004. Coastal Louisiana Ecosystem Protection and Restoration Task Force.
- Sec. 7005. Project modifications.
- Sec. 7006. Construction.
- Sec. 7007. Non-Federal cost share.
- Sec. 7008. Project justification.
- Sec. 7009. Independent review.
- Sec. 7010. Expedited reports.
- Sec. 7011. Reporting.
- Sec. 7012. New Orleans and vicinity.
- Sec. 7013. Mississippi River-Gulf Outlet.
- Sec. 7014. Hurricane and storm damage reduction.
- Sec. 7015. Larose to Golden Meadow.
- Sec. 7016. Lower Jefferson Parish, Louisiana.

TITLE VIII—UPPER MISSISSIPPI RIVER AND ILLINOIS WATER-WAY SYSTEM

- Sec. 8001. Definitions.
- Sec. 8002. Navigation improvements and restoration.
- Sec. 8003. Authorization of construction of navigation improvements.
- Sec. 8004. Ecosystem restoration authorization.
- Sec. 8005. Comparable progress.

TITLE IX—NATIONAL LEVEE SAFETY PROGRAM

- Sec. 9001. Short title.
- Sec. 9002. Definitions.
- Sec. 9003. Committee on Levee Safety.
- Sec. 9004. Inventory and inspection of levees.
- Sec. 9005. Limitations on statutory construction.
- Sec. 9006. Authorization of appropriations.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term “Secretary” means the Secretary of the Army.

33 USC 2201
note.

TITLE I—WATER RESOURCES PROJECTS

Studies.

SEC. 1001. PROJECT AUTHORIZATIONS.

Except as otherwise provided in this section, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this section:

(1) HAINES, ALASKA.—The project for navigation, Haines, Alaska: Report of the Chief of Engineers dated December 20, 2004, at a total cost of \$14,040,000, with an estimated Federal cost of \$11,232,000 and an estimated non-Federal cost of \$2,808,000.

(2) PORT LIONS, ALASKA.—The project for navigation, Port Lions, Alaska: Report of the Chief of Engineers dated June 14, 2006, at a total cost of \$9,530,000, with an estimated Federal cost of \$7,624,000 and an estimated non-Federal cost of \$1,906,000.

(3) SANTA CRUZ RIVER, PASEO DE LAS IGLESIAS, ARIZONA.—The project for environmental restoration, Santa Cruz River, Pima County, Arizona: Report of the Chief of Engineers dated March 28, 2006, at a total cost of \$97,700,000, with an estimated Federal cost of \$63,300,000 and an estimated non-Federal cost of \$34,400,000.

(4) TANQUE VERDE CREEK, PIMA COUNTY, ARIZONA.—The project for environmental restoration, Tanque Verde Creek, Pima County, Arizona: Report of the Chief of Engineers dated July 22, 2003, at a total cost of \$5,906,000, with an estimated Federal cost of \$3,836,000 and an estimated non-Federal cost of \$2,070,000.

(5) SALT RIVER (RIO SALADO OESTE), MARICOPA COUNTY, ARIZONA.—The project for environmental restoration, Salt River (Rio Salado Oeste), Maricopa County, Arizona: Report of the Chief of Engineers dated December 19, 2006, at a total cost of \$166,650,000, with an estimated Federal cost of \$106,629,000 and an estimated non-Federal cost of \$60,021,000.

(6) SALT RIVER (VA SHLY'AY AKIMEL), MARICOPA COUNTY, ARIZONA.—

(A) IN GENERAL.—The project for environmental restoration, Salt River (Va Shly'ay Akimel), Arizona: Report of the Chief of Engineers dated January 3, 2005, at a total cost of \$162,100,000, with an estimated Federal cost of \$105,200,000 and an estimated non-Federal cost of \$56,900,000.

(B) COORDINATION WITH FEDERAL RECLAMATION PROJECTS.—The Secretary, to the maximum extent practicable, shall coordinate the design and construction of the project described in subparagraph (A) with the Bureau of Reclamation and any operating agent for any Federal reclamation project in the Salt River Basin to avoid impacts to existing Federal reclamation facilities and operations in the Salt River Basin.

(7) MAY BRANCH, FORT SMITH, ARKANSAS.—The project for flood damage reduction, May Branch, Fort Smith, Arkansas: Report of the Chief of Engineers dated December 19, 2006, at a total cost of \$30,850,000, with an estimated Federal cost of \$15,010,000 and an estimated non-Federal cost of \$15,840,000.

(8) HAMILTON CITY, GLENN COUNTY, CALIFORNIA.—The project for flood damage reduction and environmental restoration, Hamilton City, Glenn County, California: Report of the Chief of Engineers dated December 22, 2004, at a total cost of \$52,400,000, with an estimated Federal cost of \$34,100,000 and estimated non-Federal cost of \$18,300,000.

(9) SILVER STRAND SHORELINE, IMPERIAL BEACH, CALIFORNIA.—The project for storm damage reduction, Silver Strand Shoreline, Imperial Beach, California: Report of the Chief of Engineers dated December 30, 2003, at a total cost of \$13,700,000, with an estimated Federal cost of \$8,521,000 and an estimated non-Federal cost of \$5,179,000, and at an estimated total cost of \$42,500,000 for periodic beach nourishment over the 50-year life of the project, with an estimated Federal cost of \$21,250,000 and an estimated non-Federal cost of \$21,250,000.

(10) MATILJA DAM, VENTURA COUNTY, CALIFORNIA.—The project for environmental restoration, Matilja Dam, Ventura County, California: Report of the Chief of Engineers dated December 20, 2004, at a total cost of \$144,500,000, with an estimated Federal cost of \$89,700,000 and an estimated non-Federal cost of \$54,800,000.

(11) MIDDLE CREEK, LAKE COUNTY, CALIFORNIA.—The project for flood damage reduction and environmental restoration, Middle Creek, Lake County, California: Report of the Chief of Engineers dated November 29, 2004, at a total cost of \$45,200,000, with an estimated Federal cost of \$29,500,000 and an estimated non-Federal cost of \$15,700,000.

(12) NAPA RIVER SALT MARSH RESTORATION, CALIFORNIA.—

(A) IN GENERAL.—The project for environmental restoration, Napa River Salt Marsh Restoration, Napa, California: Report of the Chief of Engineers dated December 22, 2004, at a total cost of \$134,500,000, with an estimated Federal cost of \$87,500,000 and an estimated non-Federal cost of \$47,000,000.

(B) ADMINISTRATION.—In carrying out the project authorized by this paragraph, the Secretary shall—

(i) construct a recycled water pipeline extending from the Sonoma Valley County Sanitation District Waste Water Treatment Plant and the Napa Sanitation District Waste Water Treatment Plant to the project; and

(ii) restore or enhance Salt Ponds 1, 1A, 2, and 3.

(13) DENVER COUNTY REACH, SOUTH PLATTE RIVER, DENVER, COLORADO.—The project for environmental restoration, Denver County Reach, South Platte River, Denver, Colorado: Report of the Chief of Engineers dated May 16, 2003, at a total cost of \$20,100,000, with an estimated Federal cost of \$13,065,000 and an estimated non-Federal cost of \$7,035,000.

(14) CENTRAL AND SOUTHERN FLORIDA, INDIAN RIVER LAGOON, FLORIDA.—

(A) IN GENERAL.—The Secretary may carry out the project for ecosystem restoration, water supply, flood control, and protection of water quality, Central and Southern Florida, Indian River Lagoon, Florida, at a total cost of \$1,365,000,000, with an estimated Federal cost of \$682,500,000 and an estimated non-Federal cost of \$682,500,000, in accordance with section 601 of the Water Resources Development Act of 2000 (114 Stat. 2680) and the recommendations of the report of the Chief of Engineers dated August 6, 2004.

(B) DEAUTHORIZATIONS.—The following projects are not authorized after the date of enactment of this Act:

(i) The uncompleted portions of the project for the C-44 Basin Storage Reservoir of the Comprehensive Everglades Restoration Plan, authorized by section 601(b)(2)(C)(i) of the Water Resources Development Act of 2000 (114 Stat. 2682), at a total cost of \$147,800,000, with an estimated Federal cost of \$73,900,000 and an estimated non-Federal cost of \$73,900,000.

(ii) The uncompleted portions of the Martin County, Florida, modifications to the project for Central

and Southern Florida, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 740), at a total cost of \$15,471,000, with an estimated Federal cost of \$8,073,000 and an estimated non-Federal cost of \$7,398,000.

(iii) The uncompleted portions of the East Coast Backpumping, St. Lucie–Martin County, Spillway Structure S–311 modifications to the project for Central and Southern Florida, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 740), at a total cost of \$77,118,000, with an estimated Federal cost of \$55,124,000 and an estimated non-Federal cost of \$21,994,000.

(15) COMPREHENSIVE EVERGLADES RESTORATION PLAN, CENTRAL AND SOUTHERN FLORIDA, PICAYUNE STRAND RESTORATION PROJECT, COLLIER COUNTY, FLORIDA.—The project for ecosystem restoration, Comprehensive Everglades Restoration Plan, Central and Southern Florida, Picayune Strand Restoration Project, Collier County, Florida: Report of the Chief of Engineers dated September 15, 2005, at a total cost of \$375,330,000 with an estimated Federal cost of \$187,665,000 and an estimated non-Federal cost of \$187,665,000.

(16) COMPREHENSIVE EVERGLADES RESTORATION PLAN, CENTRAL AND SOUTHERN FLORIDA, SITE 1 IMPOUNDMENT PROJECT, PALM BEACH COUNTY, FLORIDA.—The project for ecosystem restoration, Comprehensive Everglades Restoration Plan, Central and Southern Florida, Site 1 Impoundment Project, Palm Beach County, Florida: Report of the Chief of Engineers dated December 19, 2006, at a total cost of \$80,840,000, with an estimated Federal cost of \$40,420,000 and an estimated non-Federal cost of \$40,420,000.

(17) MIAMI HARBOR, MIAMI-DADE COUNTY, FLORIDA.—

(A) IN GENERAL.—The project for navigation, Miami Harbor, Miami-Dade County, Florida: Report of the Chief of Engineers dated April 25, 2005, at a total cost of \$125,270,000, with an estimated Federal cost of \$75,140,000 and an estimated non-Federal cost of \$50,130,000.

(B) GENERAL REEVALUATION REPORT.—The non-Federal share of the cost of the general reevaluation report that resulted in the report of the Chief of Engineers referred to in subparagraph (A) shall be the same percentage as the non-Federal share of cost of construction of the project.

(C) AGREEMENT.—The Secretary shall enter into a new partnership with the non-Federal interest to reflect the cost sharing required by subparagraph (B).

(18) EAST ST. LOUIS AND VICINITY, ILLINOIS.—The project for environmental restoration and recreation, East St. Louis and Vicinity, Illinois: Report of the Chief of Engineers dated December 22, 2004, at a total cost of \$208,260,000, with an estimated Federal cost of \$134,910,000 and an estimated non-Federal cost of \$73,350,000.

(19) PEORIA RIVERFRONT DEVELOPMENT, ILLINOIS.—The project for environmental restoration, Peoria Riverfront Development, Illinois: Report of the Chief of Engineers dated July 28, 2003, at a total cost of \$18,220,000, with an estimated

Federal cost of \$11,840,000 and an estimated non-Federal cost of \$6,380,000.

(20) WOOD RIVER LEVEE SYSTEM RECONSTRUCTION, MADISON COUNTY, ILLINOIS.—The project for flood damage reduction, Wood River Levee System Reconstruction, Madison County, Illinois: Report of the Chief of Engineers dated July 18, 2006, at a total cost of \$17,220,000, with an estimated Federal cost of \$11,193,000 and an estimated non-Federal cost of \$6,027,000.

(21) DES MOINES AND RACCOON RIVERS, DES MOINES, IOWA.—The project for flood damage reduction, Des Moines and Raccoon Rivers, Des Moines, Iowa: Report of the Chief of Engineers dated March 28, 2006, at a total cost of \$10,780,000, with an estimated Federal cost of \$6,967,000 and an estimated non-Federal cost of \$3,813,000.

(22) LICKING RIVER BASIN, CYNTHIANA, KENTUCKY.—The project for flood damage reduction, Licking River Basin, Cynthiana, Kentucky: Report of the Chief of Engineers dated October 24, 2006, at a total cost of \$18,200,000, with an estimated Federal cost of \$11,830,000 and an estimated non-Federal cost of \$6,370,000.

(23) BAYOU SORREL LOCK, LOUISIANA.—The project for navigation, Bayou Sorrel Lock, Louisiana: Report of the Chief of Engineers dated January 3, 2005, at a total cost of \$9,600,000. The costs of construction of the project are to be paid $\frac{1}{2}$ from amounts appropriated from the general fund of the Treasury and $\frac{1}{2}$ from amounts appropriated from the Inland Waterways Trust Fund.

(24) MORGANZA TO THE GULF OF MEXICO, LOUISIANA.—

(A) IN GENERAL.—The project for hurricane and storm damage reduction, Morganza to the Gulf of Mexico, Louisiana: Reports of the Chief of Engineers dated August 23, 2002, and July 22, 2003, at a total cost of \$886,700,000, with an estimated Federal cost of \$576,355,000 and an estimated non-Federal cost of \$310,345,000.

(B) OPERATION AND MAINTENANCE.—The operation, maintenance, repair, rehabilitation, and replacement of the Houma Navigation Canal lock complex and the Gulf Intracoastal Waterway floodgate features of the project described in subparagraph (A) that provide for inland waterway transportation shall be a Federal responsibility in accordance with section 102 of the Water Resources Development Act of 1986 (33 U.S.C. 2212).

(25) PORT OF IBERIA, LOUISIANA.—The project for navigation, Port of Iberia, Louisiana: Report of the Chief of Engineers dated December 31, 2006, at a total cost of \$131,250,000, with an estimated Federal cost of \$105,315,000 and an estimated non-Federal cost of \$25,935,000; except that the Secretary, in consultation with Vermillion and Iberia Parishes, Louisiana, and consistent with the mitigation plan in the report, shall use available dredged material and rock placement on the south bank of the Gulf Intracoastal Waterway and the west bank of the Freshwater Bayou Channel to provide incidental storm surge protection that does not adversely affect the mitigation plan.

(26) SMITH ISLAND, SOMERSET COUNTY, MARYLAND.—The project for environmental restoration, Smith Island, Somerset County, Maryland: Report of the Chief of Engineers dated

October 29, 2001, at a total cost of \$15,580,000, with an estimated Federal cost of \$10,127,000 and an estimated non-Federal cost of \$5,453,000.

(27) ROSEAU RIVER, ROSEAU, MINNESOTA.—The project for flood damage reduction, Roseau River, Roseau, Minnesota: Report of the Chief of Engineers dated December 19, 2006, at a total cost of \$25,100,000, with an estimated Federal cost of \$13,820,000 and an estimated non-Federal cost of \$11,280,000.

(28) ARGENTINE, EAST BOTTOMS, FAIRFAX-JERSEY CREEK, AND NORTH KANSAS LEVEES UNITS, MISSOURI RIVER AND TRIBUTARIES AT KANSAS CITIES, MISSOURI AND KANSAS.—The project for flood damage reduction, Argentine, East Bottoms, Fairfax-Jersey Creek, and North Kansas Levees units, Missouri River and tributaries at Kansas Cities, Missouri and Kansas: Report of the Chief of Engineers dated December 19, 2006, at a total cost of \$65,430,000, with an estimated Federal cost of \$42,530,000 and an estimated non-Federal cost of \$22,900,000.

(29) SWOPE PARK INDUSTRIAL AREA, BLUE RIVER, KANSAS CITY, MISSOURI.—The project for flood damage reduction, Swope Park Industrial Area, Blue River, Kansas City, Missouri: Report of the Chief of Engineers dated December 30, 2003, at a total cost of \$16,980,000, with an estimated Federal cost of \$11,037,000 and an estimated non-Federal cost of \$5,943,000.

(30) GREAT EGG HARBOR INLET TO TOWNSENDS INLET, NEW JERSEY.—The project for hurricane and storm damage reduction, Great Egg Harbor Inlet to Townsends Inlet, New Jersey: Report of the Chief of Engineers dated October 24, 2006, at a total cost of \$54,360,000, with an estimated Federal cost of \$35,069,000 and an estimated non-Federal cost of \$19,291,000, and at an estimated total cost of \$202,500,000 for periodic nourishment over the 50-year life of the project, with an estimated Federal cost of \$101,250,000 and an estimated non-Federal cost of \$101,250,000.

(31) HUDSON RARITAN ESTUARY, LIBERTY STATE PARK, NEW JERSEY.—

(A) IN GENERAL.—The project for environmental restoration, Hudson Raritan Estuary, Liberty State Park, New Jersey: Report of the Chief of Engineers dated August 25, 2006, at a total cost of \$34,100,000, with an estimated Federal cost of \$22,200,000 and an estimated non-Federal cost of \$11,900,000.

(B) RESTORATION TEAMS.—In carrying out the project, the Secretary shall establish and utilize watershed restoration teams composed of estuary restoration experts from the Corps of Engineers, the New Jersey department of environmental protection, and the Port Authority of New York and New Jersey and other experts designated by the Secretary for the purpose of developing habitat restoration and water quality enhancement.

(32) NEW JERSEY SHORE PROTECTION STUDY, MANASQUAN INLET TO BARNEGAT INLET, NEW JERSEY.—The project for hurricane and storm damage reduction, New Jersey Shore Protection Study, Manasquan Inlet to Barnegat Inlet, New Jersey: Report of the Chief of Engineers dated December 30, 2003, at a total cost of \$71,900,000, with an estimated Federal cost of \$46,735,000 and an estimated non-Federal cost of \$25,165,000,

and at an estimated total cost of \$119,680,000 for periodic beach nourishment over the 50-year life of the project, with an estimated Federal cost of \$59,840,000 and an estimated non-Federal cost of \$59,840,000.

(33) RARITAN BAY AND SANDY HOOK BAY, UNION BEACH, NEW JERSEY.—The project for hurricane and storm damage reduction, Raritan Bay and Sandy Hook Bay, Union Beach, New Jersey: Report of the Chief of Engineers dated January 4, 2006, at a total cost of \$115,000,000, with an estimated Federal cost of \$74,800,000 and an estimated non-Federal cost of \$40,200,000, and at an estimated total cost of \$6,500,000 for periodic nourishment over the 50-year life of the project, with an estimated Federal cost of \$3,250,000 and an estimated non-Federal cost of \$3,250,000.

(34) SOUTH RIVER, RARITAN RIVER BASIN, NEW JERSEY.—The project for hurricane and storm damage reduction and environmental restoration, South River, Raritan River Basin, New Jersey: Report of the Chief of Engineers dated July 22, 2003, at a total cost of \$122,300,000, with an estimated Federal cost of \$79,500,000 and an estimated non-Federal cost of \$42,800,000.

(35) SOUTHWEST VALLEY, BERNALILLO COUNTY, NEW MEXICO.—The project for flood damage reduction, Southwest Valley, Bernalillo County, New Mexico: Report of the Chief of Engineers dated November 29, 2004, at a total cost of \$24,840,000, with an estimated Federal cost of \$16,150,000 and an estimated non-Federal cost of \$8,690,000.

(36) MONTAUK POINT, NEW YORK.—The project for hurricane and storm damage reduction, Montauk Point, New York: Report of the Chief of Engineers dated March 31, 2006, at a total cost of \$14,600,000, with an estimated Federal cost of \$7,300,000 and an estimated non-Federal cost of \$7,300,000.

(37) HOCKING RIVER BASIN, MONDAY CREEK, OHIO.—

(A) IN GENERAL.—The project for ecosystem restoration, Hocking River Basin, Monday Creek, Ohio: Report of the Chief of Engineers dated August 24, 2006, at a total cost of \$20,980,000, with an estimated Federal cost of \$13,440,000 and an estimated non-Federal cost of \$7,540,000.

(B) WAYNE NATIONAL FOREST.—

(i) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, may construct other project features on property that is located in the Wayne National Forest, Ohio, owned by the United States and managed by the Forest Service as described in the report of the Corps of Engineers entitled “Hocking River Basin, Ohio, Monday Creek Sub-Basin Ecosystem Restoration Project Feasibility Report and Environmental Assessment”.

(ii) COST.—Each project feature carried out on Federal land shall be designed, constructed, operated, and maintained at Federal expense.

(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture to carry out this subparagraph \$1,270,000.

(38) TOWN OF BLOOMSBURG, COLUMBIA COUNTY, PENNSYLVANIA.—The project for flood damage reduction, town of

Bloomsburg, Columbia County, Pennsylvania: Report of the Chief of Engineers dated January 25, 2006, at a total cost of \$44,500,000, with an estimated Federal cost of \$28,925,000 and an estimated non-Federal cost of \$15,575,000.

(39) PAWLEYS ISLAND, SOUTH CAROLINA.—The project for hurricane and storm damage reduction, Pawleys Island, South Carolina: Report of the Chief of Engineers dated December 19, 2006, at a total cost of \$8,980,000, with an estimated Federal cost of \$5,840,000 and an estimated non-Federal cost of \$3,140,000, and at an estimated total cost of \$21,200,000 for periodic nourishment over the 50-year life of the project, with an estimated Federal cost of \$10,600,000 and an estimated non-Federal cost of \$10,600,000.

(40) CORPUS CHRISTI SHIP CHANNEL, CORPUS CHRISTI, TEXAS.—

(A) IN GENERAL.—The project for navigation and ecosystem restoration, Corpus Christi Ship Channel, Texas: Report of the Chief of Engineers dated June 2, 2003, at a total cost of \$188,110,000, with an estimated Federal cost of \$87,810,000 and an estimated non-Federal cost of \$100,300,000.

(B) NAVIGATIONAL SERVITUDE.—In carrying out the project under subparagraph (A), the Secretary shall enforce the navigational servitude in the Corpus Christi Ship Channel (including the removal or relocation of any facility obstructing the project) consistent with the cost sharing requirements of section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

(41) GULF INTRACOASTAL WATERWAY, BRAZOS RIVER TO PORT O'CONNOR, MATAGORDA BAY RE-ROUTE, TEXAS.—The project for navigation, Gulf Intracoastal Waterway, Brazos River to Port O'Connor, Matagorda Bay Re-Route, Texas: Report of the Chief of Engineers dated December 24, 2002, at a total cost of \$17,280,000. The costs of construction of the project are to be paid $\frac{1}{2}$ from amounts appropriated from the general fund of the Treasury and $\frac{1}{2}$ from amounts appropriated from the Inland Waterways Trust Fund.

(42) GULF INTRACOASTAL WATERWAY, HIGH ISLAND TO BRAZOS RIVER, TEXAS.—The project for navigation, Gulf Intracoastal Waterway, High Island to Brazos River, Texas: Report of the Chief of Engineers dated April 16, 2004, at a total cost of \$14,450,000. The costs of construction of the project are to be paid $\frac{1}{2}$ from amounts appropriated from the general fund of the Treasury and $\frac{1}{2}$ from amounts appropriated from the Inland Waterways Trust Fund.

(43) LOWER COLORADO RIVER BASIN PHASE I, TEXAS.—The project for flood damage reduction and ecosystem restoration, Lower Colorado River Basin Phase I, Texas: Report of the Chief of Engineers dated December 31, 2006, at a total cost of \$110,730,000, with an estimated Federal cost of \$69,640,000 and an estimated non-Federal cost of \$41,090,000.

(44) ATLANTIC INTRACOASTAL WATERWAY BRIDGE REPLACEMENT, DEEP CREEK, CHESAPEAKE, VIRGINIA.—The project for Atlantic Intracoastal Waterway Bridge Replacement, Deep Creek, Chesapeake, Virginia: Report of the Chief of Engineers dated March 3, 2003, at a total cost of \$37,200,000.

(45) CRANEY ISLAND EASTWARD EXPANSION, NORFOLK HARBOR AND CHANNELS, HAMPTON ROADS, VIRGINIA.—

(A) IN GENERAL.—The project for navigation, Craney Island Eastward Expansion, Norfolk Harbor and Channels, Hampton Roads, Virginia: Report of Chief of Engineers dated October 24, 2006, at a total cost of \$712,103,000.

(B) NON-FEDERAL SHARE.—Notwithstanding sections 101 and 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2211 and 2213), the Federal share of the cost of the project shall be 50 percent.

(46) CENTRALIA, CHEHALIS RIVER, LEWIS COUNTY, WASHINGTON.—

(A) IN GENERAL.—The project for flood damage reduction, Centralia, Chehalis River, Lewis County, Washington: Report of the Chief of Engineers dated September 27, 2004, at a total cost of \$123,770,000, with an estimated Federal cost of \$74,740,000 and an estimated non-Federal cost of \$49,030,000.

(B) CREDIT.—The Secretary shall—

(i) credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project up to \$6,500,000 for the cost of planning and design work carried out by the non-Federal interest in accordance with the project study plan dated November 28, 1999; and

(ii) credit toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project.

SEC. 1002. SMALL PROJECTS FOR FLOOD DAMAGE REDUCTION.

(a) IN GENERAL.—The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) HALEYVILLE, ALABAMA.—Project for flood damage reduction, Haleyville, Alabama.

(2) WEISS LAKE, ALABAMA.—Project for flood damage reduction, Weiss Lake, Alabama.

(3) FORT YUKON, ALASKA.—Project for flood damage reduction, Fort Yukon, Alaska.

(4) LITTLE COLORADO RIVER LEVEE, ARIZONA.—Project for flood damage reduction, Little Colorado River Levee, Arizona.

(5) CACHE RIVER BASIN, GRUBBS, ARKANSAS.—Project for flood damage reduction, Cache River Basin, Grubbs, Arkansas.

(6) BARREL SPRINGS WASH, PALMDALE, CALIFORNIA.—Project for flood damage reduction, Barrel Springs Wash, Palmdale, California.

(7) BORREGO SPRINGS, CALIFORNIA.—Project for flood damage reduction, Borrego Springs, California.

(8) COLTON, CALIFORNIA.—Project for flood damage reduction, Colton, California.

(9) DUNLAP STREAM, YUCAIPA, CALIFORNIA.—Project for flood damage reduction, Dunlap Stream, Yucaipa, California.

(10) HUNTS CANYON WASH, PALMDALE, CALIFORNIA.—Project for flood damage reduction, Hunts Canyon Wash, Palmdale, California.

(11) ONTARIO AND CHINO, CALIFORNIA.—Project for flood damage reduction, Ontario and Chino, California.

(12) SANTA VENETIA, CALIFORNIA.—Project for flood damage reduction, Santa Venetia, California.

(13) WHITTIER, CALIFORNIA.—Project for flood damage reduction, Whittier, California.

(14) WILDWOOD CREEK, YUCAIPA, CALIFORNIA.—Project for flood damage reduction, Wildwood Creek, Yucaipa, California.

(15) BIBB COUNTY AND CITY OF MACON LEVEE, GEORGIA.—Project for flood damage reduction, Bibb County and City of Macon Levee, Georgia.

(16) FORT WAYNE AND VICINITY, INDIANA.—Project for flood damage reduction, St. Mary's and Maumee Rivers, Fort Wayne and vicinity, Indiana.

(17) ST. FRANCISVILLE, LOUISIANA.—Project for flood damage reduction, St. Francisville, Louisiana.

(18) SALEM, MASSACHUSETTS.—Project for flood damage reduction, Salem, Massachusetts.

(19) CASS RIVER, MICHIGAN.—Project for flood damage reduction, Cass River, Vassar and vicinity, Michigan.

(20) CROW RIVER, ROCKFORD, MINNESOTA.—Project for flood damage reduction, Crow River, Rockford, Minnesota.

(21) MARSH CREEK, MINNESOTA.—Project for flood damage reduction, Marsh Creek, Minnesota.

(22) SOUTH BRANCH OF THE WILD RICE RIVER, BORUP, MINNESOTA.—Project for flood damage reduction, South Branch of the Wild Rice River, Borup, Minnesota.

(23) BLACKSNAKE CREEK, ST. JOSEPH, MISSOURI.—Project for flood damage reduction, Blacksnake Creek, St. Joseph, Missouri.

(24) ACID BROOK, POMPTON LAKES, NEW JERSEY.—Project for flood damage reduction, Acid Brook, Pompton Lakes, New Jersey.

(25) CANISTEO RIVER, ADDISON, NEW YORK.—Project for flood damage reduction, Canisteo River, Addison, New York.

(26) COHOCTON RIVER, CAMPBELL, NEW YORK.—Project for flood damage reduction, Cohocton River, Campbell, New York.

(27) DRY AND OTTER CREEKS, CORTLAND, NEW YORK.—Project for flood damage reduction, Dry and Otter Creeks, Cortland, New York.

(28) EAST RIVER, SILVER BEACH, NEW YORK CITY, NEW YORK.—Project for flood damage reduction, East River, Silver Beach, New York City, New York.

(29) EAST VALLEY CREEK, ANDOVER, NEW YORK.—Project for flood damage reduction, East Valley Creek, Andover, New York.

(30) SUNNYSIDE BROOK, WESTCHESTER COUNTY, NEW YORK.—Project for flood damage reduction, Sunnyside Brook, Westchester County, New York.

(31) LITTLE YANKEE AND MUD RUN, TRUMBULL COUNTY, OHIO.—Project for flood damage reduction, Little Yankee and Mud Run, Trumbull County, Ohio.

(32) LITTLE NESHAMINY CREEK, WARRINGTON, PENNSYLVANIA.—Project for flood damage reduction, Little Neshaminy Creek, Warrington, Pennsylvania.

(33) SOUTHAMPTON CREEK WATERSHED, SOUTHAMPTON, PENNSYLVANIA.—Project for flood damage reduction, Southampton Creek watershed, Southampton, Pennsylvania.

(34) SPRING CREEK, LOWER MACUNGIE TOWNSHIP, PENNSYLVANIA.—Project for flood damage reduction, Spring Creek, Lower Macungie Township, Pennsylvania.

(35) YARDLEY AQUEDUCT, SILVER AND BROCK CREEKS, YARDLEY, PENNSYLVANIA.—Project for flood damage reduction, Yardley Aqueduct, Silver and Brock Creeks, Yardley, Pennsylvania.

(36) SURFSIDE BEACH, SOUTH CAROLINA.—Project for flood damage reduction, Surfside Beach and vicinity, South Carolina.

(37) SANDY CREEK, JACKSON COUNTY, TENNESSEE.—A project for flood damage reduction, Sandy Creek, Jackson County, Tennessee.

(38) CONGELOSI DITCH, MISSOURI CITY, TEXAS.—Project for flood damage reduction, Congelosi Ditch, Missouri City, Texas.

(39) DILLEY, TEXAS.—Project for flood damage reduction, Dilley, Texas.

(40) CHEYENNE, WYOMING.—Project for flood damage reduction, Cheyenne, Wyoming.

(b) SPECIAL RULES.—

(1) CACHE RIVER BASIN, GRUBBS, ARKANSAS.—The Secretary may proceed with the project for the Cache River Basin, Grubbs, Arkansas, referred to in subsection (a)(5), notwithstanding that the project is located within the boundaries of the flood control project, Cache River Basin, Arkansas and Missouri, authorized by section 204 of the Flood Control Act of 1950, (64 Stat. 172) and modified by section 99 of the Water Resources Development Act of 1974 (88 Stat. 41).

(2) ONTARIO AND CHINO, CALIFORNIA.—The Secretary shall carry out the project for flood damage reduction, Ontario and Chino, California, referred to in subsection (a)(11) if the Secretary determines that the project is feasible.

(3) SANTA VENETIA, CALIFORNIA.—The Secretary shall carry out the project for flood damage reduction, Santa Venetia, California, referred to in subsection (a)(12) if the Secretary determines that the project is feasible and shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184) to the extent that the Secretary's evaluation indicates that applying such section is necessary to implement the project.

(4) WHITTIER, CALIFORNIA.—The Secretary shall carry out the project for flood damage reduction, Whittier, California, referred to in subsection (a)(13) if the Secretary determines that the project is feasible.

(5) WILDWOOD CREEK, YUCAIPA, CALIFORNIA.—The Secretary shall review the locally prepared plan for the project for flood damage, Wildwood Creek, California, referred to in subsection (a)(14) and, if the Secretary determines that the plan meets the evaluation and design standards of the Corps of Engineers and that the plan is feasible, the Secretary may use the plan to carry out the project and shall provide credit

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toward the non-Federal share of the cost of the project for the cost of work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project.

(6) FORT WAYNE AND VICINITY, INDIANA.—In carrying out the project for flood damage reduction, St. Mary's and Maumee Rivers, Fort Wayne and vicinity, Indiana, referred to in subsection (a)(16) the Secretary shall—

(A) provide a 100-year level of flood protection at the Berry Thieme, Park-Thompson, Woodhurst, and Tillman sites along the St. Mary's River; and

(B) allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184) to the extent that the Secretary's evaluation indicates that applying such section is necessary to implement the project.

(7) SOUTH BRANCH OF THE WILD RICE RIVER, BORUP, MINNESOTA.—In carrying out the project for flood damage reduction, South Branch of the Wild Rice River, Borup, Minnesota, referred to in subsection (a)(22) the Secretary may consider national ecosystem restoration benefits in determining the Federal interest in the project and shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184) to the extent that the Secretary's evaluation indicates that applying such section is necessary to implement the project.

(8) ACID BROOK, POMPTON LAKES, NEW JERSEY.—The Secretary shall carry out the project for flood damage reduction, Acid Brook, Pompton Lakes, New Jersey, referred to in subsection (a)(24) if the Secretary determines that the project is feasible.

(9) SANDY CREEK, TENNESSEE.—Consistent with the report of the Chief of Engineers dated March 24, 1948, on the West Tennessee Tributaries project, in carrying out the project for flood damage reduction, Sandy Creek, Tennessee, referred to in section (a)(37)—

(A) Sandy Creek shall not be considered to be an authorized channel of the West Tennessee Tributaries project; and

(B) the project shall not be considered to be part of the West Tennessee Tributaries project.

(10) DILLEY, TEXAS.—The Secretary shall carry out the project for flood damage reduction, Dilley, Texas, referred to in subsection (a)(39) if the Secretary determines that the project is feasible.

SEC. 1003. SMALL PROJECTS FOR EMERGENCY STREAMBANK PROTECTION.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r):

(1) ALISO CREEK, CALIFORNIA.—Projects for emergency streambank protection, Aliso Creek, California.

(2) ST. JOHNS BLUFF TRAINING WALL, DUVAL COUNTY, FLORIDA.—Project for emergency streambank protection, St. Johns Bluff Training Wall, Duval County, Florida.

(3) GULF INTRACOASTAL WATERWAY, IBERVILLE PARISH, LOUISIANA.—Projects for emergency streambank protection, Gulf Intracoastal Waterway, Iberville Parish, Louisiana.

(4) OUACHITA AND BLACK RIVERS, ARKANSAS AND LOUISIANA.—Projects for emergency streambank protection, Ouachita and Black Rivers, Arkansas and Louisiana.

(5) PINEY POINT LIGHTHOUSE, ST. MARY'S COUNTY, MARYLAND.—Project for emergency streambank protection, Piney Point Lighthouse, St. Mary's County, Maryland.

(6) PUG HOLE LAKE, MINNESOTA.—Project for emergency streambank protection, Pug Hole Lake, Minnesota.

(7) MIDDLE FORK GRAND RIVER, GENTRY COUNTY, MISSOURI.—Project for emergency streambank protection, Middle Fork Grand River, Gentry County, Missouri.

(8) PLATTE RIVER, PLATTE CITY, MISSOURI.—Project for emergency streambank protection, Platte River, Platte City, Missouri.

(9) RUSH CREEK, PARKVILLE, MISSOURI.—Project for emergency streambank protection, Rush Creek, Parkville, Missouri, including measures to address degradation of the creek bed.

(10) DRY AND OTTER CREEKS, CORTLAND COUNTY, NEW YORK.—Project for emergency streambank protection, Dry and Otter Creeks, Cortland County, New York.

(11) KEUKA LAKE, HAMMONDSPORT, NEW YORK.—Project for emergency streambank protection, Keuka Lake, Hammondsport, New York.

(12) KOWAWESE UNIQUE AREA AND HUDSON RIVER, NEW WINDSOR, NEW YORK.—Project for emergency streambank protection, Kowawese Unique Area and Hudson River, New Windsor, New York.

(13) OWEGO CREEK, TIOGA COUNTY, NEW YORK.—Project for emergency streambank protection, Owego Creek, Tioga County, New York.

(14) HOWARD ROAD OUTFALL, SHELBY COUNTY, TENNESSEE.—Project for emergency streambank protection, Howard Road outfall, Shelby County, Tennessee.

(15) MITCH FARM DITCH AND LATERAL D, SHELBY COUNTY, TENNESSEE.—Project for emergency streambank protection, Mitch Farm Ditch and Lateral D, Shelby County, Tennessee.

(16) WOLF RIVER TRIBUTARIES, SHELBY COUNTY, TENNESSEE.—Project for emergency streambank protection, Wolf River tributaries, Shelby County, Tennessee.

(17) JOHNSON CREEK, ARLINGTON, TEXAS.—Project for emergency streambank protection, Johnson Creek, Arlington, Texas.

(18) WELLS RIVER, NEWBURY, VERMONT.—Project for emergency streambank protection, Wells River, Newbury, Vermont.

SEC. 1004. SMALL PROJECTS FOR NAVIGATION.

(a) IN GENERAL.—The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) BARROW HARBOR, ALASKA.—Project for navigation, Barrow Harbor, Alaska.

(2) COFFMAN COVE, ALASKA.—Project for navigation, Coffman Cove, Alaska.

(3) KOTZEBUE HARBOR, ALASKA.—Project for navigation, Kotzebue Harbor, Alaska.

(4) NOME HARBOR, ALASKA.—Project for navigation, Nome Harbor, Alaska.

(5) OLD HARBOR, ALASKA.—Project for navigation, Old Harbor, Alaska.

(6) LITTLE ROCK PORT, ARKANSAS.—Project for navigation, Little Rock Port, Arkansas River, Arkansas.

(7) MISSISSIPPI RIVER SHIP CHANNEL, LOUISIANA.—Project for navigation, Mississippi River Ship Channel, Louisiana.

(8) EAST BASIN, CAPE COD CANAL, SANDWICH, MASSACHUSETTS.—Project for navigation, East Basin, Cape Cod Canal, Sandwich, Massachusetts.

(9) LYNN HARBOR, LYNN, MASSACHUSETTS.—Project for navigation, Lynn Harbor, Lynn, Massachusetts.

(10) MERRIMACK RIVER, HAVERHILL, MASSACHUSETTS.—Project for navigation, Merrimack River, Haverhill, Massachusetts.

(11) OAK BLUFFS HARBOR, OAK BLUFFS, MASSACHUSETTS.—Project for navigation, Oak Bluffs Harbor, Oak Bluffs, Massachusetts.

(12) WOODS HOLE GREAT HARBOR, FALMOUTH, MASSACHUSETTS.—Project for navigation, Woods Hole Great Harbor, Falmouth, Massachusetts.

(13) AU SABLE RIVER, MICHIGAN.—Project for navigation, Au Sable River in the vicinity of Oscoda, Michigan.

(14) CLINTON RIVER, MICHIGAN.—Project for navigation, Clinton River, Michigan.

(15) ONTONAGON RIVER, MICHIGAN.—Project for navigation, Ontonagon River, Ontonagon, Michigan.

(16) OUTER CHANNEL AND INNER HARBOR, MENOMINEE HARBOR, MICHIGAN AND WISCONSIN.—Project for navigation, Outer Channel and Inner Harbor, Menominee Harbor, Michigan and Wisconsin.

(17) SEBEWAING RIVER, MICHIGAN.—Project for navigation, Sebewaing River, Michigan.

(18) TRAVERSE CITY HARBOR, TRAVERSE CITY, MICHIGAN.—Project for navigation, Traverse City Harbor, Traverse City, Michigan.

(19) TOWER HARBOR, TOWER, MINNESOTA.—Project for navigation, Tower Harbor, Tower, Minnesota.

(20) OLCOTT HARBOR, OLCOTT, NEW YORK.—Project for navigation, Olcott Harbor, Olcott, New York.

(21) MILWAUKEE HARBOR, WISCONSIN.—Project for navigation, Milwaukee Harbor, Milwaukee, Wisconsin.

(b) SPECIAL RULES.—

(1) TRAVERSE CITY HARBOR, TRAVERSE CITY, MICHIGAN.—The Secretary shall review the locally prepared plan for the project for navigation, Traverse City Harbor, Michigan, referred to in subsection (a)(18), and, if the Secretary determines that the plan meets the evaluation and design standards of the Corps of Engineers and that the plan is feasible, the Secretary may use the plan to carry out the project and shall provide credit toward the non-Federal share of the cost of the project for the cost of work carried out by the non-Federal interest

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before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project.

(2) TOWER HARBOR, TOWER MINNESOTA.—The Secretary shall carry out the project for navigation, Tower Harbor, Tower, Minnesota, referred to in subsection (a)(19) if the Secretary determines that the project is feasible.

SEC. 1005. SMALL PROJECTS FOR IMPROVEMENT OF THE QUALITY OF THE ENVIRONMENT.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is appropriate, may carry out the project under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a):

(1) BALLONA CREEK, LOS ANGELES COUNTY, CALIFORNIA.—Project for improvement of the quality of the environment, Ballona Creek, Los Angeles County, California.

(2) BALLONA LAGOON TIDE GATES, MARINA DEL REY, CALIFORNIA.—Project for improvement of the quality of the environment, Ballona Lagoon Tide Gates, Marina Del Rey, California.

(3) FT. GEORGE INLET, DUVAL COUNTY, FLORIDA.—Project for improvement of the quality of the environment, Ft. George Inlet, Duval County, Florida.

(4) RATHBUN LAKE, IOWA.—Project for improvement of the quality of the environment, Rathbun Lake, Iowa.

(5) SMITHVILLE LAKE, MISSOURI.—Project for improvement of the quality of the environment, Smithville Lake, Missouri.

(6) DELAWARE BAY, NEW JERSEY AND DELAWARE.—Project for improvement of the quality of the environment, Delaware Bay, New Jersey and Delaware, for the purpose of oyster restoration.

(7) TIOGA-HAMMOND LAKES, PENNSYLVANIA.—Project for improvement of the quality of the environment, Tioga-Hammond Lakes, Pennsylvania.

SEC. 1006. SMALL PROJECTS FOR AQUATIC ECOSYSTEM RESTORATION.

(a) IN GENERAL.—The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is appropriate, may carry out the project under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330):

(1) CYPRESS CREEK, MONTGOMERY, ALABAMA.—Project for aquatic ecosystem restoration, Cypress Creek, Montgomery, Alabama.

(2) BLACK LAKE, ALASKA.—Project for aquatic ecosystem restoration, Black Lake, Alaska, at the head of the Chignik watershed.

(3) BEN LOMOND DAM, SANTA CRUZ, CALIFORNIA.—Project for aquatic ecosystem restoration, Ben Lomond Dam, Santa Cruz, California.

(4) DOCKWEILER BLUFFS, LOS ANGELES COUNTY, CALIFORNIA.—Project for aquatic ecosystem restoration, Dockweiler Bluffs, Los Angeles County, California.

(5) SALT RIVER, CALIFORNIA.—Project for aquatic ecosystem restoration, Salt River, California.

(6) SAN DIEGO RIVER, CALIFORNIA.—Project for aquatic ecosystem restoration, San Diego River, California, including efforts to address aquatic nuisance species.

(7) SANTA ROSA CREEK, SANTA ROSA, CALIFORNIA.—Project for aquatic ecosystem restoration, Santa Rosa Creek in the vicinity of the Prince Memorial Greenway, Santa Rosa, California.

(8) STOCKTON DEEP WATER SHIP CHANNEL AND LOWER SAN JOAQUIN RIVER, CALIFORNIA.—Project for aquatic ecosystem restoration, Stockton Deep Water Ship Channel and lower San Joaquin River, California.

(9) SUISUN MARSH, SAN PABLO BAY, CALIFORNIA.—Project for aquatic ecosystem restoration, Suisun Marsh, San Pablo Bay, California.

(10) SWEETWATER RESERVOIR, SAN DIEGO COUNTY, CALIFORNIA.—Project for aquatic ecosystem restoration, Sweetwater Reservoir, San Diego County, California, including efforts to address aquatic nuisance species.

(11) BISCAYNE BAY, FLORIDA.—Project for aquatic ecosystem restoration, Biscayne Bay, Key Biscayne, Florida.

(12) CLAM BAYOU AND DINKINS BAYOU, SANIBEL ISLAND, FLORIDA.—Project for aquatic ecosystem restoration, Clam Bayou and Dinkins Bayou, Sanibel Island, Florida.

(13) MOUNTAIN PARK, GEORGIA.—Project for aquatic ecosystem restoration, Mountain Park, Georgia.

(14) CHATTAHOOCHEE FALL LINE, GEORGIA AND ALABAMA.—Project for aquatic ecosystem restoration, Chattahoochee Fall Line, Georgia and Alabama.

(15) LONGWOOD COVE, GAINESVILLE, GEORGIA.—Project for aquatic ecosystem restoration, Longwood Cove, Gainesville, Georgia.

(16) CITY PARK, UNIVERSITY LAKES, LOUISIANA.—Project for aquatic ecosystem restoration, City Park, University Lakes, Louisiana.

(17) LAWRENCE GATEWAY, MASSACHUSETTS.—Project for aquatic ecosystem restoration at the Lawrence Gateway quadrant project along the Merrimack and Spicket Rivers in Lawrence, Massachusetts, in accordance with the general conditions established by the project approval of the Environmental Protection Agency, Region I, including filling abandoned drainage facilities and making improvements to the drainage system on the Lawrence Gateway to prevent continued migration of contaminated sediments into the river systems.

(18) MILFORD POND, MILFORD, MASSACHUSETTS.—Project for aquatic ecosystem restoration, Milford Pond, Milford, Massachusetts.

(19) MILL POND, LITTLETON, MASSACHUSETTS.—Project for aquatic ecosystem restoration, Mill Pond, Littleton, Massachusetts.

(20) PINE TREE BROOK, MILTON, MASSACHUSETTS.—Project for aquatic ecosystem restoration, Pine Tree Brook, Milton, Massachusetts.

(21) CLINTON RIVER, MICHIGAN.—Project for aquatic ecosystem restoration, Clinton River, Michigan.

(22) KALAMAZOO RIVER WATERSHED, BATTLE CREEK, MICHIGAN.—Project for aquatic ecosystem restoration, Kalamazoo River watershed, Battle Creek, Michigan.

(23) RUSH LAKE, MINNESOTA.—Project for aquatic ecosystem restoration, Rush Lake, Minnesota.

(24) SOUTH FORK OF THE CROW RIVER, HUTCHINSON, MINNESOTA.—Project for aquatic ecosystem restoration, South Fork of the Crow River, Hutchinson, Minnesota.

(25) ST. LOUIS, MISSOURI.—Project for aquatic ecosystem restoration, St. Louis, Missouri.

(26) MOBLEY DAM, TONGUE RIVER, MONTANA.—Project for aquatic ecosystem restoration, Mobley Dam, Tongue River, Montana.

(27) S AND H DAM, TONGUE RIVER, MONTANA.—Project for aquatic ecosystem restoration, S and H Dam, Tongue River, Montana.

(28) VANDALIA DAM, MILK RIVER, MONTANA.—Project for aquatic ecosystem restoration, Vandalia Dam, Milk River, Montana.

(29) TRUCKEE RIVER, RENO, NEVADA.—Project for aquatic ecosystem restoration, Truckee River, Reno, Nevada, including features for fish passage in Washoe County.

(30) GROVER'S MILL POND, NEW JERSEY.—Project for aquatic ecosystem restoration, Grover's Mill Pond, New Jersey.

(31) CALDWELL COUNTY, NORTH CAROLINA.—Project for aquatic ecosystem restoration, Caldwell County, North Carolina.

(32) MECKLENBURG COUNTY, NORTH CAROLINA.—Project for aquatic ecosystem restoration, Mecklenburg County, North Carolina.

(33) DUGWAY CREEK, BRATENAH, OHIO.—Project for aquatic ecosystem restoration, Dugway Creek, Bratenahl, Ohio.

(34) JOHNSON CREEK, GRESHAM, OREGON.—Project for aquatic ecosystem restoration, Johnson Creek, Gresham, Oregon.

(35) BEAVER CREEK, BEAVER AND SALEM, PENNSYLVANIA.—Project for aquatic ecosystem restoration, Beaver Creek, Beaver and Salem, Pennsylvania.

(36) CEMENTON DAM, LEHIGH RIVER, PENNSYLVANIA.—Project for aquatic ecosystem restoration, Cementon Dam, Lehigh River, Pennsylvania.

(37) INGHAM SPRING DAM, SOLEBURY TOWNSHIP, PENNSYLVANIA.—Project for aquatic ecosystem restoration, Ingham Spring Dam, Solebury Township, Pennsylvania.

(38) SAUCON CREEK, NORTHAMPTON COUNTY, PENNSYLVANIA.—Project for aquatic ecosystem restoration, Saucon Creek, Northampton County, Pennsylvania.

(39) STILLWATER LAKE DAM, MONROE COUNTY, PENNSYLVANIA.—Project for aquatic ecosystem restoration, Stillwater Lake Dam, Monroe County, Pennsylvania.

(40) BLACKSTONE RIVER, RHODE ISLAND.—Project for aquatic ecosystem restoration, Blackstone River, Rhode Island.

(41) WILSON BRANCH, CHERAW, SOUTH CAROLINA.—Project for aquatic ecosystem restoration, Wilson Branch, Cheraw, South Carolina.

(42) WHITE RIVER, BETHEL, VERMONT.—Project for aquatic ecosystem restoration, White River, Bethel, Vermont.

(43) COLLEGE LAKE, LYNCHBURG, VIRGINIA.—Project for aquatic ecosystem restoration, College Lake, Lynchburg, Virginia.

(b) SPECIAL RULES.—

(1) BLACK LAKE, ALASKA.—The Secretary shall carry out the project for aquatic ecosystem restoration, Black Lake, Alaska referred to in subsection (a)(2) if the Secretary determines that the project is appropriate.

(2) TRUCKEE RIVER, RENO, NEVADA.—The maximum amount of Federal funds that may be expended for the project for aquatic ecosystem restoration, Truckee River, Reno, Nevada, referred to in subsection (a)(29) shall be \$6,000,000 and the Secretary shall carry out the project if the Secretary determines that the project is appropriate.

(3) BLACKSTONE RIVER, RHODE ISLAND.—The Secretary shall carry out the project for aquatic ecosystem restoration, Blackstone River, Rhode Island, referred to in subsection (a)(40) if the Secretary determines that the project is appropriate.

(4) COLLEGE LAKE, LYNCHBURG, VIRGINIA.—The Secretary shall carry out the project for aquatic ecosystem restoration, College Lake, Lynchburg, Virginia, referred to in subsection (a)(43) if the Secretary determines that the project is appropriate.

SEC. 1007. SMALL PROJECTS FOR SHORELINE PROTECTION.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 3 of the Act entitled “An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property”, approved August 13, 1946 (33 U.S.C. 426g):

(1) NELSON LAGOON, ALASKA.—Project for shoreline protection, Nelson Lagoon, Alaska.

(2) NICHOLAS CANYON, LOS ANGELES, CALIFORNIA.—Project for shoreline protection, Nicholas Canyon, Los Angeles, California.

(3) SANIBEL ISLAND, FLORIDA.—Project for shoreline protection, Sanibel Island, Florida.

(4) APRA HARBOR, GUAM.—Project for shoreline protection, Apra Harbor, Guam.

(5) PITI, CABRAS ISLAND, GUAM.—Project for shoreline protection, Piti, Cabras Island, Guam.

(6) NARROWS AND GRAVESEND BAY, UPPER NEW YORK BAY, BROOKLYN, NEW YORK.—Project for shoreline protection in the vicinity of the confluence of the Narrows and Gravesend Bay, Upper New York Bay, Shore Parkway Greenway, Brooklyn, New York.

(7) DELAWARE RIVER, PHILADELPHIA NAVAL SHIPYARD, PENNSYLVANIA.—Project for shoreline protection, Delaware River in the vicinity of the Philadelphia Naval Shipyard, Pennsylvania.

(8) PORT ARANSAS, TEXAS.—Project for shoreline protection, Port Aransas, Texas.

SEC. 1008. SMALL PROJECTS FOR SNAGGING AND SEDIMENT REMOVAL.

The Secretary shall conduct a study for the following project and, if the Secretary determines that the project is feasible, the Secretary may carry out the project under section 2 of the Flood Control Act of August 28, 1937 (33 U.S.C. 701g): Project for removal of snags and clearing and straightening of channels for flood control,

Kowawese Unique Area and Hudson River, New Windsor, New York.

SEC. 1009. SMALL PROJECTS TO PREVENT OR MITIGATE DAMAGE CAUSED BY NAVIGATION PROJECTS.

Georgia.
Indiana.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i):

- (1) Tybee Island, Georgia.
- (2) Burns Waterway Harbor, Indiana.

SEC. 1010. SMALL PROJECTS FOR AQUATIC PLANT CONTROL.

Nebraska.

(a) **IN GENERAL.**—The Secretary is authorized to carry out a project for aquatic nuisance plant control in the Republican River Basin, Nebraska, under section 104 of the River and Harbor Act of 1958 (33 U.S.C. 610).

(b) **SPECIAL RULE.**—In carrying out the project under subsection (a), the Secretary may control and eradicate riverine nuisance plants.

TITLE II—GENERAL PROVISIONS

SEC. 2001. NON-FEDERAL CONTRIBUTIONS.

Section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) is amended by adding at the end the following:

“(n) **NON-FEDERAL CONTRIBUTIONS.**—

“(1) **PROHIBITION ON SOLICITATION OF EXCESS CONTRIBUTIONS.**—The Secretary may not—

“(A) solicit contributions from non-Federal interests for costs of constructing authorized water resources projects or measures in excess of the non-Federal share assigned to the appropriate project purposes listed in subsections (a), (b), and (c); or

“(B) condition Federal participation in such projects or measures on the receipt of such contributions.

“(2) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this subsection shall be construed to affect the Secretary’s authority under section 903(c).”.

SEC. 2002. FUNDING TO PROCESS PERMITS.

Section 214(c) of the Water Resources Development Act of 2000 (33 U.S.C. 2201 note; 114 Stat. 2594; 119 Stat. 2169; 120 Stat. 318; 120 Stat. 3197) is amended by striking “2008” and inserting “2009”.

SEC. 2003. WRITTEN AGREEMENT FOR WATER RESOURCES PROJECTS.

(a) **IN GENERAL.**—Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) is amended—

- (1) by striking “SEC. 221.” and inserting the following:

“**SEC. 221. WRITTEN AGREEMENT REQUIREMENT FOR WATER RESOURCES PROJECTS.**”;

- (2) by striking subsection (a) and inserting the following:

“(a) **COOPERATION OF NON-FEDERAL INTEREST.**—

“(1) **IN GENERAL.**—After December 31, 1970, the construction of any water resources project, or an acceptable separable

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element thereof, by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construction under any provision of law, shall not be commenced until each non-Federal interest has entered into a written partnership agreement with the Secretary (or, where appropriate, the district engineer for the district in which the project will be carried out) under which each party agrees to carry out its responsibilities and requirements for implementation or construction of the project or the appropriate element of the project, as the case may be; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than \$25,000.

“(2) LIQUIDATED DAMAGES.—A partnership agreement described in paragraph (1) may include a provision for liquidated damages in the event of a failure of one or more parties to perform.

“(3) OBLIGATION OF FUTURE APPROPRIATIONS.—In any partnership agreement described in paragraph (1) and entered into by a State, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future appropriations for such performance and payment when obligating future appropriations would be inconsistent with constitutional or statutory limitations of the State or a political subdivision of the State.

“(4) CREDIT FOR IN-KIND CONTRIBUTIONS.—

“(A) IN GENERAL.—A partnership agreement described in paragraph (1) may provide with respect to a project that the Secretary shall credit toward the non-Federal share of the cost of the project, including a project implemented without specific authorization in law, the value of in-kind contributions made by the non-Federal interest, including—

“(i) the costs of planning (including data collection), design, management, mitigation, construction, and construction services that are provided by the non-Federal interest for implementation of the project;

“(ii) the value of materials or services provided before execution of the partnership agreement, including efforts on constructed elements incorporated into the project; and

“(iii) the value of materials and services provided after execution of the partnership agreement.

“(B) CONDITION.—The Secretary may credit an in-kind contribution under subparagraph (A) only if the Secretary determines that the material or service provided as an in-kind contribution is integral to the project.

“(C) WORK PERFORMED BEFORE PARTNERSHIP AGREEMENT.—In any case in which the non-Federal interest is to receive credit under subparagraph (A)(ii) for the cost of work carried out by the non-Federal interest and such work has not been carried out as of the date of enactment of this subparagraph, the Secretary and the non-Federal interest shall enter into an agreement under which the

non-Federal interest shall carry out such work, and only work carried out following the execution of the agreement shall be eligible for credit.

“(D) LIMITATIONS.—Credit authorized under this paragraph for a project—

“(i) shall not exceed the non-Federal share of the cost of the project;

“(ii) shall not alter any other requirement that a non-Federal interest provide lands, easements, relocations, rights-of-way, or areas for disposal of dredged material for the project;

“(iii) shall not alter any requirement that a non-Federal interest pay a portion of the costs of construction of the project under sections 101 and 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2211; 33 U.S.C. 2213); and

“(iv) shall not exceed the actual and reasonable costs of the materials, services, or other things provided by the non-Federal interest, as determined by the Secretary.

“(E) APPLICABILITY.—

“(i) IN GENERAL.—This paragraph shall apply to water resources projects authorized after November 16, 1986, including projects initiated after November 16, 1986, without specific authorization in law.

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“(ii) LIMITATION.—In any case in which a specific provision of law provides for a non-Federal interest to receive credit toward the non-Federal share of the cost of a study for, or construction or operation and maintenance of, a water resources project, the specific provision of law shall apply instead of this paragraph.”.

(b) NON-FEDERAL INTEREST.—Section 221(b) of such Act is amended to read as follows:

“(b) DEFINITION OF NON-FEDERAL INTEREST.—The term ‘non-Federal interest’ means—

“(1) a legally constituted public body (including a federally recognized Indian tribe); or

“(2) a nonprofit entity with the consent of the affected local government, that has full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform.”.

(c) PROGRAM ADMINISTRATION.—Section 221 of such Act is further amended—

(1) by redesignating subsection (e) as subsection (h); and

(2) by inserting after subsection (d) the following:

“(e) DELEGATION OF AUTHORITY.—Not later than June 30, 2008, the Secretary shall issue policies and guidelines for partnership agreements that delegate to the district engineers, at a minimum—

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Guidelines.

“(1) the authority to approve any policy in a partnership agreement that has appeared in an agreement previously approved by the Secretary;

“(2) the authority to approve any policy in a partnership agreement the specific terms of which are dictated by law or by a final feasibility study, final environmental impact statement, or other final decision document for a water resources project;

	<p>“(3) the authority to approve any partnership agreement that complies with the policies and guidelines issued by the Secretary; and</p> <p>“(4) the authority to sign any partnership agreement for any water resources project unless, within 30 days of the date of authorization of the project, the Secretary notifies the district engineer in which the project will be carried out that the Secretary wishes to retain the prerogative to sign the partnership agreement for that project.</p> <p>“(f) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this subsection, and every year thereafter, the Secretary shall submit to Congress a report detailing the following:</p> <p>“(1) The number of partnership agreements signed by district engineers and the number of partnership agreements signed by the Secretary.</p> <p>“(2) For any partnership agreement signed by the Secretary, an explanation of why delegation to the district engineer was not appropriate.</p>
Notification.	
Deadlines. Internet.	<p>“(g) PUBLIC AVAILABILITY.—Not later than 120 days after the date of enactment of this subsection, the Chief of Engineers shall—</p> <p>“(1) ensure that each district engineer has made available to the public, including on the Internet, all partnership agreements entered into under this section within the preceding 10 years and all partnership agreements for water resources projects currently being carried out in that district; and</p> <p>“(2) make each partnership agreement entered into after such date of enactment available to the public, including on the Internet, not later than 7 days after the date on which such agreement is entered into.”.</p>
42 USC 1962d–5b note.	<p>(d) LOCAL COOPERATION.—Section 912(b) of the Water Resources Development Act of 1986 (101 Stat. 4190) is amended—</p> <p>(1) in paragraph (2)—</p> <p>(A) by striking “shall” the first place it appears and inserting “may”; and</p> <p>(B) by striking the last sentence; and</p> <p>(2) in paragraph (4)—</p> <p>(A) by inserting after “injunction, for” the following: “payment of damages or, for”;</p> <p>(B) by striking “to collect a civil penalty imposed under this section,”; and</p> <p>(C) by striking “any civil penalty imposed under this section,” and inserting “any damages,”.</p>
42 USC 1962d–5b note.	<p>(e) APPLICABILITY.—The amendments made by subsections (a), (b), and (d) only apply to partnership agreements entered into after the date of enactment of this Act; except that, at the request of a non-Federal interest for a project, the district engineer for the district in which the project is located may amend a project partnership agreement entered into on or before such date and under which construction on the project has not been initiated as of such date of enactment for the purpose of incorporating such amendments.</p>
42 USC 1962d–5b note.	<p>(f) AGREEMENTS AND REFERENCES.—</p> <p>(1) IN GENERAL.—A goal of agreements entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) shall be to further partnership and cooperation, and the agreements shall be referred to as “partnership agreements”.</p>

(2) REFERENCES TO COOPERATION AGREEMENTS.—Any reference in a law, regulation, document, or other paper of the United States to a “cooperation agreement” or “project cooperation agreement” shall be deemed to be a reference to a “partnership agreement” or a “project partnership agreement”, respectively.

(3) REFERENCES TO PARTNERSHIP AGREEMENTS.—Any reference to a “partnership agreement” or “project partnership agreement” in this Act (other than this section) shall be deemed to be a reference to a “cooperation agreement” or a “project cooperation agreement”, respectively.

SEC. 2004. COMPILATION OF LAWS.

(a) COMPILATION OF LAWS ENACTED AFTER NOVEMBER 8, 1966.—The Secretary and the Chief of Engineers shall prepare a compilation of the laws of the United States relating to the improvement of rivers and harbors, flood damage reduction, beach and shoreline erosion, hurricane and storm damage reduction, ecosystem and environmental restoration, and other water resources development enacted after November 8, 1966, and before January 1, 2008, and have such compilation printed for the use of the Department of the Army, Congress, and the general public.

(b) REPRINT OF LAWS ENACTED BEFORE NOVEMBER 8, 1966.—The Secretary shall have the volumes containing the laws referred to in subsection (a) enacted before November 8, 1966, reprinted.

(c) INDEX.—The Secretary shall include an index in each volume compiled, and each volume reprinted, pursuant to this section.

(d) CONGRESSIONAL COPIES.—Not later than April 1, 2008, the Secretary shall transmit at least 25 copies of each volume compiled, and of each volume reprinted, pursuant to this section to each of the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(e) AVAILABILITY.—The Secretary shall ensure that each volume compiled, and each volume reprinted, pursuant to this section are available through electronic means, including on the Internet.

Publication.
33 USC 2295
note.

Deadline.

Internet.

SEC. 2005. DREDGED MATERIAL DISPOSAL.

Section 217 of the Water Resources Development Act of 1996 (33 U.S.C. 2326a) is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

“(c) DREDGED MATERIAL FACILITY.—

“(1) IN GENERAL.—The Secretary may enter into a partnership agreement under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) with one or more non-Federal interests with respect to a water resources project, or group of water resources projects within a geographic region, if appropriate, for the acquisition, design, construction, management, or operation of a dredged material processing, treatment, contaminant reduction, or disposal facility (including any facility used to demonstrate potential beneficial uses of dredged material, which may include effective sediment contaminant reduction technologies) using funds provided in whole or in part by the Federal Government.

“(2) PERFORMANCE.—One or more of the parties to a partnership agreement under this subsection may perform the acquisition, design, construction, management, or operation of

a dredged material processing, treatment, contaminant reduction, or disposal facility.

“(3) MULTIPLE PROJECTS.—If appropriate, the Secretary may combine portions of separate water resources projects with appropriate combined cost-sharing among the various water resources projects in a partnership agreement for a facility under this subsection if the facility serves to manage dredged material from multiple water resources projects located in the geographic region of the facility.

“(4) SPECIFIED FEDERAL FUNDING SOURCES AND COST SHARING.—

“(A) SPECIFIED FEDERAL FUNDING.—A partnership agreement with respect to a facility under this subsection shall specify—

“(i) the Federal funding sources and combined cost-sharing when applicable to multiple water resources projects; and

“(ii) the responsibilities and risks of each of the parties relating to present and future dredged material managed by the facility.

“(B) MANAGEMENT OF SEDIMENTS.—

“(i) IN GENERAL.—A partnership agreement under this subsection may include the management of sediments from the maintenance dredging of Federal water resources projects that do not have partnership agreements.

“(ii) PAYMENTS.—A partnership agreement under this subsection may allow the non-Federal interest to receive reimbursable payments from the Federal Government for commitments made by the non-Federal interest for disposal or placement capacity at dredged material processing, treatment, contaminant reduction, or disposal facilities.

“(C) CREDIT.—A partnership agreement under this subsection may allow costs incurred by the non-Federal interest before execution of the partnership agreement to be credited in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b).

“(5) CREDIT.—

“(A) EFFECT ON EXISTING AGREEMENTS.—Nothing in this subsection supersedes or modifies an agreement in effect on the date of enactment of this paragraph between the Federal Government and any non-Federal interest for the cost-sharing, construction, and operation and maintenance of a water resources project.

“(B) CREDIT FOR FUNDS.—Subject to the approval of the Secretary and in accordance with law (including regulations and policies) in effect on the date of enactment of this paragraph, a non-Federal interest for a water resources project may receive credit for funds provided for the acquisition, design, construction, management, or operation of a dredged material processing, treatment, contaminant reduction, or disposal facility to the extent the facility is used to manage dredged material from the project.

“(C) NON-FEDERAL INTEREST RESPONSIBILITIES.—A non-Federal interest entering into a partnership agreement under this subsection for a facility shall—

“(i) be responsible for providing all necessary lands, easements, relocations, and rights-of-way associated with the facility; and

“(ii) receive credit toward the non-Federal share of the cost of the project with respect to which the agreement is being entered into for those items.”; and (3) in paragraphs (1) and (2)(A) of subsection (d) (as redesignated by paragraph (1))—

(A) by inserting “and maintenance” after “operation” each place it appears; and

(B) by inserting “processing, treatment, contaminant reduction, or” after “dredged material” the first place it appears in each of those paragraphs.

SEC. 2006. REMOTE AND SUBSISTENCE HARBORS.

33 USC 2242.

(a) **IN GENERAL.**—In conducting a study of harbor and navigation improvements, the Secretary may recommend a project without the need to demonstrate that the project is justified solely by national economic development benefits if the Secretary determines that—

(1)(A) the community to be served by the project is at least 70 miles from the nearest surface accessible commercial port and has no direct rail or highway link to another community served by a surface accessible port or harbor; or

(B) the project would be located in the State of Hawaii, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, or American Samoa;

(2) the harbor is economically critical such that over 80 percent of the goods transported through the harbor would be consumed within the community served by the harbor and navigation improvement; and

(3) the long-term viability of the community would be threatened without the harbor and navigation improvement.

(b) **JUSTIFICATION.**—In considering whether to recommend a project under subsection (a), the Secretary shall consider the benefits of the project to—

(1) public health and safety of the local community, including access to facilities designed to protect public health and safety;

(2) access to natural resources for subsistence purposes;

(3) local and regional economic opportunities;

(4) welfare of the local population; and

(5) social and cultural value to the community.

SEC. 2007. USE OF OTHER FEDERAL FUNDS.

33 USC 2222.

The non-Federal interest for a water resources study or project may use, and the Secretary shall accept, funds provided by a Federal agency under any other Federal program, to satisfy, in whole or in part, the non-Federal share of the cost of the study or project if the Federal agency that provides the funds determines that the funds are authorized to be used to carry out the study or project.

SEC. 2008. REVISION OF PROJECT PARTNERSHIP AGREEMENT; COST SHARING.

33 USC 2340.

(a) **FEDERAL ALLOCATION.**—Upon authorization by law of an increase in the maximum amount of Federal funds that may be

allocated for a water resources project or an increase in the total cost of a water resources project authorized to be carried out by the Secretary, the Secretary shall enter into a revised partnership agreement for the project to take into account the change in Federal participation in the project.

(b) **COST SHARING.**—An increase in the maximum amount of Federal funds that may be allocated for a water resources project, or an increase in the total cost of a water resources project, authorized to be carried out by the Secretary shall not affect any cost-sharing requirement applicable to the project.

(c) **COST ESTIMATES.**—The estimated Federal and non-Federal costs of water resources projects authorized to be carried out by the Secretary before, on, or after the date of enactment of this Act are for informational purposes only and shall not be interpreted as affecting the cost-sharing responsibilities established by law.

33 USC 2341.

SEC. 2009. EXPEDITED ACTIONS FOR EMERGENCY FLOOD DAMAGE REDUCTION.

The Secretary shall expedite any authorized planning, design, and construction of any project for flood damage reduction for an area that, within the preceding 5 years, has been subject to flooding that resulted in the loss of life and caused damage of sufficient severity and magnitude to warrant a declaration of a major disaster by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SEC. 2010. WATERSHED AND RIVER BASIN ASSESSMENTS.

Section 729 of the Water Resources Development Act of 1986 (33 U.S.C. 2267a; 114 Stat. 2587–2588; 100 Stat. 4164) is amended—

(1) in subsection (d)—

(A) by striking “and” at the end of paragraph (4);

(B) by striking the period at the end of paragraph

(5) and inserting a semicolon; and

(C) by adding at the end the following:

“(6) Tuscarawas River Basin, Ohio;

“(7) Sauk River Basin, Snohomish and Skagit Counties, Washington;

“(8) Niagara River Basin, New York;

“(9) Genesee River Basin, New York; and

“(10) White River Basin, Arkansas and Missouri.”;

(2) by striking paragraph (1) of subsection (f) and inserting the following:

“(1) **NON-FEDERAL SHARE.**—The non-Federal share of the costs of an assessment carried out under this section on or after December 11, 2000, shall be 25 percent.”; and

(3) by striking subsection (g).

Effective date.

SEC. 2011. TRIBAL PARTNERSHIP PROGRAM.

(a) **PROGRAM.**—Section 203(b) of the Water Resources Development Act of 2000 (33 U.S.C. 2269(b); 114 Stat. 2589) is amended—

(1) in paragraph (1) by inserting “carry out water-related planning activities and” after “the Secretary may”;

(2) in paragraph (1)(B) by inserting after “Code” the following: “, and including lands that are within the jurisdictional area of an Oklahoma Indian tribe, as determined by the Secretary of the Interior, and are recognized by the Secretary

of the Interior as eligible for trust land status under part 151 of title 25, Code of Federal Regulations”; and

(3) in paragraph (2)—

(A) by striking “and” at the end of subparagraph (A);

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

“(B) watershed assessments and planning activities; and”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 203(e) of such Act is amended by striking “2006” and inserting “2012”.

SEC. 2012. WILDFIRE FIREFIGHTING.

Section 309 of Public Law 102–154 (42 U.S.C. 1856a–1; 105 Stat. 1034) is amended by inserting “the Secretary of the Army,” after “the Secretary of Energy,”.

SEC. 2013. TECHNICAL ASSISTANCE.

Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16) is amended—

(1) in subsection (a) by striking “The Secretary” and inserting the following:

“(a) **FEDERAL STATE COOPERATION.**—

“(1) **COMPREHENSIVE PLANS.**—The Secretary”;

(2) by inserting after the last sentence in subsection (a) the following:

“(2) **TECHNICAL ASSISTANCE.**—

“(A) **IN GENERAL.**—At the request of a governmental agency or non-Federal interest, the Secretary may provide, at Federal expense, technical assistance to such agency or non-Federal interest in managing water resources.

“(B) **TYPES OF ASSISTANCE.**—Technical assistance under this paragraph may include provision and integration of hydrologic, economic, and environmental data and analyses.”;

(3) in subsection (b)(1) by striking “this section” each place it appears and inserting “subsection (a)(1)”;

(4) in subsection (b)(2) by striking “Up to ½ of the” and inserting “The”;

(5) in subsection (c) by striking “(c) There is” and inserting the following:

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **FEDERAL AND STATE COOPERATION.**—There is”;

(6) in subsection (c)(1) (as designated by paragraph (5))—

(A) by striking “the provisions of this section” and inserting “subsection (a)(1).”; and

(B) by striking “\$500,000” and inserting “\$2,000,000”;

(7) by inserting at the end of subsection (c) the following:

“(2) **TECHNICAL ASSISTANCE.**—There is authorized to be appropriated \$5,000,000 annually to carry out subsection (a)(2), of which not more than \$2,000,000 annually may be used by the Secretary to enter into cooperative agreements with nonprofit organizations to provide assistance to rural and small communities.”;

(8) by redesignating subsection (d) as subsection (e); and

(9) by inserting after subsection (c) the following:

“(d) **ANNUAL SUBMISSION OF PROPOSED ACTIVITIES.**—Concurrent with the President’s submission to Congress of the President’s

Reports.

request for appropriations for the Civil Works Program for a fiscal year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the individual activities proposed for funding under subsection (a)(1) for that fiscal year.”.

SEC. 2014. LAKES PROGRAM.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148; 110 Stat. 3758; 113 Stat. 295) is amended—

(1) by striking “and” at end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting a semicolon; and

(3) by adding at the end the following:

“(20) Kinkaid Lake, Jackson County, Illinois, removal of silt and aquatic growth and measures to address excessive sedimentation;

“(21) McCarter Pond, Borough of Fairhaven, New Jersey, removal of silt and measures to address water quality;

“(22) Rogers Pond, Franklin Township, New Jersey, removal of silt and restoration of structural integrity;

“(23) Greenwood Lake, New York and New Jersey, removal of silt and aquatic growth;

“(24) Lake Rodgers, Creedmoor, North Carolina, removal of silt and excessive nutrients and restoration of structural integrity;

“(25) Lake Sakakawea, North Dakota, removal of silt and aquatic growth and measures to address excessive sedimentation;

“(26) Lake Luxembourg, Pennsylvania;

“(27) Lake Fairlee, Vermont, removal of silt and aquatic growth and measures to address excessive sedimentation; and

“(28) Lake Morley, Vermont, removal of silt and aquatic growth and measures to address excessive sedimentation.”.

33 USC 2317a.

SEC. 2015. COOPERATIVE AGREEMENTS.

(a) **IN GENERAL.**—For the purpose of expediting the cost-effective design and construction of wetlands restoration that is part of an authorized water resources project, the Secretary may enter into cooperative agreements under section 6305 of title 31, United States Code, with nonprofit organizations with expertise in wetlands restoration to carry out such design and construction on behalf of the Secretary.

(b) **LIMITATIONS.**—

(1) **PER PROJECT LIMIT.**—A cooperative agreement under this section may not obligate the Secretary to pay the nonprofit organization more than \$1,000,000 for any single wetlands restoration project.

(2) **ANNUAL LIMIT.**—The total value of work carried out under cooperative agreements under this section may not exceed \$5,000,000 in any fiscal year.

33 USC 574a.

SEC. 2016. TRAINING FUNDS.

(a) **IN GENERAL.**—The Secretary may include individuals not employed by the Department of the Army in training classes and courses offered by the Corps of Engineers in any case in which the Secretary determines that it is in the best interest of the Federal Government to include those individuals as participants.

(b) EXPENSES.—

(1) IN GENERAL.—An individual not employed by the Department of the Army attending a training class or course described in subsection (a) shall pay the full cost of the training provided to the individual.

(2) PAYMENTS.—Payments made by an individual for training received under paragraph (1), up to the actual cost of the training—

(A) may be retained by the Secretary;

(B) shall be credited to an appropriations account used for paying training costs; and

(C) shall be available for use by the Secretary, without further appropriation, for training purposes.

(3) EXCESS AMOUNTS.—Any payments received under paragraph (2) that are in excess of the actual cost of training provided shall be credited as miscellaneous receipts to the Treasury of the United States.

SEC. 2017. ACCESS TO WATER RESOURCE DATA.

33 USC 2342.

(a) IN GENERAL.—The Secretary shall carry out a program to provide public access to water resources and related water quality data in the custody of the Corps of Engineers.

Public
information.

(b) DATA.—Public access under subsection (a) shall—

(1) include, at a minimum, access to data generated in water resources project development and regulation under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); and

(2) appropriately employ geographic information system technology and linkages to water resource models and analytical techniques.

(c) PARTNERSHIPS.—To the maximum extent practicable, in carrying out activities under this section, the Secretary shall develop partnerships, including cooperative agreements, with State, tribal, and local governments and other Federal agencies.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$3,000,000 for each fiscal year.

SEC. 2018. SHORE PROTECTION PROJECTS.

33 USC 426e–1.

(a) IN GENERAL.—In accordance with the Act of July 3, 1930 (33 U.S.C. 426), and notwithstanding administrative actions, it is the policy of the United States to promote beach nourishment for the purposes of flood damage reduction and hurricane and storm damage reduction and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach renourishment for a period of 50 years, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises.

(b) PREFERENCE.—In carrying out the policy under subsection (a), preference shall be given to—

(1) areas in which there has been a Federal investment of funds for the purposes described in subsection (a); and

(2) areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.

(c) APPLICABILITY.—The Secretary shall apply the policy under subsection (a) to each shore protection and beach renourishment

project (including shore protection and beach renourishment projects constructed before the date of enactment of this Act).

SEC. 2019. ABILITY TO PAY.

(a) **CRITERIA AND PROCEDURES.**—Section 103(m)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)(2)) is amended by striking “180 days after such date of enactment” and inserting “December 31, 2007”.

Applicability.

(b) **PROJECTS.**—The Secretary shall apply the criteria and procedures referred to in section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) to the following projects:

(1) **ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MISSOURI.**—The project for flood control, St. Johns Bayou and New Madrid Floodway, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118).

(2) **LOWER RIO GRANDE BASIN, TEXAS.**—The project for flood control, Lower Rio Grande Basin, Texas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4125).

(3) **WEST VIRGINIA AND PENNSYLVANIA PROJECTS.**—The projects for flood control authorized by section 581 of the Water Resources Development Act of 1996 (110 Stat. 3790–3791).

SEC. 2020. AQUATIC ECOSYSTEM AND ESTUARY RESTORATION.

Section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330; 110 Stat. 3679) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **GENERAL AUTHORITY.**—

“(1) **IN GENERAL.**—The Secretary may carry out a project to restore and protect an aquatic ecosystem or estuary if the Secretary determines that the project—

“(A)(i) will improve the quality of the environment and is in the public interest; or

“(ii) will improve the elements and features of an estuary (as defined in section 103 of the Estuaries and Clean Waters Act of 2000 (33 U.S.C. 2902)); and

“(B) is cost-effective.

“(2) **DAM REMOVAL.**—A project under this section may include removal of a dam.”; and

(2) in subsection (e) by striking “\$25,000,000” and inserting “\$50,000,000”.

SEC. 2021. SMALL FLOOD DAMAGE REDUCTION PROJECTS.

Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) is amended by striking “\$50,000,000” and inserting “\$55,000,000”.

SEC. 2022. SMALL RIVER AND HARBOR IMPROVEMENT PROJECTS.

Section 107(b) of the River and Harbor Act of 1960 (33 U.S.C. 577(b)) is amended by striking “\$4,000,000” and inserting “\$7,000,000”.

SEC. 2023. PROTECTION OF HIGHWAYS, BRIDGE APPROACHES, PUBLIC WORKS, AND NONPROFIT PUBLIC SERVICES.

Section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r) is amended by striking “\$1,000,000” and inserting “\$1,500,000”.

SEC. 2024. MODIFICATION OF PROJECTS FOR IMPROVEMENT OF THE QUALITY OF THE ENVIRONMENT.

Section 1135(h) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(h)) is amended by striking “\$25,000,000” and inserting “\$40,000,000”.

SEC. 2025. REMEDIATION OF ABANDONED MINE SITES.

Section 560(f) of the Water Resources Development Act of 1999 (33 U.S.C. 2336(f)) is amended by striking “\$7,500,000” and inserting “\$20,000,000”.

SEC. 2026. LEASING AUTHORITY.

Section 4 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes”, approved December 22, 1944 (16 U.S.C. 460d), is amended—

- (1) by inserting “federally recognized Indian tribes and” before “Federal” the first place it appears;
- (2) by inserting “Indian tribes or” after “considerations, to such”; and
- (3) by inserting “federally recognized Indian tribe” after “That in any such lease or license to a”.

SEC. 2027. FISCAL TRANSPARENCY REPORT.

10 USC 3036
note.

(a) IN GENERAL.—On the third Tuesday of January of each year beginning January 2008, the Chief of Engineers shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on—

- (1) the expenditures by the Corps for the preceding fiscal year and estimated expenditures by the Corps for the current fiscal year; and
- (2) for projects and activities that are not scheduled for completion in the current fiscal year, the estimated expenditures by the Corps necessary in the following fiscal year for each project or activity to maintain the same level of effort being achieved in the current fiscal year.

(b) CONTENTS.—In addition to the information described in subsection (a), the report shall contain a detailed accounting of the following information:

- (1) With respect to activities carried out with funding provided under the Construction appropriations account for the Secretary, information on—

- (A) projects currently under construction, including—
 - (i) allocations to date;
 - (ii) the number of years remaining to complete construction;
 - (iii) the estimated annual Federal cost to maintain that construction schedule; and
 - (iv) a list of projects the Corps of Engineers expects to complete during the current fiscal year; and

(B) projects for which there is a signed partnership agreement and completed planning, engineering, and design, including—

- (i) the number of years the project is expected to require for completion; and
- (ii) estimated annual Federal cost to maintain that construction schedule.

(2) With respect to operation and maintenance of the inland and intracoastal waterways identified by section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804)—

(A) the estimated annual cost to maintain each waterway for the authorized reach and at the authorized depth;

(B) the estimated annual cost of operation and maintenance of locks and dams to ensure navigation without interruption; and

(C) the actual expenditures to maintain each waterway.

(3) With respect to activities carried out with funding provided under the Investigations appropriations account for the Secretary—

(A) the number of active studies;

(B) the number of completed studies not yet authorized for construction;

(C) the number of initiated studies; and

(D) the number of studies expected to be completed during the fiscal year.

(4) Funding received and estimates of funds to be received for interagency and international support activities under section 234 of the Water Resources Development Act of 1996 (33 U.S.C. 2323a).

(5) Recreation fees and lease payments.

(6) Hydropower and water storage receipts.

(7) Deposits into the Inland Waterways Trust Fund and the Harbor Maintenance Trust Fund.

(8) Other revenues and fees collected by the Corps of Engineers.

(9) With respect to permit applications and notifications, a list of individual permit applications and nationwide permit notifications, including—

(A) the date on which each permit application is filed;

(B) the date on which each permit application is determined to be complete;

(C) the date on which any permit application is withdrawn; and

(D) the date on which the Corps of Engineers grants or denies each permit.

(10) With respect to projects that are authorized but for which construction is not complete, a list of such projects for which no funds have been allocated for the 5 preceding fiscal years, including, for each project—

(A) the authorization date;

(B) the last allocation date;

(C) the percentage of construction completed;

(D) the estimated cost remaining until completion of the project; and

(E) a brief explanation of the reasons for the delay.

SEC. 2028. SUPPORT OF ARMY CIVIL WORKS PROGRAM.

(a) IN GENERAL.—Notwithstanding section 2361 of title 10, United States Code, the Secretary may provide assistance through contracts, cooperative agreements, and grants to—

(1) the University of Tennessee, Knoxville, Tennessee, for establishment and operation of the Southeastern Water Resources Institute to study sustainable development and utilization of water resources in the southeastern United States;

(2) Lewis and Clark Community College, Illinois, for the Great Rivers National Research and Education Center (including facilities that have been or will be constructed at one or more locations in the vicinity of the confluence of the Illinois River, the Missouri River, and the Mississippi River), a collaborative effort of Lewis and Clark Community College, the University of Illinois, the Illinois Department of Natural Resources and Environmental Sciences, and other entities, for the study of river ecology, developing watershed and river management strategies, and educating students and the public on river issues; and

(3) the University of Texas at Dallas for support and operation of the International Center for Decision and Risk Analysis to study risk analysis and control methods for transboundary water resources management in the southwestern United States and other international water resources management problems.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out subsection (a)(1) \$2,000,000, to carry out subsection (a)(2) \$2,000,000, and to carry out subsection (a)(3) \$5,000,000.

SEC. 2029. SENSE OF CONGRESS ON CRITERIA FOR OPERATION AND MAINTENANCE OF HARBOR DREDGING PROJECTS.

(a) FINDINGS.—Congress finds the following:

(1) Insufficient maintenance dredging results in inefficient water transportation and harmful economic consequences.

(2) The estimated dredging backlog at commercial harbors in the Great Lakes alone is 16,000,000 cubic yards.

(3) Approximately two-thirds of all shipping in the United States either starts or finishes at small harbors.

(4) Small harbors often have a greater proportional impact on local economies than do larger harbors.

(5) Performance metrics can be valuable tools in the budget process for water resources projects.

(6) The use of a single performance metric for water resources projects can result in a budget biased against small and rural communities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the operations and maintenance budget of the Corps of Engineers should reflect the use of all available economic data, rather than a single performance metric.

SEC. 2030. INTERAGENCY AND INTERNATIONAL SUPPORT AUTHORITY.

Section 234 of the Water Resources Development Act of 1996 (33 U.S.C. 2323a) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—The Secretary may engage in activities (including contracting) in support of other Federal agencies, international organizations, or foreign governments to address problems of national significance to the United States.”;

(2) in subsection (b) by striking “Secretary of State” and inserting “Department of State”; and

(3) in subsection (d)—

(A) by striking “\$250,000 for fiscal year 2001” and inserting “\$1,000,000 for fiscal year 2008”; and

(B) by striking “or international organizations” and inserting “, international organizations, or foreign governments”.

42 USC 1962–3.

SEC. 2031. WATER RESOURCES PRINCIPLES AND GUIDELINES.

(a) NATIONAL WATER RESOURCES PLANNING POLICY.—It is the policy of the United States that all water resources projects should reflect national priorities, encourage economic development, and protect the environment by—

(1) seeking to maximize sustainable economic development;

(2) seeking to avoid the unwise use of floodplains and flood-prone areas and minimizing adverse impacts and vulnerabilities in any case in which a floodplain or flood-prone area must be used; and

(3) protecting and restoring the functions of natural systems and mitigating any unavoidable damage to natural systems.

(b) PRINCIPLES AND GUIDELINES.—

(1) PRINCIPLES AND GUIDELINES DEFINED.—In this subsection, the term “principles and guidelines” means the principles and guidelines contained in the document prepared by the Water Resources Council pursuant to section 103 of the Water Resources Planning Act (42 U.S.C. 1962a–2), entitled “Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies”, and dated March 10, 1983.

(2) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue revisions, consistent with paragraph (3), to the principles and guidelines for use by the Secretary in the formulation, evaluation, and implementation of water resources projects.

(3) CONSIDERATIONS.—In developing revisions to the principles and guidelines under paragraph (2), the Secretary shall evaluate the consistency of the principles and guidelines with, and ensure that the principles and guidelines address, the following:

(A) The use of best available economic principles and analytical techniques, including techniques in risk and uncertainty analysis.

(B) The assessment and incorporation of public safety in the formulation of alternatives and recommended plans.

(C) Assessment methods that reflect the value of projects for low-income communities and projects that use nonstructural approaches to water resources development and management.

(D) The assessment and evaluation of the interaction of a project with other water resources projects and programs within a region or watershed.

(E) The use of contemporary water resources paradigms, including integrated water resources management and adaptive management.

(F) Evaluation methods that ensure that water resources projects are justified by public benefits.

(4) CONSULTATION AND PUBLIC PARTICIPATION.—In carrying out paragraph (2), the Secretary shall—

Deadline.
Revisions.

Evaluation.

(A) consult with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, the National Academy of Sciences, and the Council on Environmental Quality; and

(B) solicit and consider public and expert comments.

(5) PUBLICATION.—The Secretary shall—

(A) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives copies of—

Revisions.

(i) the revisions to the principles and guidelines for use by the Secretary; and

(ii) an explanation of the intent of each revision, how each revision is consistent with this section, and the probable impact of each revision on water resources projects carried out by the Secretary; and

(B) make the revisions to the principles and guidelines for use by the Secretary available to the public, including on the Internet.

Public
information.
Internet.

(6) EFFECT.—Subject to the requirements of this subsection, the principles and guidelines as revised under this subsection shall apply to water resources projects carried out by the Secretary instead of the principles and guidelines for such projects in effect on the day before date of enactment of this Act.

(7) APPLICABILITY.—After the date of issuance of the revisions to the principles and guidelines, the revisions shall apply—

(A) to all water resources projects carried out by the Secretary, other than projects for which the Secretary has commenced a feasibility study before the date of such issuance;

(B) at the request of a non-Federal interest, to a water resources project for which the Secretary has commenced a feasibility study before the date of such issuance; and

(C) to the reevaluation or modification of a water resources project, other than a reevaluation or modification that has been commenced by the Secretary before the date of such issuance.

(8) EXISTING STUDIES.—Revisions to the principles and guidelines issued under paragraph (2) shall not affect the validity of any completed study of a water resources project.

(9) RECOMMENDATION.—Upon completion of the revisions to the principles and guidelines for use by the Secretary, the Secretary shall make a recommendation to Congress as to the advisability of repealing subsections (a) and (b) of section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–17).

SEC. 2032. WATER RESOURCE PRIORITIES REPORT.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the President shall submit to Congress a report describing the vulnerability of the United States to damage from flooding, including—

President.

(1) the risk to human life;

(2) the risk to property; and

(3) the comparative risks faced by different regions of the United States.

(b) INCLUSIONS.—The report under subsection (a) shall include—

(1) an assessment of the extent to which programs in the United States relating to flooding address flood risk reduction priorities;

(2) the extent to which those programs may be encouraging development and economic activity in flood-prone areas;

(3) recommendations for improving those programs with respect to reducing and responding to flood risks; and

(4) proposals for implementing the recommendations.

33 USC 2282a.

SEC. 2033. PLANNING.

(a) MATTERS TO BE ADDRESSED IN PLANNING.—Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281) is amended—

(1) by striking “Enhancing” and inserting the following:

“(a) IN GENERAL.—Enhancing”; and

(2) by adding at the end the following:

Effective date.

“(b) ASSESSMENTS.—For all feasibility reports for water resources projects completed after December 31, 2007, the Secretary shall assess whether—

“(1) the water resources project and each separable element is cost-effective; and

“(2) the water resources project complies with Federal, State, and local laws (including regulations) and public policies.”.

(b) PLANNING PROCESS IMPROVEMENTS.—The Chief of Engineers—

(1) shall adopt a risk analysis approach to project cost estimates for water resources projects; and

Deadline.

(2) not later than one year after the date of enactment of this Act, shall—

Procedures.

(A) issue procedures for risk analysis for cost estimation for water resources projects; and

Reports.

(B) submit to Congress a report that includes any recommended amendments to section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280).

Deadlines.

(c) BENCHMARKS.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Chief of Engineers shall establish benchmarks for determining the length of time it should take to conduct a feasibility study for a water resources project and its associated review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Chief of Engineers shall use such benchmarks as a management tool to make the feasibility study process more efficient in all districts of the Corps of Engineers.

(2) BENCHMARK GOALS.—The Chief of Engineers shall establish, to the extent practicable, under paragraph (1) benchmark goals for completion of feasibility studies for water resources projects generally within 2 years. In the case of feasibility studies that the Chief of Engineers determines may require additional time based on the project type, size, cost,

or complexity, the benchmark goal for completion shall be generally within 4 years.

(d) **CALCULATION OF BENEFITS AND COSTS FOR FLOOD DAMAGE REDUCTION PROJECTS.**—A feasibility study for a project for flood damage reduction shall include, as part of the calculation of benefits and costs—

(1) a calculation of the residual risk of flooding following completion of the proposed project;

(2) a calculation of the residual risk of loss of human life and residual risk to human safety following completion of the proposed project;

(3) a calculation of any upstream or downstream impacts of the proposed project; and

(4) calculations to ensure that the benefits and costs associated with structural and nonstructural alternatives are evaluated in an equitable manner.

(e) **CENTERS OF SPECIALIZED PLANNING EXPERTISE.**—

(1) **ESTABLISHMENT.**—The Secretary may establish centers of expertise to provide specialized planning expertise for water resources projects to be carried out by the Secretary in order to enhance and supplement the capabilities of the districts of the Corps of Engineers.

(2) **DUTIES.**—A center of expertise established under this subsection shall—

(A) provide technical and managerial assistance to district commanders of the Corps of Engineers for project planning, development, and implementation;

(B) provide agency peer reviews of new major scientific, engineering, or economic methods, models, or analyses that will be used to support decisions of the Secretary with respect to feasibility studies for water resources projects;

(C) provide support for independent peer review panels under section 2034; and

(D) carry out such other duties as are prescribed by the Secretary.

(f) **COMPLETION OF CORPS OF ENGINEERS REPORTS.**—

(1) **ALTERNATIVES.**—

(A) **IN GENERAL.**—Feasibility and other studies and assessments for a water resources project shall include recommendations for alternatives—

(i) that, as determined in coordination with the non-Federal interest for the project, promote integrated water resources management; and

(ii) for which the non-Federal interest is willing to provide the non-Federal share for the studies or assessments.

(B) **CONSTRAINTS.**—The alternatives contained in studies and assessments described in subparagraph (A) shall not be constrained by budgetary or other policy.

(C) **REPORTS OF CHIEF OF ENGINEERS.**—The reports of the Chief of Engineers shall identify any recommendation that is not the best technical solution to water resource needs and problems and the reason for the deviation.

(2) **REPORT COMPLETION.**—The completion of a report of the Chief of Engineers for a water resources project—

(A) shall not be delayed while consideration is being given to potential changes in policy or priority for project consideration; and

(B) shall be submitted, on completion, to—

(i) the Committee on Environment and Public Works of the Senate; and

(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

Deadlines.

(g) COMPLETION REVIEW.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 120 days after the date of completion of a report of the Chief of Engineers that recommends to Congress a water resources project, the Secretary shall—

(A) review the report; and

(B) provide any recommendations of the Secretary regarding the water resources project to Congress.

(2) PRIOR REPORTS.—Not later than 180 days after the date of enactment of this Act, with respect to any report of the Chief of Engineers recommending a water resources project that is complete prior to the date of enactment of this Act, the Secretary shall complete review of, and provide recommendations to Congress for, the report in accordance with paragraph (1).

33 USC 2343.

SEC. 2034. INDEPENDENT PEER REVIEW.

(a) PROJECT STUDIES SUBJECT TO INDEPENDENT PEER REVIEW.—

(1) IN GENERAL.—Project studies shall be subject to a peer review by an independent panel of experts as determined under this section.

(2) SCOPE.—The peer review may include a review of the economic and environmental assumptions and projections, project evaluation data, economic analyses, environmental analyses, engineering analyses, formulation of alternative plans, methods for integrating risk and uncertainty, models used in evaluation of economic or environmental impacts of proposed projects, and any biological opinions of the project study.

(3) PROJECT STUDIES SUBJECT TO PEER REVIEW.—

(A) MANDATORY.—A project study shall be subject to peer review under paragraph (1) if—

(i) the project has an estimated total cost of more than \$45,000,000, including mitigation costs, and is not determined by the Chief of Engineers to be exempt from peer review under paragraph (6);

(ii) the Governor of an affected State requests a peer review by an independent panel of experts; or

(iii) the Chief of Engineers determines that the project study is controversial considering the factors set forth in paragraph (4).

(B) DISCRETIONARY.—

(i) AGENCY REQUEST.—A project study shall be considered by the Chief of Engineers for peer review under this section if the head of a Federal or State agency charged with reviewing the project study determines that the project is likely to have a significant adverse impact on environmental, cultural, or other resources under the jurisdiction of the agency after implementation of proposed mitigation plans and

requests a peer review by an independent panel of experts.

(ii) DEADLINE FOR DECISION.—A decision of the Chief of Engineers under this subparagraph whether to conduct a peer review shall be made within 21 days of the date of receipt of the request by the head of the Federal or State agency under clause (i).

(iii) REASONS FOR NOT CONDUCTING PEER REVIEW.—If the Chief of Engineers decides not to conduct a peer review following a request under clause (i), the Chief shall make publicly available, including on the Internet, the reasons for not conducting the peer review.

(iv) APPEAL TO CHAIRMAN OF COUNCIL ON ENVIRONMENTAL QUALITY.—A decision by the Chief of Engineers not to conduct a peer review following a request under clause (i) shall be subject to appeal by a person referred to in clause (i) to the Chairman of the Council on Environmental Quality if such appeal is made within the 30-day period following the date of the decision being made available under clause (iii). A decision of the Chairman on an appeal under this clause shall be made within 30 days of the date of the appeal.

Deadlines.

(4) FACTORS TO CONSIDER.—In determining whether a project study is controversial under paragraph (3)(A)(iii), the Chief of Engineers shall consider if—

(A) there is a significant public dispute as to the size, nature, or effects of the project; or

(B) there is a significant public dispute as to the economic or environmental costs or benefits of the project.

(5) PROJECT STUDIES EXCLUDED FROM PEER REVIEW.—The Chief of Engineers may exclude a project study from peer review under paragraph (1)—

(A) if the project study does not include an environmental impact statement and is a project study subject to peer review under paragraph (3)(A)(i) that the Chief of Engineers determines—

(i) is not controversial;

(ii) has no more than negligible adverse impacts on scarce or unique cultural, historic, or tribal resources;

(iii) has no substantial adverse impacts on fish and wildlife species and their habitat prior to the implementation of mitigation measures; and

(iv) has, before implementation of mitigation measures, no more than a negligible adverse impact on a species listed as endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the critical habitat of such species designated under such Act;

(B) if the project study—

(i) involves only the rehabilitation or replacement of existing hydropower turbines, lock structures, or flood control gates within the same footprint and for the same purpose as an existing water resources project;

(ii) is for an activity for which there is ample experience within the Corps of Engineers and industry to treat the activity as being routine; and

(iii) has minimal life safety risk; or

(C) if the project study does not include an environmental impact statement and is a project study pursued under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), section 2 of the Flood Control Act of August 28, 1937 (33 U.S.C. 701g), section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), section 107(a) of the River and Harbor Act of 1960 (33 U.S.C. 577(a)), section 3 of the Act entitled “An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property”, approved August 13, 1946 (33 U.S.C. 426g), section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i), section 3 of the Act entitled “An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved March 2, 1945 (33 U.S.C. 603a), section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), or section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

(6) DETERMINATION OF TOTAL COST.—For purposes of determining the estimated total cost of a project under paragraph (3)(A), the total cost shall be based upon the reasonable estimates of the Chief of Engineers at the completion of the reconnaissance study for the project. If the reasonable estimate of total costs is subsequently determined to be in excess of the amount in paragraph (3)(A), the Chief of Engineers shall make a determination whether a project study is required to be reviewed under this section.

(b) TIMING OF PEER REVIEW.—

(1) IN GENERAL.—The Chief of Engineers shall determine the timing of a peer review of a project study under subsection (a). In all cases, the peer review shall occur during the period beginning on the date of the signing of the feasibility cost-sharing agreement for the study and ending on the date established under subsection (e)(1)(A) for the peer review and shall be accomplished concurrent with the conducting of the project study.

(2) FACTORS TO CONSIDER.—In any case in which the Chief of Engineers has not initiated a peer review of a project study, the Chief of Engineers shall consider, at a minimum, whether to initiate a peer review at the time that—

(A) the without-project conditions are identified;

(B) the array of alternatives to be considered are identified; and

(C) the preferred alternative is identified.

(3) LIMITATION ON MULTIPLE PEER REVIEW.—Nothing in this subsection shall be construed to require the Chief of Engineers to conduct multiple peer reviews for a project study.

(c) ESTABLISHMENT OF PANELS.—

(1) IN GENERAL.—For each project study subject to peer review under subsection (a), as soon as practicable after the Chief of Engineers determines that a project study will be subject to peer review, the Chief of Engineers shall contract with the National Academy of Sciences or a similar independent

scientific and technical advisory organization or an eligible organization to establish a panel of experts to conduct a peer review for the project study.

(2) **MEMBERSHIP.**—A panel of experts established for a project study under this section shall be composed of independent experts who represent a balance of areas of expertise suitable for the review being conducted.

(3) **LIMITATION ON APPOINTMENTS.**—The National Academy of Sciences or any other organization the Chief of Engineers contracts with under paragraph (1) to establish a panel of experts shall apply the National Academy of Science’s policy for selecting committee members to ensure that members selected for the panel of experts have no conflict with the project being reviewed.

(4) **CONGRESSIONAL NOTIFICATION.**—Upon identification of a project study for peer review under this section, but prior to initiation of the review, the Chief of Engineers shall notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the review.

(d) **DUTIES OF PANELS.**—A panel of experts established for a peer review for a project study under this section shall—

(1) conduct the peer review for the project study;

(2) assess the adequacy and acceptability of the economic, engineering, and environmental methods, models, and analyses used by the Chief of Engineers;

(3) receive from the Chief of Engineers the public written and oral comments provided to the Chief of Engineers;

(4) provide timely written and oral comments to the Chief of Engineers throughout the development of the project study, as requested; and

(5) submit to the Chief of Engineers a final report containing the panel’s economic, engineering, and environmental analysis of the project study, including the panel’s assessment of the adequacy and acceptability of the economic, engineering, and environmental methods, models, and analyses used by the Chief of Engineers, to accompany the publication of the report of the Chief of Engineers for the project.

Reports.

(e) **DURATION OF PROJECT STUDY PEER REVIEWS.**—

(1) **DEADLINE.**—A panel of experts established under this section shall—

(A) complete its peer review under this section for a project study and submit a report to the Chief of Engineers under subsection (d)(5) not more than 60 days after the last day of the public comment period for the draft project study, or, if the Chief of Engineers determines that a longer period of time is necessary, such period of time determined necessary by the Chief of Engineers; and

Reports.

(B) terminate on the date of initiation of the State and agency review required by the first section of the Flood Control Act of December 22, 1944 (58 Stat. 887).

Termination date.

(2) **FAILURE TO MEET DEADLINE.**—If a panel of experts does not complete its peer review of a project study under this section and submit a report to the Chief of Engineers under subsection (d)(5) on or before the deadline established by paragraph (1) for the peer review, the Chief of Engineers shall complete the project study without delay.

(f) RECOMMENDATIONS OF PANEL.—

(1) CONSIDERATION BY THE CHIEF OF ENGINEERS.—After receiving a report on a project study from a panel of experts under this section and before entering a final record of decision for the project, the Chief of Engineers shall consider any recommendations contained in the report and prepare a written response for any recommendations adopted or not adopted.

(2) PUBLIC AVAILABILITY AND TRANSMITTAL TO CONGRESS.—After receiving a report on a project study from a panel of experts under this section, the Chief of Engineers shall—

Internet.

(A) make a copy of the report and any written response of the Chief of Engineers on recommendations contained in the report available to the public by electronic means, including the Internet; and

(B) transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the report, together with any such written response, on the date of a final report of the Chief of Engineers or other final decision document for the project study.

(g) COSTS.—

(1) IN GENERAL.—The costs of a panel of experts established for a peer review under this section—

(A) shall be a Federal expense; and

(B) shall not exceed \$500,000.

(2) WAIVER.—The Chief of Engineers may waive the \$500,000 limitation contained in paragraph (1)(B) in cases that the Chief of Engineers determines appropriate.

Effective date.
Termination
date.

(h) APPLICABILITY.—This section shall apply to—

(1) project studies initiated during the 2-year period preceding the date of enactment of this Act and for which the array of alternatives to be considered has not been identified; and

(2) project studies initiated during the period beginning on such date of enactment and ending 7 years after such date of enactment.

(i) REPORTS.—

(1) INITIAL REPORT.—Not later than 3 years after the date of enactment of this section, the Chief of Engineers shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the implementation of this section.

(2) ADDITIONAL REPORT.—Not later than 6 years after the date of enactment of this section, the Chief of Engineers shall update the report under paragraph (1) taking into account any further information on implementation of this section and submit such updated report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(j) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a peer review panel established under this section.

(k) SAVINGS CLAUSE.—Nothing in this section shall be construed to affect any authority of the Chief of Engineers to cause or conduct

a peer review of a water resources project existing on the date of enactment of this section.

(1) DEFINITIONS.—In this section, the following definitions apply:

(1) PROJECT STUDY.—The term “project study” means—

(A) a feasibility study or reevaluation study for a water resources project, including the environmental impact statement prepared for the study; and

(B) any other study associated with a modification of a water resources project that includes an environmental impact statement, including the environmental impact statement prepared for the study.

(2) AFFECTED STATE.—The term “affected State”, as used with respect to a water resources project, means a State all or a portion of which is within the drainage basin in which the project is or would be located and would be economically or environmentally affected as a consequence of the project.

(3) ELIGIBLE ORGANIZATION.—The term “eligible organization” means an organization that—

(A) is described in section 501(c)(3), and exempt from Federal tax under section 501(a), of the Internal Revenue Code of 1986;

(B) is independent;

(C) is free from conflicts of interest;

(D) does not carry out or advocate for or against Federal water resources projects; and

(E) has experience in establishing and administering peer review panels.

(4) TOTAL COST.—The term “total cost”, as used with respect to a water resources project, means the cost of construction (including planning and designing) of the project. In the case of a project for hurricane and storm damage reduction or flood damage reduction that includes periodic nourishment over the life of the project, the term includes the total cost of the nourishment.

SEC. 2035. SAFETY ASSURANCE REVIEW.

33 USC 2344.

(a) PROJECTS SUBJECT TO SAFETY ASSURANCE REVIEW.—The Chief of Engineers shall ensure that the design and construction activities for hurricane and storm damage reduction and flood damage reduction projects are reviewed by independent experts under this section if the Chief of Engineers determines that a review by independent experts is necessary to assure public health, safety, and welfare.

(b) FACTORS.—In determining whether a review of design and construction of a project is necessary under this section, the Chief of Engineers shall consider whether—

(1) the failure of the project would pose a significant threat to human life;

(2) the project involves the use of innovative materials or techniques;

(3) the project design lacks redundancy; or

(4) the project has a unique construction sequencing or a reduced or overlapping design construction schedule.

(c) SAFETY ASSURANCE REVIEW.—

(1) INITIATION OF REVIEW.—At the appropriate point in the development of detailed engineering and design specifications for each water resources project subject to review under

this section, the Chief of Engineers shall initiate a safety assurance review by independent experts on the design and construction activities for the project.

Applicability.

(2) **SELECTION OF REVIEWERS.**—A safety assurance review under this section shall include participation by experts selected by the Chief of Engineers from among individuals who are distinguished experts in engineering, hydrology, or other appropriate disciplines. The Chief of Engineers shall apply the National Academy of Science’s policy for selecting reviewers to ensure that reviewers have no conflict of interest with the project being reviewed.

(3) **COMPENSATION.**—An individual serving as an independent reviewer under this section shall be compensated at a rate of pay to be determined by the Secretary and shall be allowed travel expenses.

(d) **SCOPE OF SAFETY ASSURANCE REVIEWS.**—A safety assurance review under this section shall include a review of the design and construction activities prior to the initiation of physical construction and periodically thereafter until construction activities are completed on a regular schedule sufficient to inform the Chief of Engineers on the adequacy, appropriateness, and acceptability of the design and construction activities for the purpose of assuring public health, safety, and welfare. The Chief of Engineers shall ensure that reviews under this section do not create any unnecessary delays in design and construction activities.

Public
information.
Internet.

(e) **SAFETY ASSURANCE REVIEW RECORD.**—The written recommendations of a reviewer or panel of reviewers under this section and the responses of the Chief of Engineers shall be available to the public, including through electronic means on the Internet.

Effective date.
Termination
date.

(f) **APPLICABILITY.**—This section shall apply to any project in design or under construction on the date of enactment of this Act and to any project with respect to which design or construction is initiated during the period beginning on the date of enactment of this Act and ending 7 years after such date of enactment.

SEC. 2036. MITIGATION FOR FISH AND WILDLIFE AND WETLANDS LOSSES.

(a) **MITIGATION FOR FISH AND WILDLIFE LOSSES.**—Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

(1) in the first sentence of paragraph (1) by striking “to the Congress” and inserting “to Congress in any report, and shall not select a project alternative in any report,”;

(2) in the second sentence of paragraph (1) by inserting “, and other habitat types are mitigated to not less than in-kind conditions” after “mitigated in-kind”; and

(3) by adding at the end the following:

“(3) **MITIGATION REQUIREMENTS.**—

“(A) **IN GENERAL.**—To mitigate losses to flood damage reduction capabilities and fish and wildlife resulting from a water resources project, the Secretary shall ensure that the mitigation plan for each water resources project complies with the mitigation standards and policies established pursuant to the regulatory programs administered by the Secretary.

“(B) INCLUSIONS.—A specific mitigation plan for a water resources project under paragraph (1) shall include, at a minimum—

“(i) a plan for monitoring the implementation and ecological success of each mitigation measure, including the cost and duration of any monitoring, and, to the extent practicable, a designation of the entities that will be responsible for the monitoring;

“(ii) the criteria for ecological success by which the mitigation will be evaluated and determined to be successful based on replacement of lost functions and values of the habitat, including hydrologic and vegetative characteristics;

“(iii) a description of the land and interests in land to be acquired for the mitigation plan and the basis for a determination that the land and interests are available for acquisition;

“(iv) a description of—

“(I) the types and amount of restoration activities to be conducted;

“(II) the physical action to be undertaken to achieve the mitigation objectives within the watershed in which such losses occur and, in any case in which the mitigation will occur outside the watershed, a detailed explanation for undertaking the mitigation outside the watershed; and

“(III) the functions and values that will result from the mitigation plan; and

“(v) a contingency plan for taking corrective actions in cases in which monitoring demonstrates that mitigation measures are not achieving ecological success in accordance with criteria under clause (ii).

“(C) RESPONSIBILITY FOR MONITORING.—In any case in which it is not practicable to identify in a mitigation plan for a water resources project the entity responsible for monitoring at the time of a final report of the Chief of Engineers or other final decision document for the project, such entity shall be identified in the partnership agreement entered into with the non-Federal interest under section 221 of Flood Control Act of 1970 (42 U.S.C. 1962d–5b).

“(4) DETERMINATION OF SUCCESS.—

“(A) IN GENERAL.—A mitigation plan under this subsection shall be considered to be successful at the time at which the criteria under paragraph (3)(B)(ii) are achieved under the plan, as determined by monitoring under paragraph (3)(B)(i).

“(B) CONSULTATION.—In determining whether a mitigation plan is successful under subparagraph (A), the Secretary shall consult annually with appropriate Federal agencies and each State in which the applicable project is located on at least the following:

“(i) The ecological success of the mitigation as of the date on which the report is submitted.

“(ii) The likelihood that the mitigation will achieve ecological success, as defined in the mitigation plan.

“(iii) The projected timeline for achieving that success.

“(iv) Any recommendations for improving the likelihood of success.

“(5) MONITORING.—Mitigation monitoring shall continue until it has been demonstrated that the mitigation has met the ecological success criteria.”.

33 USC 2283a.

(b) STATUS REPORT.—

(1) IN GENERAL.—Concurrent with the President’s submission to Congress of the President’s request for appropriations for the Civil Works Program for a fiscal year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status of construction of projects that require mitigation under section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283), the status of such mitigation, and the results of the consultation under subsection (d)(4)(B) of such section.

(2) PROJECTS INCLUDED.—The status report shall include the status of—

(A) all projects that are under construction as of the date of the report;

(B) all projects for which the President requests funding for the next fiscal year; and

(C) all projects that have undergone or completed construction, but have not completed the mitigation required under section 906 of the Water Resources Development Act of 1986.

Public
information.
Internet.

(3) AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the status report available to the public, including on the Internet.

33 USC 2317b.

(c) WETLANDS MITIGATION.—

(1) IN GENERAL.—In carrying out a water resources project that involves wetlands mitigation and that has impacts that occur within the service area of a mitigation bank, the Secretary, where appropriate, shall first consider the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605) or other applicable Federal law (including regulations).

(2) SERVICE AREA.—To the maximum extent practicable, the service area of the mitigation bank under paragraph (1) shall be in the same watershed as the affected habitat.

(3) RESPONSIBILITY FOR MONITORING.—

(A) IN GENERAL.—Purchase of credits from a mitigation bank for a water resources project relieves the Secretary and the non-Federal interest from responsibility for monitoring or demonstrating mitigation success.

(B) APPLICABILITY.—The relief of responsibility under subparagraph (A) applies only in any case in which the Secretary determines that monitoring of mitigation success is being conducted by the Secretary or by the owner or operator of the mitigation bank.

SEC. 2037. REGIONAL SEDIMENT MANAGEMENT.

(a) IN GENERAL.—Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326) is amended to read as follows:

“SEC. 204. REGIONAL SEDIMENT MANAGEMENT.

“(a) IN GENERAL.—

“(1) SEDIMENT USE.—For sediment obtained through the construction, operation, or maintenance of an authorized Federal water resources project, the Secretary shall develop, at Federal expense, regional sediment management plans and carry out projects at locations identified in plans developed under this section, or identified jointly by the non-Federal interest and the Secretary, for use in the construction, repair, modification, or rehabilitation of projects associated with Federal water resources projects for purposes listed in paragraph (3).

“(2) COOPERATION.—The Secretary shall develop plans under this subsection in cooperation with the appropriate Federal, State, regional, and local agencies. Plans.

“(3) PURPOSES FOR SEDIMENT USE IN PROJECTS.—The purposes of using sediment for the construction, repair, modification, or rehabilitation of Federal water resources projects are—

“(A) to reduce storm damage to property;

“(B) to protect, restore, and create aquatic and ecologically related habitats, including wetlands; and

“(C) to transport and place suitable sediment.

“(b) SECRETARIAL FINDINGS.—Subject to subsection (c), projects carried out under subsection (a) may be carried out in any case in which the Secretary finds that—

“(1) the environmental, economic, and social benefits of the project, both monetary and nonmonetary, justify the cost of the project; and

“(2) the project will not result in environmental degradation.

“(c) DETERMINATION OF PROJECT COSTS.—

“(1) COSTS OF CONSTRUCTION.—

“(A) IN GENERAL.—Costs associated with construction of a project under this section or identified in a regional sediment management plan shall be limited solely to construction costs that are in excess of the costs necessary to carry out the dredging for construction, operation, or maintenance of an authorized Federal water resources project in the most cost-effective way, consistent with economic, engineering, and environmental criteria.

“(B) COST SHARING.—

“(i) IN GENERAL.—Except as provided in clause (ii), the non-Federal share of the construction cost of a project under this section shall be determined as provided in subsections (a) through (d) of section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

“(ii) SPECIAL RULE.—Construction of a project under this section for one or more of the purposes of protection, restoration, or creation of aquatic and ecologically related habitat, the cost of which does not exceed \$750,000 and which is located in a disadvantaged community as determined by the Secretary, may be carried out at Federal expense.

“(C) TOTAL COST.—The total Federal costs associated with construction of a project under this section may not exceed \$5,000,000.

“(2) OPERATION, MAINTENANCE, REPLACEMENT, AND REHABILITATION COSTS.—Operation, maintenance, replacement, and rehabilitation costs associated with a project under this section are the responsibility of the non-Federal interest.

“(d) SELECTION OF DREDGED MATERIAL DISPOSAL METHOD FOR ENVIRONMENTAL PURPOSES.—

“(1) IN GENERAL.—In developing and carrying out a Federal water resources project involving the disposal of dredged material, the Secretary may select, with the consent of the non-Federal interest, a disposal method that is not the least cost option if the Secretary determines that the incremental costs of the disposal method are reasonable in relation to the environmental benefits, including the benefits to the aquatic environment to be derived from the creation of wetlands and control of shoreline erosion.

“(2) FEDERAL SHARE.—The Federal share of such incremental costs shall be determined in accordance with subsection (c).

“(e) STATE AND REGIONAL PLANS.—The Secretary may—

“(1) cooperate with any State in the preparation of a comprehensive State or regional sediment management plan within the boundaries of the State;

“(2) encourage State participation in the implementation of the plan; and

“(3) submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out the plan.

“(f) PRIORITY AREAS.—In carrying out this section, the Secretary shall give priority to a regional sediment management project in the vicinity of each of the following:

“(1) Little Rock Slackwater Harbor, Arkansas.

“(2) Fletcher Cove, California.

“(3) Egmont Key, Florida.

“(4) Calcasieu Ship Channel, Louisiana.

“(5) Delaware River Estuary, New Jersey and Pennsylvania.

“(6) Fire Island Inlet, Suffolk County, New York.

“(7) Smith Point Park Pavilion and the TWA Flight 800 Memorial, Brookhaven, New York.

“(8) Morehead City, North Carolina.

“(9) Toledo Harbor, Lucas County, Ohio.

“(10) Galveston Bay, Texas.

“(11) Benson Beach, Washington.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$30,000,000 per fiscal year, of which not more than \$5,000,000 per fiscal year may be used for the development of regional sediment management plans authorized by subsection (e) and of which not more than \$3,000,000 per fiscal year may be used for construction of projects to which subsection (c)(1)(B)(ii) applies. Such funds shall remain available until expended.”.

(b) CONFORMING REPEAL.—

(1) IN GENERAL.—Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is repealed.

(2) EXISTING PROJECTS.—The Secretary may complete any project being carried out under section 145 of the Water

Resources Development Act of 1976 on the day before the date of enactment of this Act.

SEC. 2038. NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT PROGRAM.

(a) **IN GENERAL.**—Section 3 of the Act entitled “An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property”, approved August 13, 1946 (33 U.S.C. 426g), is amended to read as follows:

“SEC. 3. STORM AND HURRICANE RESTORATION AND IMPACT MINIMIZATION PROGRAM.

“(a) CONSTRUCTION OF SMALL SHORE AND BEACH RESTORATION AND PROTECTION PROJECTS.—

“(1) IN GENERAL.—The Secretary may carry out a program for the construction of small shore and beach restoration and protection projects not specifically authorized by Congress that otherwise comply with the first section of this Act if the Secretary determines that such construction is advisable.

“(2) LOCAL COOPERATION.—The local cooperation requirement of the first section of this Act shall apply to a project under this section.

Applicability.

“(3) COMPLETENESS.—A project under this subsection—

“(A) shall be complete; and

“(B) shall not commit the United States to any additional improvement to ensure the successful operation of the project; except for participation in periodic beach nourishment in accordance with—

“(i) the first section of this Act; and

“(ii) the procedure for projects authorized after submission of a survey report.

“(b) NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM.—

“(1) IN GENERAL.—The Secretary shall conduct under the program authorized by subsection (a) a national shoreline erosion control development and demonstration program (referred to in this section as the ‘demonstration program’).

“(2) REQUIREMENTS.—

“(A) IN GENERAL.—The demonstration program shall include provisions for—

“(i) projects consisting of planning, design, construction, and monitoring of prototype engineered and native and naturalized vegetative shoreline erosion control devices and methods;

“(ii) monitoring of the applicable prototypes;

“(iii) detailed engineering and environmental reports on the results of each project carried out under the demonstration program; and

“(iv) technology transfers, as appropriate, to private property owners, State and local entities, non-profit educational institutions, and nongovernmental organizations.

“(B) DETERMINATION OF FEASIBILITY.—A project under the demonstration program shall not be carried out until the Secretary determines that the project is feasible.

“(C) EMPHASIS.—A project under the demonstration program shall emphasize, to the maximum extent practicable—

“(i) the development and demonstration of innovative technologies;

“(ii) efficient designs to prevent erosion at a shoreline site, taking into account the lifecycle cost of the design, including cleanup, maintenance, and amortization;

“(iii) new and enhanced shore protection project design and project formulation tools the purposes of which are to improve the physical performance, and lower the lifecycle costs, of the projects;

“(iv) natural designs, including the use of native and naturalized vegetation or temporary structures that minimize permanent structural alterations to the shoreline;

“(v) the avoidance of negative impacts to adjacent shorefront communities;

“(vi) in areas with substantial residential or commercial interests located adjacent to the shoreline, designs that do not impair the aesthetic appeal of the interests;

“(vii) the potential for long-term protection afforded by the technology; and

“(viii) recommendations developed from evaluations of the program established under the Shoreline Erosion Control Demonstration Act of 1974 (42 U.S.C. 1962–5 note), including—

“(I) adequate consideration of the subgrade;

“(II) proper filtration;

“(III) durable components;

“(IV) adequate connection between units; and

“(V) consideration of additional relevant information.

“(D) SITES.—

“(i) IN GENERAL.—Each project under the demonstration program may be carried out at—

“(I) a privately owned site with substantial public access; or

“(II) a publicly owned site on open coast or in tidal waters.

“(ii) SELECTION.—The Secretary shall develop criteria for the selection of sites for projects under the demonstration program, including criteria based on—

“(I) a variety of geographic and climatic conditions;

“(II) the size of the population that is dependent on the beaches for recreation or the protection of private property or public infrastructure;

“(III) the rate of erosion;

“(IV) significant natural resources or habitats and environmentally sensitive areas; and

“(V) significant threatened historic structures or landmarks.

“(3) CONSULTATION.—The Secretary shall carry out the demonstration program in consultation with—

Criteria.

“(A) the Secretary of Agriculture, particularly with respect to native and naturalized vegetative means of preventing and controlling shoreline erosion;

“(B) Federal, State, and local agencies;

“(C) private organizations;

“(D) the Coastal Engineering Research Center established by the first section of Public Law 88–172 (33 U.S.C. 426–1); and

“(E) applicable university research facilities.

“(4) COMPLETION OF DEMONSTRATION.—After carrying out the initial construction and evaluation of the performance and cost of a project under the demonstration program, the Secretary may—

“(A) amend, at the request of a non-Federal interest of the project, the partnership agreement for a federally authorized shore protection project in existence on the date on which initial construction of the project under the demonstration program is complete to incorporate the project constructed under the demonstration program as a feature of the shore protection project, with the future cost sharing of the project constructed under the demonstration program to be determined by the project purposes of the shore protection project; or

“(B) transfer all interest in and responsibility for the completed project constructed under the demonstration program to a non-Federal interest or another Federal agency.

“(5) AGREEMENTS.—The Secretary may enter into a partnership agreement with the non-Federal interest or a cooperative agreement with the head of another Federal agency under the demonstration program—

“(A) to share the costs of construction, operation, maintenance, and monitoring of a project under the demonstration program;

“(B) to share the costs of removing the project, or element of the project if the Secretary determines that the project or element of the project is detrimental to public or private property, public infrastructure, or public safety; or

“(C) to specify ownership of the completed project if the Secretary determines that the completed project will not be part of a Corps of Engineers project.

“(6) REPORT.—Not later than December 31, 2008, and every 3 years thereafter, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing—

“(A) the activities carried out and accomplishments made under the demonstration program since the previous report under this paragraph; and

“(B) any recommendations of the Secretary relating to the program.

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary may expend, from any appropriations made available to the Secretary for the purpose of carrying out civil works, not more than \$30,000,000 during any fiscal year to pay the Federal share of the costs of construction of small shore and beach

restoration and protection projects or small projects under this section.

“(2) LIMITATION.—The total amount expended for a project under this section shall—

“(A) be sufficient to pay the cost of Federal participation in the project (including periodic nourishment as provided for under the first section of this Act), as determined by the Secretary; and

“(B) be not more than \$5,000,000.”.

(b) REPEAL.—Section 5 the Act entitled “An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property”, approved August 13, 1946 (33 U.S.C. 426h), is repealed.

33 USC 2330a.

SEC. 2039. MONITORING ECOSYSTEM RESTORATION.

(a) IN GENERAL.—In conducting a feasibility study for a project (or a component of a project) for ecosystem restoration, the Secretary shall ensure that the recommended project includes, as an integral part of the project, a plan for monitoring the success of the ecosystem restoration.

(b) MONITORING PLAN.—The monitoring plan shall—

(1) include a description of the monitoring activities to be carried out, the criteria for ecosystem restoration success, and the estimated cost and duration of the monitoring; and

(2) specify that the monitoring shall continue until such time as the Secretary determines that the criteria for ecosystem restoration success will be met.

(c) COST SHARE.—For a period of 10 years from completion of construction of a project (or a component of a project) for ecosystem restoration, the Secretary shall consider the cost of carrying out the monitoring as a project cost. If the monitoring plan under subsection (b) requires monitoring beyond the 10-year period, the cost of monitoring shall be a non-Federal responsibility.

33 USC 2345.

SEC. 2040. ELECTRONIC SUBMISSION OF PERMIT APPLICATIONS.

Deadline.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall implement a program to allow electronic submission of permit applications for permits under the jurisdiction of the Secretary.

(b) LIMITATIONS.—This section does not preclude the submission of a physical copy.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$3,000,000.

33 USC 2346.

SEC. 2041. PROJECT ADMINISTRATION.

(a) PROJECT TRACKING.—The Secretary shall assign a unique tracking number to each water resources project under the jurisdiction of the Secretary to be used by each Federal agency throughout the life of the project.

(b) REPORT REPOSITORY.—

Records.

(1) IN GENERAL.—The Secretary shall provide to the Library of Congress a copy of each final feasibility study, final environmental impact statement, final reevaluation report, record of decision, and report to Congress prepared by the Corps of Engineers.

Public
information.
Internet.

(2) AVAILABILITY TO PUBLIC.—Each document described in paragraph (1) shall be made available to the public, and an

electronic copy of each document shall be made permanently available to the public through the Internet.

SEC. 2042. PROGRAM ADMINISTRATION.

Sections 101, 106, and 108 of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2252–2254), are repealed.

SEC. 2043. STUDIES AND REPORTS FOR WATER RESOURCES PROJECTS.

(a) STUDIES.—

(1) COST-SHARING REQUIREMENTS.—Section 105(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)) is amended by adding at the end the following:

“(3) DETAILED PROJECT REPORTS.—The requirements of this subsection that apply to a feasibility study also shall apply to a study that results in a detailed project report, except that—

Applicability.

“(A) the first \$100,000 of the costs of a study that results in a detailed project report shall be a Federal expense; and

“(B) paragraph (1)(C)(ii) shall not apply to such a study.”.

(2) PLANNING AND ENGINEERING.—Section 105(b) of such Act (33 U.S.C. 2215(b)) is amended by striking “authorized by this Act”.

(3) DEFINITIONS.—Section 105 of such Act (33 U.S.C. 2215) is amended by adding at the end the following:

“(d) DEFINITIONS.—In this section, the following definitions apply:

“(1) DETAILED PROJECT REPORT.—The term ‘detailed project report’ means a report for a project not specifically authorized by Congress in law or otherwise that determines the feasibility of the project with a level of detail appropriate to the scope and complexity of the recommended solution and sufficient to proceed directly to the preparation of contract plans and specifications. The term includes any associated environmental impact statement and mitigation plan. For a project for which the Federal cost does not exceed \$1,000,000, the term includes a planning and design analysis document.

“(2) FEASIBILITY STUDY.—The term ‘feasibility study’ means a study that results in a feasibility report under section 905, and any associated environmental impact statement and mitigation plan, prepared by the Corps of Engineers for a water resources project. The term includes a study that results in a project implementation report prepared under title VI of the Water Resources Development Act of 2000 (114 Stat. 2680–2694), a general reevaluation report, and a limited reevaluation report.”.

(b) REPORTS.—

(1) PREPARATION.—Section 905(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(a)) is amended—

(A) by striking “(a) In the case of any” and inserting the following:

“(a) PREPARATION OF REPORTS.—

“(1) IN GENERAL.—In the case of any”;

(B) by striking “the Secretary, the Secretary shall” and inserting “the Secretary that results in recommendations concerning a project or the operation of a project

and that requires specific authorization by Congress in law or otherwise, the Secretary shall perform a reconnaissance study and”;

(C) by striking “Such feasibility report” and inserting the following:

“(2) CONTENTS OF FEASIBILITY REPORTS.—A feasibility report”;

(D) by striking “The feasibility report” and inserting “A feasibility report”; and

(E) by striking the last sentence and inserting the following:

“(3) APPLICABILITY.—This subsection shall not apply to—

“(A) any study with respect to which a report has been submitted to Congress before the date of enactment of this Act;

“(B) any study for a project, which project is authorized for construction by this Act and is not subject to section 903(b);

“(C) any study for a project which does not require specific authorization by Congress in law or otherwise; and

“(D) general studies not intended to lead to recommendation of a specific water resources project.

“(4) FEASIBILITY REPORT DEFINED.—In this subsection, the term ‘feasibility report’ means each feasibility report, and any associated environmental impact statement and mitigation plan, prepared by the Corps of Engineers for a water resources project. The term includes a project implementation report prepared under title VI of the Water Resources Development Act of 2000 (114 Stat. 2680–2694), a general reevaluation report, and a limited reevaluation report.”.

(2) PROJECTS NOT SPECIFICALLY AUTHORIZED BY CONGRESS.—Section 905 of such Act is further amended—

(A) in subsection (b) by inserting “RECONNAISSANCE STUDIES.—” before “Before initiating”;

(B) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(C) by inserting after subsection (b) the following:

“(c) PROJECTS NOT SPECIFICALLY AUTHORIZED BY CONGRESS.—In the case of any water resources project-related study authorized to be undertaken by the Secretary without specific authorization by Congress in law or otherwise, the Secretary shall prepare a detailed project report.”;

(D) in subsection (d) (as so redesignated) by inserting “INDIAN TRIBES.—” before “For purposes of”; and

(E) in subsection (e) (as so redesignated) by inserting “STANDARD AND UNIFORM PROCEDURES AND PRACTICES.—” before “The Secretary shall”.

33 USC 2347.

SEC. 2044. COORDINATION AND SCHEDULING OF FEDERAL, STATE, AND LOCAL ACTIONS.

Procedures.

(a) NOTICE OF INTENT.—Upon request of the non-Federal interest in the form of a written notice of intent to construct or modify a non-Federal water supply, wastewater infrastructure,

flood damage reduction, storm damage reduction, ecosystem restoration, or navigation project that requires the approval of the Secretary, the Secretary shall initiate, subject to subsection (c), procedures to establish a schedule for consolidating Federal, State, and local agency and Indian tribe environmental assessments, project reviews, and issuance of all permits for the construction or modification of the project. All States and Indian tribes having jurisdiction over the proposed project shall be invited by the Secretary, but shall not be required, to participate in carrying out this section with respect to the project.

(b) COORDINATION.—The Secretary shall seek, to the extent practicable, to consolidate hearing and comment periods, procedures for data collection and report preparation, and the environmental review and permitting processes associated with the project and related activities. The Secretary shall notify, to the extent possible, the non-Federal interest of its responsibilities for data development and information that may be necessary to process each permit required for the project, including a schedule when the information and data should be provided to the appropriate Federal, State, or local agency or Indian tribe.

Notification.

(c) COSTS OF COORDINATION.—The costs incurred by the Secretary to establish and carry out a schedule to consolidate Federal, State, and local agency and Indian tribe environmental assessments, project reviews, and permit issuance for a project under this section shall be paid by the non-Federal interest.

(d) REPORT ON TIMESAVINGS METHODS.—Not later than 3 years after the date of enactment of this section, the Secretary shall prepare and transmit to Congress a report estimating the time required for the issuance of all Federal, State, local, and tribal permits for the construction of non-Federal projects for water supply, wastewater infrastructure, flood damage reduction, storm damage reduction, ecosystem restoration, and navigation.

SEC. 2045. PROJECT STREAMLINING.

33 USC 2348.

(a) POLICY.—The benefits of water resources projects are important to the Nation's economy and environment, and recommendations to Congress regarding such projects should not be delayed due to uncoordinated or inefficient reviews or the failure to timely resolve disputes during the development of water resources projects.

(b) SCOPE.—This section shall apply to each study initiated after the date of enactment of this Act to develop a feasibility report under section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282), or a reevaluation report, for a water resources project if the Secretary determines that such study requires an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

Applicability.

(c) WATER RESOURCES PROJECT REVIEW PROCESS.—The Secretary shall develop and implement a coordinated review process for the development of water resources projects.

(d) COORDINATED REVIEWS.—The coordinated review process under this section may provide that all reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal, State, or local government agency or Indian tribe for the development of a water resources project described in subsection

(b) will be conducted, to the maximum extent practicable, concurrently and completed within a time period established by the Secretary in cooperation with the agencies identified under subsection (e) with respect to the project.

(e) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to the development of each water resources project, the Secretary shall identify, as soon as practicable, all Federal, State, and local government agencies and Indian tribes that may—

- (1) have jurisdiction over the project;
- (2) be required by law to conduct or issue a review, analysis, or opinion for the project; or
- (3) be required to make a determination on issuing a permit, license, or approval for the project.

(f) STATE AUTHORITY.—If the coordinated review process is being implemented under this section by the Secretary with respect to the development of a water resources project described in subsection (b) within the boundaries of a State, the State, consistent with State law, may choose to participate in the process and to make subject to the process all State agencies that—

- (1) have jurisdiction over the project;
- (2) are required to conduct or issue a review, analysis, or opinion for the project; or
- (3) are required to make a determination on issuing a permit, license, or approval for the project.

(g) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a water resources project between the Secretary, the heads of Federal, State, and local government agencies, Indian tribes identified under subsection (e), and the non-Federal interest for the project.

(h) EFFECT OF FAILURE TO MEET DEADLINE.—

(1) NOTIFICATION.—If the Secretary determines that a Federal, State, or local government agency, Indian tribe, or non-Federal interest that is participating in the coordinated review process under this section with respect to the development of a water resources project has not met a deadline established under subsection (d) for the project, the Secretary shall notify, within 30 days of the date of such determination, the agency, Indian tribe, or non-Federal interest about the failure to meet the deadline.

(2) AGENCY REPORT.—Not later than 30 days after the date of receipt of a notice under paragraph (1), the Federal, State, or local government agency, Indian tribe, or non-Federal interest involved may submit a report to the Secretary, explaining why the agency, Indian tribe, or non-Federal interest did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, or opinion or determination on issuing a permit, license, or approval.

(3) REPORT TO CONGRESS.—Not later than 30 days after the date of receipt of a report under paragraph (2), the Secretary shall compile and submit a report to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Council on Environmental Quality, describing any deadlines identified in paragraph (1), and any information provided to the Secretary by the Federal, State,

or local government agency, Indian tribe, or non-Federal interest involved under paragraph (2).

(i) LIMITATIONS.—Nothing in this section shall preempt or interfere with—

- (1) any statutory requirement for seeking public comment;
- (2) any power, jurisdiction, or authority that a Federal, State, or local government agency, Indian tribe, or non-Federal interest has with respect to carrying out a water resources project; or
- (3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 and the regulations issued by the Council on Environmental Quality to carry out such Act.

SEC. 2046. PROJECT DEAUTHORIZATION.

Section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)) is amended—

- (1) in the first sentence—
 - (A) by striking “two years” and inserting “year”; and
 - (B) by striking “7” and inserting “5”;
- (2) in the last sentence by striking “30 months after the date” and inserting “the last date of the fiscal year following the fiscal year in which”; and
- (3) in the last sentence by striking “such 30 month period” and inserting “such period”.

SEC. 2047. FEDERAL HOPPER DREDGES.

(a) HOPPER DREDGE MCFARLAND.—Section 563 of the Water Resources Development Act of 1996 (110 Stat. 3784) is amended to read as follows:

“SEC. 563. HOPPER DREDGE MCFARLAND.

“(a) PLACEMENT IN READY RESERVE STATUS.—Not before October 1, 2009, and not after December 31, 2009, the Secretary shall—

Effective date.
Termination
date.

“(1) place the Federal hopper dredge McFarland (referred to in this section as the ‘vessel’) in a ready reserve status; and

“(2) use the vessel solely for urgent and emergency purposes in accordance with existing emergency response protocols.

“(b) ROUTINE TESTS AND MAINTENANCE.—

“(1) IN GENERAL.—The Secretary shall periodically perform routine underway dredging tests of the equipment (not to exceed 70 days per year) of the vessel in a ready reserve status to ensure the ability of the vessel to perform urgent and emergency work.

“(2) MAINTENANCE.—The Secretary—

“(A) shall not assign any scheduled hopper dredging work to the vessel other than dredging tests in the Delaware River and Bay; but

“(B) shall perform any repairs, including any asbestos abatement, necessary to maintain the vessel in a ready reserve fully operational condition.

“(c) ACTIVE STATUS FOR DREDGING.—The Secretary, in consultation with affected stakeholders, shall place the vessel in active status in order to perform dredging work if the Secretary determines that private industry has failed—

“(1) to submit a responsive and responsible bid for work advertised by the Secretary; or

“(2) to carry out a project as required pursuant to a contract between the industry and the Secretary.”.

(b) HOPPER DREDGES ESSAYONS AND YAQUINA.—Section 3(c)(7)(B) of the Act of August 11, 1888 (33 U.S.C. 622; 25 Stat. 423), is amended by adding at the end the following: “This subparagraph shall not apply to the Federal hopper dredges Essayons and Yaquina of the Corps of Engineers.”.

TITLE III—PROJECT-RELATED PROVISIONS

SEC. 3001. BLACK WARRIOR-TOMBIGBEE RIVERS, ALABAMA.

Section 111 of title I of division C of the Consolidated Appropriations Act, 2005 (118 Stat. 2944) is amended to read as follows:

“SEC. 111. BLACK WARRIOR-TOMBIGBEE RIVERS, ALABAMA.

“(a) CONSTRUCTION OF NEW FACILITIES.—

“(1) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) EXISTING FACILITY.—The term ‘existing facility’ means the administrative and maintenance facility for the project for Black Warrior-Tombigbee Rivers, Alabama, authorized by the first section of the River and Harbor Appropriations Act of July 5, 1884 (24 Stat. 141), in existence on the date of enactment of the Water Resources Development Act of 2007.

“(B) PARCEL.—The term ‘Parcel’ means the land owned by the Corps of Engineers serving as the operations and maintenance facility of the Corps of Engineers in the city of Tuscaloosa, Alabama, in existence on the date of enactment of the Water Resources Development Act of 2007.

“(2) AUTHORIZATION.—In carrying out the project for Black Warrior-Tombigbee Rivers, Alabama, the Secretary is authorized, at Federal expense—

“(A) to purchase land on which the Secretary may construct a new maintenance facility for the project, to be located—

“(i) at a different location from the existing facility;

and

“(ii) in the vicinity of the city of Tuscaloosa, Alabama;

“(B) at any time during or after the completion of (and relocation to) the new maintenance facility, to demolish the existing facility; and

“(C) to construct on the Parcel a new administrative facility for the project.

“(b) ACQUISITION AND DISPOSITION OF PROPERTY.—The Secretary—

“(1) may acquire any real property necessary for the construction of the new maintenance facility under subsection (a)(2)(A); and

“(2) shall convey to the city of Tuscaloosa fee simple title in and to any portion of the Parcel not required for construction

of the new administrative facility under subsection (a)(2)(C) through—

“(A) sale at fair market value;

“(B) exchange for city of Tuscaloosa owned land on an acre-for-acre basis; or

“(C) any combination of a sale under subparagraph (A) and an exchange under subparagraph (B).

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$32,000,000.”.

SEC. 3002. COOK INLET, ALASKA.

Section 118(a)(3) of the Energy and Water Development Appropriations Act, 2005 (title I of division C of the Consolidated Appropriations Act, 2005; 118 Stat. 2945) is amended by inserting “as part of the operation and maintenance of such project modification” after “by the Secretary”.

SEC. 3003. KING COVE HARBOR, ALASKA.

The maximum amount of Federal funds that may be expended for the project for navigation, King Cove Harbor, Alaska, being carried out under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), shall be \$8,000,000.

SEC. 3004. SEWARD HARBOR, ALASKA.

The project for navigation, Seward Harbor, Alaska, authorized by section 101(a)(3) of the Water Resources Development Act of 1999 (113 Stat. 274), is modified to authorize the Secretary to extend the existing breakwater by approximately 215 feet, at a total cost of \$3,333,000, with an estimated Federal cost of \$2,666,000 and an estimated non-Federal cost of \$667,000.

SEC. 3005. SITKA, ALASKA.

The Sitka, Alaska, element of the project for navigation, Southeast Alaska Harbors of Refuge, Alaska, authorized by section 101(1) of the Water Resources Development Act of 1992 (106 Stat. 4801), is modified to direct the Secretary to take such action as is necessary to correct design deficiencies in the Sitka Harbor Breakwater at Federal expense. The estimated cost is \$6,300,000.

SEC. 3006. TATITLEK, ALASKA.

The maximum amount of Federal funds that may be expended for the project for navigation, Tatitlek, Alaska, being carried out under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), shall be \$10,000,000.

SEC. 3007. RIO DE FLAG, FLAGSTAFF, ARIZONA.

The project for flood damage reduction, Rio De Flag, Flagstaff, Arizona, authorized by section 101(b)(3) of the Water Resources Development Act of 2000 (114 Stat. 2576), is modified to authorize the Secretary to construct the project at a total cost of \$54,100,000, with an estimated Federal cost of \$35,000,000 and a non-Federal cost of \$19,100,000.

SEC. 3008. NOGALES WASH AND TRIBUTARIES FLOOD CONTROL PROJECT, ARIZONA.

The project for flood control, Nogales Wash and tributaries, Arizona, authorized by section 101(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4606) and modified by section 303 of the Water Resources Development Act of 1996 (110 Stat.

3711) and section 302 of the Water Resources Development Act of 2000 (114 Stat. 2600), is modified to authorize the Secretary to construct the project at a total cost of \$25,410,000, with an estimated Federal cost of \$22,930,000 and an estimated non-Federal cost of \$2,480,000.

SEC. 3009. TUCSON DRAINAGE AREA, ARIZONA.

The project for flood damage reduction, environmental restoration, and recreation, Tucson drainage area, Arizona, authorized by section 101(a)(5) of the Water Resources Development Act of 1999 (113 Stat. 274), is modified to authorize the Secretary to construct the project at a total cost of \$66,700,000, with an estimated Federal cost of \$43,350,000 and an estimated non-Federal cost of \$23,350,000.

SEC. 3010. OSCEOLA HARBOR, ARKANSAS.

(a) IN GENERAL.—The project for navigation, Osceola Harbor, Arkansas, constructed under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), is modified to allow non-Federal interests to construct a mooring facility within the existing authorized harbor channel, subject to all necessary permits, certifications, and other requirements.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as affecting the responsibility of the Secretary to maintain the general navigation features of the project at a bottom width of 250 feet.

SEC. 3011. ST. FRANCIS RIVER BASIN, ARKANSAS AND MISSOURI.

The project for flood control, St. Francis River Basin, Arkansas and Missouri, authorized by the Act of June 15, 1936 (49 Stat. 1508), is modified to authorize the Secretary to undertake channel stabilization and sediment removal measures on the St. Francis River and tributaries as a nonseparable element of the original project.

SEC. 3012. PINE MOUNTAIN DAM, ARKANSAS.

The Pine Mountain Dam feature of the project for flood protection, Lee Creek, Arkansas and Oklahoma, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1078), is modified—

(1) to add environmental restoration as a project purpose; and

(2) to direct the Secretary to finance the non-Federal share of the cost of the project, including treatment and distributions components, over a 30-year period in accordance with section 103(k) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(k)).

SEC. 3013. RED-OUACHITA RIVER BASIN LEVEES, ARKANSAS AND LOUISIANA.

(a) IN GENERAL.—Section 204 of the Flood Control Act of 1950 (64 Stat. 173) is amended in the matter under the heading “RED-OUACHITA RIVER BASIN” by striking “improvements at Calion, Arkansas” and inserting “improvements at Calion, Arkansas (including authorization for the comprehensive flood-control project for Ouachita River and tributaries, incorporating in the project all flood control, drainage, and power improvements in the basin above the lower end of the left bank Ouachita River levee)”.

(b) **MODIFICATION.**—Section 3 of the Flood Control Act of August 18, 1941 (55 Stat. 642), is amended in the second sentence of subsection (a) in the matter under the heading “LOWER MISSISSIPPI RIVER” by inserting before the period at the end the following: “; except that the Ouachita River Levees, Louisiana, authorized by the first section of the Mississippi River Flood Control Act of May 15, 1928 (45 Stat. 534), shall remain as a component of the Mississippi River and Tributaries Project and afforded operation and maintenance responsibilities as provided under section 3 of that Act (45 Stat. 535)”. 33 USC 702a–12.

SEC. 3014. CACHE CREEK BASIN, CALIFORNIA.

(a) **IN GENERAL.**—The project for flood control, Cache Creek Basin, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112), is modified to direct the Secretary to mitigate the impacts of the new south levee of the Cache Creek settling basin on the storm drainage system of the city of Woodland, including all appurtenant features, erosion control measures, and environmental protection features.

(b) **OBJECTIVES.**—Mitigation under subsection (a) shall restore the preproject capacity of the city of Woodland to release 1,360 cubic feet per second of water to the Yolo Bypass and shall include—

- (1) channel improvements;
- (2) an outlet work through the west levee of the Yolo Bypass; and
- (3) a new low flow cross channel to handle city and county storm drainage and settling basin flows (1,760 cubic feet per second) when the Yolo Bypass is in a low flow condition.

SEC. 3015. CALFED STABILITY PROGRAM, CALIFORNIA.

(a) **AMENDMENTS.**—Section 103(f)(3) of the Water Supply, Reliability, and Environmental Improvement Act (118 Stat. 1695–1696) is amended—

(1) in subparagraph (A) by striking “within the Delta (as defined in Cal. Water Code §12220)”;

(2) by striking subparagraph (C) and inserting the following:

“(C) **JUSTIFICATION.**—

“(i) **IN GENERAL.**—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2), in carrying out levee stability programs and projects pursuant to this paragraph, the Secretary of the Army may determine that the programs and projects are justified by the benefits of the project purposes described in subparagraph (A), and the programs and projects shall require no additional economic justification if the Secretary of the Army further determines that the programs and projects are cost effective.

“(ii) **APPLICABILITY.**—Clause (i) shall not apply to any separable element intended to produce benefits that are predominantly unrelated to the project purposes described in subparagraph (A).”; and

(3) in subparagraph (D)(i) by inserting “as described in the Record of Decision” after “Public Law 84–99 standard”).

(b) **ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.**—In addition to funds made available pursuant to the Water Supply, Reliability, and Environmental Improvement Act (Public Law 108–361) to carry out section 103(f)(3)(D) of that Act (118 Stat. 1696),

there is authorized to be appropriated to carry out projects described in that section \$106,000,000, to remain available until expended.

SEC. 3016. COMPTON CREEK, CALIFORNIA.

The project for flood control, Los Angeles Drainage Area, California, authorized by section 101(b) of the Water Resources Development Act of 1990 (104 Stat. 4611), is modified to add environmental restoration and recreation as project purposes.

SEC. 3017. GRAYSON CREEK/MURDERER'S CREEK, CALIFORNIA.

The project for aquatic ecosystem restoration, Grayson Creek/Murderer's Creek, California, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified—

(1) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

(2) to authorize the Secretary to consider national ecosystem restoration benefits in determining the Federal interest in the project.

SEC. 3018. HAMILTON AIRFIELD, CALIFORNIA.

The project for environmental restoration, Hamilton Airfield, California, authorized by section 101(b)(3) of the Water Resources Development Act of 1999 (113 Stat. 279), is modified to direct the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers dated July 19, 2004, at a total cost of \$228,100,000, with an estimated Federal cost of \$171,100,000 and an estimated non-Federal cost of \$57,000,000.

SEC. 3019. JOHN F. BALDWIN SHIP CHANNEL AND STOCKTON SHIP CHANNEL, CALIFORNIA.

The project for navigation, San Francisco to Stockton, California, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091) is modified—

(1) to provide that the non-Federal share of the cost of the John F. Baldwin Ship Channel and Stockton Ship Channel element of the project may be provided in the form of in-kind services and materials; and

(2) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of such element the cost of planning and design work carried out by the non-Federal interest for such element before the date of an agreement for such planning and design.

SEC. 3020. KAWEAH RIVER, CALIFORNIA.

The project for flood control, Terminus Dam, Kaweah River, California, authorized by section 101(b)(5) of the Water Resources Development Act of 1996 (110 Stat. 3658), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project, or provide reimbursement not to exceed \$800,000, for the costs of any work carried out by the

non-Federal interest for the project before the date of the project partnership agreement.

SEC. 3021. LARKSPUR FERRY CHANNEL, LARKSPUR, CALIFORNIA.

The project for navigation, Larkspur Ferry Channel, Larkspur, California, authorized by section 601(d) of the Water Resources Development Act of 1986 (100 Stat. 4148), is modified to direct the Secretary to determine whether maintenance of the project is feasible, and if the Secretary determines that maintenance of the project is feasible, to carry out such maintenance.

SEC. 3022. LLAGAS CREEK, CALIFORNIA.

(a) **IN GENERAL.**—The project for flood damage reduction, Llagas Creek, California, authorized by section 501(a) of the Water Resources Development Act of 1999 (113 Stat. 333), is modified to direct the Secretary to carry out the project at a total cost of \$105,000,000, with an estimated Federal cost of \$65,000,000 and an estimated non-Federal cost of \$40,000,000.

(b) **SPECIAL RULE.**—In evaluating and implementing the project, the Secretary shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184) if the detailed project report evaluation indicates that applying such section is necessary to implement the project.

SEC. 3023. MAGPIE CREEK, CALIFORNIA.

(a) **IN GENERAL.**—The project for Magpie Creek, California, authorized under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), is modified to direct the Secretary to apply the cost-sharing requirements of section 103(b) of the Water Resources Development Act of 1986 (100 Stat. 4085) for the portion of the project consisting of land acquisition to preserve and enhance existing floodwater storage.

Applicability.

(b) **CREDIT.**—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(c) **COST.**—The maximum amount of Federal funds that may be expended for the project referred to in subsection (a) shall be \$10,000,000.

SEC. 3024. PACIFIC FLYWAY CENTER, SACRAMENTO, CALIFORNIA.

The project for aquatic ecosystem restoration, Pacific Flyway Center, Sacramento, California, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified to authorize the Secretary to expend \$2,000,000 to enhance public access to the project.

SEC. 3025. PETALUMA RIVER, PETALUMA, CALIFORNIA.

The project for flood damage reduction, Petaluma River, Petaluma, California, authorized by section 112 of the Water Resources Development Act of 2000 (114 Stat. 2587), is modified to authorize the Secretary to construct the project at a total cost of \$41,500,000, with an estimated Federal cost of \$26,975,000 and an estimated non-Federal cost of \$14,525,000.

SEC. 3026. PINOLE CREEK, CALIFORNIA.

The project for improvement of the quality of the environment, Pinole Creek Phase I, California, being carried out under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3027. PRADO DAM, CALIFORNIA.

Upon completion of the modifications to the Prado Dam element of the project for flood control, Santa Ana River Mainstem, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113), the Memorandum of Agreement for the Operation for Prado Dam for Seasonal Additional Water Conservation between the Department of the Army and the Orange County Water District (including all the conditions and stipulations in the memorandum) shall remain in effect for volumes of water made available prior to such modifications.

SEC. 3028. REDWOOD CITY NAVIGATION CHANNEL, CALIFORNIA.

The Secretary may dredge the Redwood City Navigation Channel, California, on an annual basis, to maintain the authorized depth of –30 feet mean lower low water.

SEC. 3029. SACRAMENTO AND AMERICAN RIVERS FLOOD CONTROL, CALIFORNIA.**(a) NATOMAS LEVEE FEATURES.—**

(1) **IN GENERAL.**—The project for flood control and recreation, Sacramento and American Rivers, California (Natomas Levee features), authorized by section 9159 of the Department of Defense Appropriations Act, 1993 (106 Stat. 1944), is modified to direct the Secretary to credit \$20,503,000 to the Sacramento Area Flood Control Agency for the nonreimbursed Federal share of costs incurred by the Agency in connection with the project.

(2) **ALLOCATION OF CREDIT.**—The Secretary shall allocate the amount to be credited pursuant to paragraph (1) toward the non-Federal share of such projects as are requested by the Sacramento Area Flood Control Agency.

(b) JOINT FEDERAL PROJECT AT FOLSOM DAM.—

(1) **IN GENERAL.**—The project for flood control, American and Sacramento Rivers, California, authorized by section 101(a)(6)(A) of the Water Resources Development Act of 1999 (113 Stat. 274) and modified by section 128 of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2259), is modified to authorize the Secretary to construct the auxiliary spillway generally in accordance with the Post Authorization Change Report, American River Watershed Project (Folsom Dam Modification and Folsom Dam Raise Projects), dated March 2007, at a total cost of \$683,000,000, with an estimated Federal cost of \$444,000,000 and an estimated non-Federal cost of \$239,000,000.

(2) **DAM SAFETY.**—Nothing in this subsection limits the authority of the Secretary of the Interior to carry out dam safety activities in connection with the auxiliary spillway in

accordance with the Bureau of Reclamation safety of dams program.

(3) TRANSFER OF FUNDS.—

(A) IN GENERAL.—The Secretary and the Secretary of the Interior are authorized to transfer between the Department of the Army and the Department of the Interior appropriated amounts and other available funds (including funds contributed by non-Federal interests) for the purpose of planning, design, and construction of the auxiliary spillway.

(B) TERMS AND CONDITIONS.—Any transfer made pursuant to this subsection shall be subject to such terms and conditions as may be agreed on by the Secretary and the Secretary of the Interior.

SEC. 3030. SACRAMENTO DEEP WATER SHIP CHANNEL, CALIFORNIA.

The project for navigation, Sacramento Deep Water Ship Channel, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3031. SACRAMENTO RIVER BANK PROTECTION, CALIFORNIA.

Section 202 of the River Basin Monetary Authorization Act of 1974 (88 Stat. 49) is amended by striking “and the monetary authorization” and all that follows through the period at the end and inserting “; except that the lineal feet in the second phase shall be increased from 405,000 lineal feet to 485,000 lineal feet.”.

SEC. 3032. SALTON SEA RESTORATION, CALIFORNIA.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) SALTON SEA AUTHORITY.—The term “Salton Sea Authority” means the joint powers authority established under the laws of the State by a joint power agreement signed on June 2, 1993.

(2) SALTON SEA SCIENCE OFFICE.—The term “Salton Sea Science Office” means the office established by the United States Geological Survey and located on the date of enactment of this Act in La Quinta, California.

(3) STATE.—The term “State” means the State of California.

(b) PILOT PROJECTS.—

(1) IN GENERAL.—

(A) REVIEW.—The Secretary shall review the plan approved by the State, entitled the “Salton Sea Ecosystem Restoration Program Preferred Alternative Report and Funding Plan”, and dated May 2007 to determine whether the pilot projects described in the plan are feasible.

(B) IMPLEMENTATION.—

(i) IN GENERAL.—Subject to clause (ii), if the Secretary determines that the pilot projects referred to in subparagraph (A) meet the requirements described in that subparagraph, the Secretary may—

(I) enter into an agreement with the State;
and

(II) in consultation with the Salton Sea Authority and the Salton Sea Science Office, carry out pilot projects for improvement of the environment in the area of the Salton Sea.

(ii) REQUIREMENT.—The Secretary shall be a party to each contract for construction entered into under this subparagraph.

(2) LOCAL PARTICIPATION.—In prioritizing pilot projects under this section, the Secretary shall—

(A) consult with the State, the Salton Sea Authority, and the Salton Sea Science Office; and

(B) take into consideration the priorities of the State and the Salton Sea Authority.

Contracts.

(3) COST SHARING.—Before carrying out a pilot project under this section, the Secretary shall enter into a written agreement with the State that requires the non-Federal interest for the pilot project to pay 35 percent of the total costs of the pilot project.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (b) \$30,000,000, of which not more than \$5,000,000 shall be used for any one pilot project under this section.

SEC. 3033. SANTA ANA RIVER MAINSTEM, CALIFORNIA.

The project for flood control, Santa Ana River Mainstem (including Santiago Creek, California), authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113) and modified by section 104 of the Energy and Water Development Appropriation Act, 1988 (101 Stat. 1329–111) and section 309 of the Water Resources Development Act of 1996 (110 Stat. 3713), is further modified to authorize the Secretary to carry out the project at a total cost of \$1,800,000,000 and to clarify that the Santa Ana River Interceptor Line is an element of the project.

SEC. 3034. SANTA BARBARA STREAMS, LOWER MISSION CREEK, CALIFORNIA.

The project for flood damage reduction, Santa Barbara streams, Lower Mission Creek, California, authorized by section 101(b)(8) of the Water Resources Development Act of 2000 (114 Stat. 2577), is modified to authorize the Secretary to construct the project at a total cost of \$30,000,000, with an estimated Federal cost of \$15,000,000 and an estimated non-Federal cost of \$15,000,000.

SEC. 3035. SANTA CRUZ HARBOR, CALIFORNIA.

The project for navigation, Santa Cruz Harbor, California, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 300) and modified by section 809 of the Water Resources Development Act of 1986 (100 Stat. 4168) and section 526 of the Water Resources Development Act of 1999 (113 Stat. 346), is modified to direct the Secretary—

(1) to renegotiate the memorandum of agreement with the non-Federal interest to increase the annual payment to reflect the updated cost of operation and maintenance that is the Federal and non-Federal share as provided by law based on the project purpose; and

(2) to revise the memorandum of agreement to include terms that revise such payments for inflation.

SEC. 3036. SEVEN OAKS DAM, CALIFORNIA.

The project for flood control, Santa Ana Mainstem, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113) and modified by section 104 of the Energy and Water Development Appropriations Act, 1988 (101 Stat. 1329–11), section 102(e) of the Water Resources Development Act of 1990 (104 Stat. 4611), and section 311 of the Water Resources Development Act of 1996 (110 Stat. 3713), is modified to direct the Secretary—

(1) to include ecosystem restoration benefits in the calculation of benefits for the Seven Oaks Dam, California, portion of the project; and

(2) to conduct a study of water conservation and water quality at the Seven Oaks Dam. Study.

SEC. 3037. UPPER GUADALUPE RIVER, CALIFORNIA.

The project for flood damage reduction and recreation, Upper Guadalupe River, California, authorized by section 101(a)(9) of the Water Resources Development Act of 1999 (113 Stat. 275), is modified to authorize the Secretary to construct the project generally in accordance with the Upper Guadalupe River Flood Damage Reduction, San Jose, California, Limited Reevaluation Report, dated March 2004, at a total cost of \$256,000,000, with an estimated Federal cost of \$136,700,000 and an estimated non-Federal cost of \$119,300,000.

SEC. 3038. WALNUT CREEK CHANNEL, CALIFORNIA.

The project for aquatic ecosystem restoration, Walnut Creek Channel, California, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified—

(1) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

(2) to authorize the Secretary to consider national ecosystem restoration benefits in determining the Federal interest in the project.

SEC. 3039. WILDCAT/SAN PABLO CREEK PHASE I, CALIFORNIA.

The project for improvement of the quality of the environment, Wildcat/San Pablo Creek Phase I, California, being carried out under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3040. WILDCAT/SAN PABLO CREEK PHASE II, CALIFORNIA.

The project for aquatic ecosystem restoration, Wildcat/San Pablo Creek Phase II, California, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–

5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project and to authorize the Secretary to consider national ecosystem restoration benefits in determining the Federal interest in the project.

SEC. 3041. YUBA RIVER BASIN PROJECT, CALIFORNIA.

The project for flood damage reduction, Yuba River Basin, California, authorized by section 101(a)(10) of the Water Resources Development Act of 1999 (113 Stat. 275), is modified—

(1) to authorize the Secretary to construct the project at a total cost of \$107,700,000, with an estimated Federal cost of \$70,000,000 and an estimated non-Federal cost of \$37,700,000; and

(2) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3042. SOUTH PLATTE RIVER BASIN, COLORADO.

Section 808 of the Water Resources Development Act of 1986 (100 Stat. 4168) is amended by striking “agriculture,” and inserting “agriculture, environmental restoration,”.

SEC. 3043. INTRACOASTAL WATERWAY, DELAWARE RIVER TO CHESAPEAKE BAY, DELAWARE AND MARYLAND.

The project for navigation, Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, authorized by the first section of the Rivers and Harbors Act of August 30, 1935 (49 Stat. 1030), and section 101 of the River and Harbor Act of 1954 (68 Stat. 1249), is modified to add recreation as a project purpose.

SEC. 3044. ST. GEORGE’S BRIDGE, DELAWARE.

Deadline.

Section 102(g) of the Water Resources Development Act of 1990 (104 Stat. 4612) is amended by adding at the end the following: “The Secretary shall assume ownership responsibility for the replacement bridge not later than the date on which the construction of the bridge is completed and the contractors are released of their responsibility by the State. In addition, the Secretary may not carry out any action to close or remove the St. George’s Bridge, Delaware, without specific congressional authorization.”.

SEC. 3045. BREVARD COUNTY, FLORIDA.

Reports.

(a) SHORELINE.—The project for shoreline protection, Brevard County, Florida, authorized by section 101(b)(7) of the Water Resources Development Act of 1996 (110 Stat. 3667), is modified to authorize the Secretary to include the mid-reach as an element of the project from the Florida department of environmental protection monuments 75.4 to 118.3, a distance of approximately 7.6 miles. The restoration work shall only be undertaken upon a determination by the Secretary, following completion of the general reevaluation report authorized by section 418 of the Water Resources Development Act of 2000 (114 Stat. 2637), that the shoreline protection is feasible.

(b) CREDIT.—Section 310 of the Water Resources Development Act of 1999 (113 Stat. 301) is amended by adding at the end the following:

“(d) CREDIT.—After completion of the study, the Secretary may credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project for shore protection the cost of nourishment and renourishment associated with the project for shore protection incurred by the non-Federal interest to respond to damages to Brevard County beaches that are the result of a Federal navigation project, as determined in the final report for the study.”.

SEC. 3046. BROWARD COUNTY AND HILLSBORO INLET, FLORIDA.

The project for shore protection, Broward County and Hillsboro Inlet, Florida, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090), and modified by section 311 of the Water Resources Development Act of 1999 (113 Stat. 301), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of mitigation construction and derelict erosion control structure removal carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3047. CANAVERAL HARBOR, FLORIDA.

In carrying out the project for navigation, Canaveral Harbor, Florida, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1174), the Secretary shall construct a sediment trap if the Secretary determines construction of the sediment trap is feasible.

SEC. 3048. GASPARILLA AND ESTERO ISLANDS, FLORIDA.

The project for shore protection, Gasparilla and Estero Island segments, Lee County, Florida, authorized by section 201 of the Flood Control Act of 1965 (79 Stat. 1073), by Senate Resolution dated December 17, 1970, and by House Resolution dated December 15, 1970, and modified by section 309 of the Water Resources Development Act of 2000 (114 Stat. 2602), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3049. LIDO KEY BEACH, SARASOTA, FLORIDA.

(a) IN GENERAL.—The project for shore protection, Lido Key Beach, Sarasota, Florida, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1819), deauthorized under section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), and reauthorized by section 364(2)(A) of the Water Resources Development Act of 1999 (113 Stat. 313), is modified to direct the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers dated December 22, 2004, at a total cost of \$15,190,000, with an estimated Federal cost of \$9,320,000 and an estimated non-Federal cost of \$5,870,000, and at an estimated total cost of \$65,000,000 for periodic nourishment over the 50-year life of the project, with an estimated

Contracts.

Federal cost of \$30,550,000 and an estimated non-Federal cost of \$34,450,000.

(b) CONSTRUCTION OF SHORELINE PROTECTION PROJECTS BY NON-FEDERAL INTERESTS.—The Secretary shall enter into a partnership agreement with the non-Federal interest in accordance with section 206 of the Water Resources Development Act of 1992 (33 U.S.C. 426i–1) for the modified project.

SEC. 3050. PEANUT ISLAND, FLORIDA.

The maximum amount of Federal funds that may be expended for the project for improvement of the quality of the environment, Peanut Island, Palm Beach County, Florida, being carried out under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a) shall be \$9,750,000.

SEC. 3051. PORT SUTTON, FLORIDA.

The project for navigation, Port Sutton, Florida, authorized by section 101(b)(12) of the Water Resources Development Act of 2000 (114 Stat. 2577), is modified to authorize the Secretary to carry out the project at a total cost of \$12,900,000.

SEC. 3052. TAMPA HARBOR-BIG BEND CHANNEL, FLORIDA.

The project for navigation, Tampa Harbor-Big Bend Channel, Florida, authorized by section 101(a)(18) of the Water Resources Development Act of 1999 (113 Stat. 276) is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3053. TAMPA HARBOR CUT B, FLORIDA.

(a) IN GENERAL.—The project for navigation, Tampa Harbor, Florida, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1818), is modified to authorize the Secretary to construct passing lanes in an area approximately 3.5 miles long and centered on Tampa Harbor Cut B if the Secretary determines that such improvements are necessary for navigation safety.

(b) GENERAL REEVALUATION REPORT.—The non-Federal share of the cost of the general reevaluation report for Tampa Harbor, Florida, being conducted on June 1, 2005, shall be the same percentage as the non-Federal share of the cost of construction of the project.

(c) AGREEMENT.—The Secretary shall enter into a new partnership agreement with the non-Federal interest to reflect the cost sharing required by subsection (b).

SEC. 3054. ALLATOONA LAKE, GEORGIA.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—The Secretary may exchange land above 863 feet in elevation at Allatoona Lake, Georgia, identified in the Real Estate Design Memorandum prepared by the Mobile district engineer, April 5, 1996, and approved October 8, 1996, for land on the north side of Allatoona Lake that is required for wildlife management and protection of the water quality and overall environment of Allatoona Lake.

(2) **TERMS AND CONDITIONS.**—The basis for all land exchanges under this subsection shall be a fair market appraisal to ensure that land exchanged is of equal value.

(b) **DISPOSAL AND ACQUISITION OF LAND, ALLATOONA LAKE, GEORGIA.**—

(1) **IN GENERAL.**—The Secretary may—

(A) sell land above 863 feet in elevation at Allatoona Lake, Georgia, identified in the memorandum referred to in subsection (a)(1); and

(B) use the proceeds of the sale, without further appropriation, to pay costs associated with the purchase of land required for wildlife management and protection of the water quality and overall environment of Allatoona Lake.

(2) **TERMS AND CONDITIONS.**—

(A) **WILLING SELLERS.**—Land acquired under this subsection shall be by negotiated purchase from willing sellers only.

(B) **BASIS.**—The basis for all transactions under this subsection shall be a fair market value appraisal acceptable to the Secretary.

(C) **SHARING OF COSTS.**—Each purchaser of land under this subsection shall share in the associated costs of the purchase, including surveys and associated fees in accordance with the memorandum referred to in subsection (a)(1).

(D) **OTHER CONDITIONS.**—The Secretary may impose on the sale and purchase of land under this subsection such other conditions as the Secretary determines to be appropriate.

(c) **REPEAL.**—Section 325 of the Water Resources Development Act of 1992 (106 Stat. 4849) is repealed.

SEC. 3055. LATHAM RIVER, GLYNN COUNTY, GEORGIA.

The maximum amount of Federal funds that may be expended for the project for improvement of the quality of the environment, Latham River, Glynn County, Georgia, being carried out under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a) shall be \$6,175,000.

SEC. 3056. DWORSHAK RESERVOIR IMPROVEMENTS, IDAHO.

(a) **IN GENERAL.**—The Secretary shall carry out additional general construction measures to allow for operation at lower pool levels to satisfy the recreation mission at Dworshak Dam, Idaho.

(b) **IMPROVEMENTS.**—In carrying out subsection (a), the Secretary shall provide for appropriate improvements to—

(1) facilities that are operated by the Corps of Engineers; and

(2) facilities that, as of the date of enactment of this Act, are leased, permitted, or licensed for use by others.

(c) **COST SHARING.**—The Secretary shall carry out this section through a cost-sharing program with Idaho State parks and recreation department at a total estimated project cost of \$5,300,000. Notwithstanding section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2313), the Federal share of such cost shall be 75 percent.

SEC. 3057. LITTLE WOOD RIVER, GOODING, IDAHO.

(a) **IN GENERAL.**—The project for flood control, Gooding, Idaho, constructed under the emergency conservation work program established under the Act of March 31, 1933 (16 U.S.C. 585 et seq.), is modified—

(1) to direct the Secretary to rehabilitate the Gooding Channel project for the purposes of flood control and ecosystem restoration if the Secretary determines that such rehabilitation is not required as a result of improper operation and maintenance of the project by the non-Federal interest and that the rehabilitation and ecosystem restoration is feasible; and

(2) to direct the Secretary to plan, design, and construct the project at a total cost of \$9,000,000.

(b) **COST SHARING.**—

(1) **IN GENERAL.**—Costs for reconstruction of a project under this section shall be shared by the Secretary and the non-Federal interest in the same percentages as the costs of construction of the original project were shared.

(2) **OPERATION, MAINTENANCE, AND REPAIR COSTS.**—The costs of operation, maintenance, repair, and rehabilitation of a project carried out under this section shall be a non-Federal responsibility.

(c) **ECONOMIC JUSTIFICATION.**—Reconstruction efforts and activities carried out under this section shall not require economic justification.

SEC. 3058. BEARDSTOWN COMMUNITY BOAT HARBOR, BEARDSTOWN, ILLINOIS.

(a) **IN GENERAL.**—The project for navigation, Muscooten Bay, Illinois River, Beardstown Community Boat Harbor, Beardstown, Illinois, constructed under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), is modified—

(1) to include the channel between the harbor and the Illinois River; and

(2) to direct the Secretary to enter into a partnership agreement with the city of Beardstown to replace the local cooperation agreement dated August 18, 1983, with the Beardstown Community Park District.

(b) **TERMS OF PARTNERSHIP AGREEMENT.**—The partnership agreement referred to in subsection (a) shall include the same rights and responsibilities as the local cooperation agreement dated August 18, 1983, changing only the identity of the non-Federal sponsor.

(c) **MAINTENANCE.**—Following execution of the partnership agreement referred to in subsection (a), the Secretary may carry out maintenance of the project referred to in subsection (a) on an annual basis.

SEC. 3059. CACHE RIVER LEVEE, ILLINOIS.

The Cache River Levee constructed for flood control at the Cache River, Illinois, and authorized by the Act of June 28, 1938 (52 Stat. 1217), is modified to add environmental restoration as a project purpose.

SEC. 3060. CHICAGO RIVER, ILLINOIS.

The Federal navigation channel for the North Branch Channel portion of the Chicago River authorized by section 22 of the Act

of March 3, 1899 (30 Stat. 1156), extending from 100 feet downstream of the Halsted Street Bridge to 100 feet upstream of the Division Street Bridge, Chicago, Illinois, shall be no wider than 66 feet.

SEC. 3061. CHICAGO SANITARY AND SHIP CANAL DISPERSAL BARRIERS PROJECT, ILLINOIS.

(a) **TREATMENT AS SINGLE PROJECT.**—The Chicago Sanitary and Ship Canal Dispersal Barrier Project (in this section referred to as “Barrier I”), as in existence on the date of enactment of this Act and constructed as a demonstration project under section 1202(i)(3) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4722(i)(3)), and the project relating to the Chicago Sanitary and Ship Canal Dispersal Barrier, authorized by section 345 of the District of Columbia Appropriations Act, 2005 (Public Law 108–335; 118 Stat. 1352) (in this section referred to as “Barrier II”) shall be considered to constitute a single project.

(b) **AUTHORIZATION.**—

(1) **IN GENERAL.**—The Secretary, at Federal expense, shall—

(A) upgrade and make permanent Barrier I;

(B) construct Barrier II, notwithstanding the project cooperation agreement with the State of Illinois dated June 14, 2005;

(C) operate and maintain Barrier I and Barrier II as a system to optimize effectiveness;

(D) conduct, in consultation with appropriate Federal, State, local, and nongovernmental entities, a study of a range of options and technologies for reducing impacts of hazards that may reduce the efficacy of the Barriers; and

(E) provide to each State a credit in an amount equal to the amount of funds contributed by the State toward Barrier II.

(2) **USE OF CREDIT.**—A State may apply a credit provided to the State under paragraph (1)(E) to any cost sharing responsibility for an existing or future Federal project carried out by the Secretary in the State.

(c) **CONFORMING AMENDMENT.**—Section 345 of the District of Columbia Appropriations Act, 2005 (Public Law 108–335; 118 Stat. 1352) is amended to read as follows:

“SEC. 345. CHICAGO SANITARY AND SHIP CANAL DISPERSAL BARRIER, ILLINOIS.

“There are authorized to be appropriated such sums as may be necessary to carry out the Barrier II element of the project for the Chicago Sanitary and Ship Canal Dispersal Barrier, Illinois, initiated pursuant to section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note; 100 Stat. 4251).”

Appropriation
authorization.

(d) **FEASIBILITY STUDY.**—The Secretary, in consultation with appropriate Federal, State, local, and nongovernmental entities, shall conduct, at Federal expense, a feasibility study of the range of options and technologies available to prevent the spread of aquatic nuisance species between the Great Lakes and Mississippi River Basins through the Chicago Sanitary and Ship Canal and other aquatic pathways.

SEC. 3062. EMIQUON, ILLINOIS.

(a) **MAXIMUM AMOUNT.**—The maximum amount of Federal funds that may be expended for the project for aquatic ecosystem restoration, Emiquon, Illinois, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), shall be \$7,500,000.

(b) **LIMITATION.**—Nothing in this section shall affect the eligibility of the project for emergency repair assistance under section 5 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes”, approved August 18, 1941 (33 U.S.C. 701n).

SEC. 3063. LASALLE, ILLINOIS.

In carrying out section 312 of the Water Resources Development Act of 1990 (104 Stat. 4639–4640), the Secretary shall give priority to work in the vicinity of LaSalle, Illinois, on the Illinois and Michigan Canal.

SEC. 3064. SPUNKY BOTTOMS, ILLINOIS.

(a) **PROJECT PURPOSE.**—The project for flood control, Spunky Bottoms, Illinois, authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1583), is modified to add environmental restoration as a project purpose.

(b) **MAXIMUM AMOUNT.**—The maximum amount of Federal funds that may be expended for the project for improvement of the quality of the environment, Spunky Bottoms, Illinois, being carried out under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), shall be \$7,500,000.

(c) **LIMITATION.**—Nothing in this section shall affect the eligibility of the project for emergency repair assistance under section 5 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes”, approved August 18, 1941 (33 U.S.C. 701n).

(d) **POST CONSTRUCTION MONITORING AND MANAGEMENT.**—Of the Federal funds expended under subsection (b), not less than \$500,000 shall remain available for a period of 5 years after the date of completion of construction of the modifications for use in carrying out post construction monitoring and adaptive management.

SEC. 3065. CEDAR LAKE, INDIANA.

(a) **IN GENERAL.**—The Secretary is authorized to plan, design, and construct an aquatic ecosystem restoration project at Cedar Lake, Indiana.

(b) **COMPLETE FEASIBILITY REPORT.**—In planning the project authorized by subsection (a), the Secretary shall expedite completion of the feasibility report for the project for aquatic ecosystem restoration and protection, Cedar Lake, Indiana, initiated pursuant to section 206 of the Water Resources Development Act 1996 (33 U.S.C. 2330).

(c) **AUTHORIZATION.**—

(1) **IN GENERAL.**—There is authorized to be appropriated \$11,050,000 to carry out the activities authorized by this section.

(2) **OTHER.**—The Secretary is authorized to use funds previously appropriated for the project for aquatic ecosystem restoration and protection, Cedar Lake, Indiana, under section

206 of the Water Resources Development Act 1996 (33 U.S.C. 2330) to carry out the activities authorized by this section.

SEC. 3066. KOONTZ LAKE, INDIANA.

The project for aquatic ecosystem restoration, Koontz Lake, Indiana, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330) and modified by section 520 of the Water Resources Development Act of 2000 (114 Stat. 2655), is modified to direct the Secretary to seek to reduce the cost of the project by using innovative technologies and cost reduction measures determined from a review of non-Federal lake dredging projects in the vicinity of Koontz Lake.

SEC. 3067. WHITE RIVER, INDIANA.

The project for flood control, Indianapolis on West Fork of White River, Indiana, authorized by section 5 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes”, approved June 22, 1936 (49 Stat. 1586), and modified by section 323 of the Water Resources Development Act of 1996 (110 Stat. 3716) and section 322 of the Water Resources Development Act of 1999 (113 Stat. 303), is modified—

(1) to authorize the Secretary to carry out the ecosystem restoration, recreation, and flood damage reduction components described in the Central Indianapolis Waterfront Concept Plan, dated February 1994, and revised by the Master Plan Revision Central Indianapolis Waterfront, dated April 2004, at a total cost of \$28,545,000; and

(2) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3068. DES MOINES RIVER AND GREENBELT, IOWA.

The project for the Des Moines Recreational River and Greenbelt, Iowa, authorized by Public Law 99–88 and modified by section 604 of the Water Resources Development Act of 1986 (100 Stat. 4153), is modified to authorize the Secretary to carry out ecosystem restoration, recreation, and flood damage reduction components of the project, at a Federal cost of \$10,000,000.

SEC. 3069. PERRY CREEK, IOWA.

(a) **IN GENERAL.**—On making a determination described in subsection (b), the Secretary shall increase the Federal contribution by up to \$4,000,000 for the project for flood control, Perry Creek, Iowa, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4116) and modified by section 151 of the Energy and Water Development Appropriations Act, 2004 (117 Stat. 1844).

(b) **DETERMINATION.**—A determination referred to in subsection (a) is a determination that a modification to the project described in subsection (a) is necessary for the Federal Emergency Management Agency to certify that the project provides flood damage reduction benefits to at least a 100-year level of flood protection.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$4,000,000.

Certification.

SEC. 3070. RATHBUN LAKE, IOWA.

(a) **RIGHT OF FIRST REFUSAL.**—The Secretary shall provide, in accordance with the recommendations in the Rathbun Lake Reallocation Report approved by the Chief of Engineers on July 22, 1985, the Rathbun Regional Water Association with the right of first refusal to contract for or purchase any increment of the remaining allocation of 8,320 acre-feet of water supply storage in Rathbun Lake, Iowa.

(b) **PAYMENT OF COST.**—The Rathbun Regional Water Association shall pay the cost of any water supply storage allocation provided under subsection (a).

SEC. 3071. HICKMAN BLUFF STABILIZATION, KENTUCKY.

The project for Hickman Bluff, Kentucky, authorized by chapter II of title II of the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (109 Stat. 85), is modified to authorize the Secretary to repair and restore the project, at Federal expense, with no further economic studies or analyses, at a total cost of not more than \$250,000.

SEC. 3072. MCALPINE LOCK AND DAM, KENTUCKY AND INDIANA.

Section 101(a)(10) of the Water Resources Development Act of 1990 (104 Stat. 4606) is amended by striking “\$219,600,000” each place it appears and inserting “\$430,000,000”.

SEC. 3073. PRESTONSBURG, KENTUCKY.

The Prestonsburg, Kentucky, element of the project for flood control, Levisa and Tug Fork of the Big Sandy and Cumberland Rivers, West Virginia, Virginia, and Kentucky, authorized by section 202(a) of the Energy and Water Development Appropriations Act, 1981 (94 Stat. 1339), is modified to direct the Secretary to take measures to provide a 100-year level of flood protection for the city of Prestonsburg.

SEC. 3074. AMITE RIVER AND TRIBUTARIES, LOUISIANA, EAST BATON ROUGE PARISH WATERSHED.

The project for flood damage reduction and recreation, Amite River and Tributaries, Louisiana, East Baton Rouge Parish Watershed, authorized by section 101(a)(21) of the Water Resources Development Act of 1999 (113 Stat. 277) and modified by section 116 of division D of Public Law 108–7 (117 Stat. 140), is further modified—

(1) to direct the Secretary to carry out the project with the cost sharing for the project determined in accordance with section 103(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(a)), as in effect on October 11, 1996;

(2) to authorize the Secretary to construct the project at a total cost of \$187,000,000; and

(3) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3075. ATCHAFALAYA BASIN FLOODWAY SYSTEM, LOUISIANA.

(a) **ACQUISITION OF ADDITIONAL LAND.**—The public access feature of the project for flood control, Atchafalaya Basin Floodway System, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142), is modified to authorize the Secretary to acquire from willing sellers the fee interest (exclusive of oil, gas, and minerals) of an additional 20,000 acres of land in the Lower Atchafalaya Basin Floodway for such feature.

(b) **MODIFICATION.**—

(1) **IN GENERAL.**—Subject to paragraph (2), effective November 17, 1986, the \$32,000,000 limitation on the maximum Federal expenditure for the first costs of the public access feature referred to in subsection (a) shall not apply.

(2) **COST.**—The modification under paragraph (1) shall not increase the total authorized cost of the project referred to in subsection (a).

(c) **TECHNICAL AMENDMENT.**—Section 315(a)(2) of the Water Resources Development Act of 2000 (114 Stat. 2603) is amended by inserting before the period at the end the following: “and shall consider Eagle Point Park, Jeanerette, Louisiana, and the town of Melville, Louisiana, as site alternatives for such recreation features”.

SEC. 3076. ATCHAFALAYA BASIN FLOODWAY SYSTEM, REGIONAL VISITOR CENTER, LOUISIANA.

(a) **PROJECT FOR FLOOD CONTROL.**—Notwithstanding paragraph (3) of the report of the Chief of Engineers dated February 28, 1983 (relating to recreational development in the Lower Atchafalaya Basin Floodway), the Secretary shall carry out the project for flood control, Atchafalaya Basin Floodway System, Louisiana, authorized by chapter IV of title I of the Supplemental Appropriations Act, 1985 (99 Stat. 313) and section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142).

(b) **VISITORS CENTER.**—

(1) **IN GENERAL.**—The Secretary, in consultation with the State of Louisiana, shall study, design, and construct a type A regional visitors center in the vicinity of Morgan City, Louisiana. Study.

(2) **COST SHARING.**—

(A) **COST OF TYPE B VISITORS CENTER.**—The cost of construction of the visitors center up to the cost of construction of a type B visitors center shall be shared in accordance with the recreation cost-sharing requirement of section 103(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(c)).

(B) **COST OF UPGRADING.**—The non-Federal share of the cost of upgrading the visitors center from a type B to type A regional visitors center shall be 100 percent.

(C) **OPERATION AND MAINTENANCE.**—The cost of operation and maintenance of the visitors center shall be a Federal responsibility.

(3) **DONATIONS.**—In carrying out the project under this subsection, the Mississippi River Commission may accept the donation of cash or other funds, land, materials, and services from any non-Federal government entity or nonprofit corporation, as the Commission determines to be appropriate.

SEC. 3077. ATCHAFALAYA RIVER AND BAYOUS CHENE, BOEUF, AND BLACK, LOUISIANA.

The project for navigation, Atchafalaya River and Bayous Chene, Boeuf, and Black, Louisiana, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731), is modified to authorize the Secretary to deepen up to a 1000-foot section of the area on the Gulf Intracoastal Waterway west of the Bayou Boeuf Lock and east of the intersection of the Atchafalaya River, at a cost not to exceed \$200,000, to provide for ingress and egress to the port of Morgan City at a depth not to exceed 20 feet.

SEC. 3078. BAYOU PLAQUEMINE, LOUISIANA.

The project for the improvement of the quality of the environment, Bayou Plaquemine, Louisiana, being carried out under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3079. CALCASIEU RIVER AND PASS, LOUISIANA.

The project for the Calcasieu River and Pass, Louisiana, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 481), is modified to authorize the Secretary to provide \$3,000,000 for each fiscal year, in a total amount of \$15,000,000, for such rock bank protection of the Calcasieu River from mile 5 to mile 16 as the Secretary determines to be advisable to reduce maintenance dredging needs and facilitate protection of disposal areas for the Calcasieu River and Pass, Louisiana, if the Secretary determines that the rock bank protection is feasible.

SEC. 3080. RED RIVER (J. BENNETT JOHNSTON) WATERWAY, LOUISIANA.

The project for mitigation of fish and wildlife losses, Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142) and modified by section 4(h) of the Water Resources Development Act of 1988 (102 Stat. 4016), section 102(p) of the Water Resources Development Act of 1990 (104 Stat. 4613), section 301(b)(7) of the Water Resources Development Act of 1996 (110 Stat. 3710), and section 316 of the Water Resources Development Act of 2000 (114 Stat. 2604), is modified—

- (1) to authorize the Secretary to carry out the project at a total cost of \$33,912,000;
- (2) to authorize the purchase and reforestation of lands that have been cleared or converted to agricultural uses (in addition to the purchase of bottomland hardwood); and
- (3) to incorporate wildlife and forestry management practices to improve species diversity on mitigation land that meets habitat goals and objectives of the United States and the State of Louisiana.

SEC. 3081. MISSISSIPPI DELTA REGION, LOUISIANA.

The Mississippi Delta Region project, Louisiana, authorized as part of the project for hurricane-flood protection on Lake Pontchartrain, Louisiana, by section 204 of the Flood Control Act of 1965 (79 Stat. 1077) and modified by section 365 of the Water

Resources Development Act of 1996 (110 Stat. 3739), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the costs of relocating oyster beds in the Davis Pond project area.

SEC. 3082. MISSISSIPPI RIVER-GULF OUTLET RELOCATION ASSISTANCE, LOUISIANA.

(a) PORT FACILITIES RELOCATION.—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Assistant Secretary for Economic Development (referred to in this section as the “Assistant Secretary”) \$75,000,000, to remain available until expended, to support the relocation of Port of New Orleans deep draft facilities from the Mississippi River-Gulf Outlet (referred to in this section as the “Outlet”), the Gulf Intracoastal Waterway, and the Inner Harbor Navigation Canal to the Mississippi River.

(2) ADMINISTRATION.—

(A) **IN GENERAL.**—Amounts appropriated pursuant to paragraph (1) shall be administered by the Assistant Secretary pursuant to sections 209(c)(2) and 703 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)(2), 3233).

(B) **REQUIREMENT.**—The Assistant Secretary shall make amounts appropriated pursuant to paragraph (1) available to the Port of New Orleans to relocate to the Mississippi River within the State of Louisiana the port-owned facilities that are occupied by businesses in the vicinity that may be impacted due to the treatment of the Outlet under title VII of this Act.

(b) **REVOLVING LOAN FUND GRANTS.**—There is authorized to be appropriated to the Assistant Secretary \$85,000,000, to remain available until expended, to provide assistance pursuant to sections 209(c)(2) and 703 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)(2), 3233) to one or more eligible recipients under such Act to establish revolving loan funds to make loans for terms up to 20 years at or below market interest rates (including interest-free loans) to private businesses within the Port of New Orleans that may need to relocate to the Mississippi River within the State of Louisiana due to the treatment of the Outlet under title VII of this Act.

Appropriation
authorization.

(c) **REQUIREMENTS.**—In selecting one or more recipients under subsection (b), the Assistant Secretary shall ensure that each recipient has established procedures to target lending to businesses that will be directly and substantially impacted by the treatment of the Mississippi River-Gulf Outlet under title VII of this Act.

(d) **COORDINATION WITH SECRETARY.**—The Assistant Secretary shall ensure that the programs described in subsections (a) and (b) are coordinated with the Secretary to ensure that facilities are relocated in a manner that is consistent with the analysis and design of comprehensive hurricane protection authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247).

(e) **ADMINISTRATIVE EXPENSES.**—The Assistant Secretary may use up to 2 percent of the amounts made available under subsections (a) and (b) for administrative expenses.

SEC. 3083. VIOLET, LOUISIANA.

(a) **VIOLET DIVERSION PROJECT.**—The Secretary shall design and implement a project for a diversion of freshwater at or near Violet, Louisiana, for the purposes of reducing salinity in the western Mississippi Sound, enhancing oyster production, and promoting the sustainability of coastal wetlands.

(b) **SALINITY LEVELS.**—The project shall be designed to meet, or maximize the ability to meet, the salinity levels identified in the feasibility study of the Corps of Engineers entitled “Mississippi and Louisiana Estuarine Areas: Freshwater Diversion to Lake Pontchartrain Basin and Mississippi Sound” and dated 1984.

(c) **ADDITIONAL MEASURES.**—

(1) **RECOMMENDATIONS.**—If the Secretary determines that the diversion of freshwater at or near Violet, Louisiana, will not restore salinity levels to meet the requirements of subsection (b), the Secretary shall recommend additional measures for freshwater diversions sufficient to meet those levels.

(2) **IMPLEMENTATION.**—The Secretary shall implement measures included in the recommendations developed under paragraph (1) beginning 60 days after the date on which a report containing the recommendations is provided to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) **NON-FEDERAL FINANCING REQUIREMENTS.**—

(1) **ESTIMATES.**—Before October 1 of each fiscal year, the Secretary shall notify the States of Louisiana and Mississippi of each State’s respective estimated costs for that fiscal year for the activities authorized under this section.

(2) **ESCROW.**—The States of Louisiana and Mississippi shall provide the funds described in paragraph (1) by making a deposit into an escrow account, or such other account, of the Treasury as the Secretary determines to be acceptable within 30 days after the date of receipt of the notification from the Secretary under paragraph (1).

(3) **DEPOSITS BY LOUISIANA.**—

(A) **USE OF CERTAIN FUNDS.**—The State of Louisiana may use funds available to the State under the coastal impact assistance program authorized under section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) in meeting its cost-sharing responsibilities under this section.

(B) **FAILURE TO PROVIDE FUNDS.**—

(i) **IN GENERAL.**—If the State of Louisiana does not provide the funds under paragraph (2), the Secretary of the Interior, using funds to be disbursed to the State under the program referred to in subparagraph (A) or under the Gulf of Mexico Energy Security Act of 2006 (title I of Division C of Public Law 109–432; (43 U.S.C. 1331 note; 120 Stat. 3000)), shall deposit such funds as are necessary to meet the requirements for the State under paragraph (2).

(ii) **DEADLINE FOR DEPOSIT.**—Any deposit required under clause (i) shall be made prior to any other disbursements made to the State of Louisiana under the programs referred to in clause (i).

Effective date.
Reports.

Deadline.
Notification.
Mississippi.

(C) EXCEPTION.—The State of Louisiana shall not be required to make a deposit of its share in any fiscal year in which the State of Mississippi does not make its deposit following a notification under paragraph (1) or the State of Mississippi notifies the Secretary that it does not intend to make a deposit in that fiscal year.

(4) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project for the costs of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(5) FEDERAL SHARE.—The Federal share of the cost of the project authorized by subsection (a) shall be 75 percent.

(e) SCHEDULE.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall complete the design of the project not later than 2 years after the date of enactment of this Act and shall complete the construction of the project by not later than September 30, 2012.

Deadlines.

(2) MISSED DEADLINE.—If the Secretary does not complete the design or construction of the project in accordance with paragraph (1), the Secretary shall complete the design or construction as expeditiously as possible.

SEC. 3084. WEST BANK OF THE MISSISSIPPI RIVER (EAST OF HARVEY CANAL), LOUISIANA.

Section 328 of the Water Resources Development Act of 1999 (113 Stat. 304–305) is amended—

(1) in subsection (a)—

(A) by striking “operation and maintenance” and inserting “operation, maintenance, rehabilitation, repair, and replacement”; and

(B) by striking “Algiers Channel” and inserting “Algiers Canal Levees”; and

(2) by adding at the end the following:

“(c) COST SHARING.—The non-Federal share of the cost of the project shall be 35 percent.”.

SEC. 3085. CAMP ELLIS, SACO, MAINE.

The maximum amount of Federal funds that may be expended for the project being carried out under section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i) for the mitigation of shore damages attributable to the project for navigation, Camp Ellis, Saco, Maine, shall be \$26,900,000.

SEC. 3086. CUMBERLAND, MARYLAND.

Section 580(a) of the Water Resources Development Act of 1999 (113 Stat. 375) is amended—

(1) by striking “\$15,000,000” and inserting “\$25,750,000”;

(2) by striking “\$9,750,000” and inserting “\$16,738,000”;

and

(3) by striking “\$5,250,000” and inserting “\$9,012,000”.

SEC. 3087. POPLAR ISLAND, MARYLAND.

The project for navigation and environmental restoration through the beneficial use of dredged material, Poplar Island, Maryland, authorized by section 537 of the Water Resources Development

Act of 1996 (110 Stat. 3776) and modified by section 318 of the Water Resources Development Act of 2000 (114 Stat. 2604), is modified to authorize the Secretary to construct the expansion of the project in accordance with the report of the Chief of Engineers dated March 31, 2006, at an additional total cost of \$260,000,000, with an estimated Federal cost of \$195,000,000 and an estimated non-Federal cost of \$65,000,000.

SEC. 3088. DETROIT RIVER SHORELINE, DETROIT, MICHIGAN.

(a) **IN GENERAL.**—The project for emergency streambank and shoreline protection, Detroit River Shoreline, Detroit, Michigan, being carried out under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), is modified to include measures to enhance public access.

(b) **MAXIMUM FEDERAL EXPENDITURE.**—The maximum amount of Federal funds that may be expended for the project shall be \$3,000,000.

SEC. 3089. ST. CLAIR RIVER AND LAKE ST. CLAIR, MICHIGAN.

Section 426 of the Water Resources Development Act of 1999 (113 Stat. 326) is amended to read as follows:

“SEC. 426. ST. CLAIR RIVER AND LAKE ST. CLAIR, MICHIGAN.

“(a) **DEFINITIONS.**—In this section, the following definitions apply:

“(1) **MANAGEMENT PLAN.**—The term ‘management plan’ means the management plan for the St. Clair River and Lake St. Clair, Michigan, that is in effect as of the date of enactment of the Water Resources Development Act of 2007.

“(2) **PARTNERSHIP.**—The term ‘Partnership’ means the partnership established by the Secretary under subsection (b)(1).

“(b) **PARTNERSHIP.**—

“(1) **IN GENERAL.**—The Secretary shall establish and lead a partnership of appropriate Federal agencies (including the Environmental Protection Agency) and the State of Michigan (including political subdivisions of the State)—

“(A) to promote cooperation among the Federal Government, State and local governments, and other involved parties in the management of the St. Clair River and Lake St. Clair watersheds; and

“(B) to develop and implement projects consistent with the management plan.

“(2) **COORDINATION WITH ACTIONS UNDER OTHER LAW.**—

“(A) **IN GENERAL.**—Actions taken under this section by the Partnership shall be coordinated with actions to restore and conserve the St. Clair River and Lake St. Clair and watersheds taken under other provisions of Federal and State law.

“(B) **NO EFFECT ON OTHER LAW.**—Nothing in this section alters, modifies, or affects any other provision of Federal or State law.

“(c) **IMPLEMENTATION OF ST. CLAIR RIVER AND LAKE ST. CLAIR MANAGEMENT PLAN.**—

“(1) **IN GENERAL.**—The Secretary shall—

“(A) develop a St. Clair River and Lake St. Clair strategic implementation plan in accordance with the management plan;

“(B) provide technical, planning, and engineering assistance to non-Federal interests for developing and implementing activities consistent with the management plan;

“(C) plan, design, and implement projects consistent with the management plan; and

“(D) provide, in coordination with the Administrator of the Environmental Protection Agency, financial and technical assistance, including grants, to the State of Michigan (including political subdivisions of the State) and interested nonprofit entities for the Federal share of the cost of planning, design, and implementation of projects to restore, conserve, manage, and sustain the St. Clair River, Lake St. Clair, and associated watersheds.

“(2) SPECIFIC MEASURES.—Financial and technical assistance provided under subparagraphs (B) and (C) of paragraph (1) may be used in support of non-Federal activities consistent with the management plan.

“(d) SUPPLEMENTS TO MANAGEMENT PLAN AND STRATEGIC IMPLEMENTATION PLAN.—In consultation with the Partnership and after providing an opportunity for public review and comment, the Secretary shall develop information to supplement—

“(1) the management plan; and

“(2) the strategic implementation plan developed under subsection (c)(1)(A).

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$20,000,000.”.

SEC. 3090. ST. JOSEPH HARBOR, MICHIGAN.

The Secretary shall expedite development of the dredged material management plan for the project for navigation, St. Joseph Harbor, Michigan, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 299).

SEC. 3091. SAULT SAINTE MARIE, MICHIGAN.

(a) IN GENERAL.—The text of section 1149 of the Water Resources Development Act of 1986 (100 Stat. 4254) is amended to read as follows:

“The Secretary shall construct, at Federal expense, a second lock, of a width not less than 110 feet and a length not less than 1,200 feet, adjacent to the existing lock at Sault Sainte Marie, Michigan, generally in accordance with the report of the Board of Engineers for Rivers and Harbors, dated May 19, 1986, and the limited reevaluation report dated February 2004 at a total cost of \$341,714,000.”.

(b) CONFORMING REPEALS.—The following provisions are repealed:

(1) Section 107(a)(8) of the Water Resources Development Act of 1990 (104 Stat. 4620).

(2) Section 330 of the Water Resources Development Act of 1996 (110 Stat. 3717).

(3) Section 330 of the Water Resources Development Act of 1999 (113 Stat. 305).

SEC. 3092. ADA, MINNESOTA.

In carrying out the project for flood damage reduction, Wild Rice River, Ada, Minnesota, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), the Secretary shall allow the non-

Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184) if the detailed project report evaluation indicates that applying such section is necessary to implement the project.

SEC. 3093. DULUTH HARBOR, MCQUADE ROAD, MINNESOTA.

(a) **IN GENERAL.**—The project for navigation, Duluth Harbor, McQuade Road, Minnesota, being carried out under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) and modified by section 321 of the Water Resources Development Act of 2000 (114 Stat. 2605), is modified to direct the Secretary to provide public access and recreational facilities as generally described in the Detailed Project Report and Environmental Assessment, McQuade Road Harbor of Refuge, Duluth, Minnesota, dated August 1999.

(b) **CREDIT.**—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project for the costs of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(c) **MAXIMUM FEDERAL EXPENDITURE.**—The maximum amount of Federal funds that may be expended for the project shall be \$9,000,000.

SEC. 3094. GRAND MARAIS, MINNESOTA.

The project for navigation, Grand Marais, Minnesota, carried out under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design work carried out for the project before the date of the partnership agreement for the project.

SEC. 3095. GRAND PORTAGE HARBOR, MINNESOTA.

The Secretary shall provide credit in accordance with section 221 of the Flood Control Act (42 U.S.C. 1962d–5b) toward the non-Federal share of the cost of the navigation project for Grand Portage Harbor, Minnesota, carried out under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), for the costs of design work carried out for the project before the date of the partnership agreement for the project.

SEC. 3096. GRANITE FALLS, MINNESOTA.

(a) **IN GENERAL.**—The Secretary is directed to implement the locally preferred plan for flood damage reduction, Granite Falls, Minnesota, at a total cost of \$12,000,000, with an estimated Federal cost of \$8,000,000 and an estimated non-Federal cost of \$4,000,000. In carrying out the project, the Secretary shall utilize, to the extent practicable, the existing detailed project report dated 2002 for the project prepared under the authority of section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(b) **PROJECT FINANCING.**—In evaluating and implementing the project under this section, the Secretary shall allow the non-Federal interests to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184) if the detailed project report evaluation

indicates that applying such section is necessary to implement the project.

(c) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the project the cost of design and construction work carried out by the non-Federal interest for the project before the date of execution of a partnership agreement for the project.

(d) MAXIMUM FUNDING.—The maximum amount of Federal funds that may be expended for the flood damage reduction shall be \$8,000,000.

SEC. 3097. KNIFE RIVER HARBOR, MINNESOTA.

The project for navigation, Harbor at Knife River, Minnesota, authorized by section 2 of the Rivers and Harbors Act of March 2, 1945 (59 Stat. 19), is modified to direct the Secretary to develop a final design and prepare plans and specifications to correct the harbor entrance and mooring conditions at the project.

SEC. 3098. RED LAKE RIVER, MINNESOTA.

The project for flood control, Red Lake River, Crookston, Minnesota, authorized by section 101(a)(23) of the Water Resources Development Act of 1999 (113 Stat. 278), is modified to include flood protection for the adjacent and interconnected areas generally known as the Sampson and Chase/Loring neighborhoods, in accordance with the feasibility report supplement for local flood protection, Crookston, Minnesota, at a total cost of \$25,000,000, with an estimated Federal cost of \$16,250,000 and an estimated non-Federal cost of \$8,750,000.

SEC. 3099. SILVER BAY, MINNESOTA.

The project for navigation, Silver Bay, Minnesota, authorized by section 2 of the Rivers and Harbors Act of March 2, 1945 (59 Stat. 19), is modified to include operation and maintenance of the general navigation facilities as a Federal responsibility.

SEC. 3100. TACONITE HARBOR, MINNESOTA.

The project for navigation, Taconite Harbor, Minnesota, carried out under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), is modified to include operation and maintenance of the general navigation facilities as a Federal responsibility.

SEC. 3101. TWO HARBORS, MINNESOTA.

(a) IN GENERAL.—Notwithstanding the requirements of section 107(a) of the River and Harbor Act of 1960 (33 U.S.C. 577(a)), the project for navigation, Two Harbors, Minnesota, being carried out under such authority, is justified on the basis of navigation safety.

(b) MAXIMUM FEDERAL EXPENDITURES.—The maximum amount of Federal funds that may be expended for the project shall be \$7,000,000.

SEC. 3102. DEER ISLAND, HARRISON COUNTY, MISSISSIPPI.

The project for ecosystem restoration, Deer Island, Harrison County, Mississippi, being carried out under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326), is modified to authorize the non-Federal interest to provide, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C.

1962d–5b), any portion of the non-Federal share of the cost of the project in the form of in-kind services and materials.

SEC. 3103. JACKSON COUNTY, MISSISSIPPI.

(a) **MODIFICATION.**—Section 331 of the Water Resources Development Act of 1999 (113 Stat. 305) is amended by striking “\$5,000,000” and inserting “\$9,000,000”.

(b) **APPLICABILITY OF CREDIT.**—The credit provided by section 331 of the Water Resources Development Act of 1999 (113 Stat. 305) (as amended by subsection (a) of this section) shall apply to costs incurred by the Jackson County Board of Supervisors during the period beginning on February 8, 1994, and ending on the date of enactment of this Act for projects authorized by section 219(c)(5) of the Water Resources Development Act of 1992 (106 Stat. 4835; 110 Stat. 3757; 113 Stat. 1494).

SEC. 3104. PEARL RIVER BASIN, MISSISSIPPI.

(a) **IN GENERAL.**—The project for flood damage reduction, Pearl River Basin, including Shoccoe, Mississippi, authorized by section 401(e)(3) of the Water Resources Development Act of 1986 (100 Stat. 4132), is modified to authorize the Secretary, subject to subsection (c), to construct the project generally in accordance with the plan described in the “Pearl River Watershed, Mississippi, Feasibility Study Main Report, Preliminary Draft”, dated February 2007, at a total cost of \$205,800,000, with an estimated Federal cost of \$133,770,000 and an estimated non-Federal cost of \$72,030,000.

(b) **COMPARISON OF ALTERNATIVES.**—Before initiating construction of the project, the Secretary shall compare the level of flood damage reduction provided by the plan that maximizes national economic development benefits of the project and the locally preferred plan, referred to as the LeFleur Lakes plan, to that portion of Jackson, Mississippi and vicinity, located below the Ross Barnett Reservoir Dam.

(c) **IMPLEMENTATION OF PLAN.**—

(1) **IN GENERAL.**—If the Secretary determines under subsection (b) that the locally preferred plan provides a level of flood damage reduction that is equal to or greater than the level of flood damage reduction provided by the national economic development plan and that the locally preferred plan is environmentally acceptable and technically feasible, the Secretary may construct the project identified as the national economic development plan, or the locally preferred plan, or some combination thereof.

(2) **CONSTRUCTION BY NON-FEDERAL INTERESTS.**—The non-Federal interest may carry out the project under section 211 of the Water Resources Development Act of 1996 (33 U.S.C. 701b–13).

(d) **PROJECT FINANCING.**—In evaluating and implementing the project under this section, the Secretary shall allow the non-Federal interests to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184) if the detailed project report evaluation indicates that applying such section is necessary to implement the project.

(e) **NON-FEDERAL COST SHARE.**—If the locally preferred plan is selected for construction of the project, the Federal share of the cost of the project shall be limited to the share as provided

by law for the elements of the national economic development plan.

SEC. 3105. FESTUS AND CRYSTAL CITY, MISSOURI.

Section 102(b)(1) of the Water Resources Development Act of 1999 (113 Stat. 282) is amended by striking “\$10,000,000” and inserting “\$13,000,000”.

SEC. 3106. L–15 LEVEE, MISSOURI.

The portion of the L–15 levee system that is under the jurisdiction of the Consolidated North County Levee District and situated along the right descending bank of the Mississippi River from the confluence of that river with the Missouri River and running upstream approximately 14 miles shall be considered to be a Federal levee for purposes of cost sharing under section 5 of the Act of August 18, 1941 (33 U.S.C. 701n).

SEC. 3107. MONARCH-CHESTERFIELD, MISSOURI.

The project for flood damage reduction, Monarch-Chesterfield, Missouri, authorized by section 101(b)(18) of the Water Resources Development Act of 2000 (114 Stat. 2578), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of the planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3108. RIVER DES PERES, MISSOURI.

The projects for flood control, River Des Peres, Missouri, authorized by section 101(a)(17) of the Water Resources Development Act of 1990 (104 Stat. 4607) and section 102(13) of the Water Resources Development Act of 1996 (110 Stat. 3668), are each modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3109. LOWER YELLOWSTONE PROJECT, MONTANA.

The Secretary may use funds appropriated to carry out the Missouri River recovery and mitigation program to assist the Bureau of Reclamation in the design and construction of the Lower Yellowstone project of the Bureau, Intake, Montana, for the purpose of ecosystem restoration.

SEC. 3110. YELLOWSTONE RIVER AND TRIBUTARIES, MONTANA AND NORTH DAKOTA.

(a) **DEFINITION OF RESTORATION PROJECT.**—In this section, the term “restoration project” means a project that will produce, in accordance with other Federal programs, projects, and activities, substantial ecosystem restoration and related benefits, as determined by the Secretary.

(b) **PROJECTS.**—The Secretary shall carry out, in accordance with other Federal programs, projects, and activities, restoration projects in the watershed of the Yellowstone River and tributaries in Montana, and in North Dakota, to produce immediate and substantial ecosystem restoration and recreation benefits.

(c) LOCAL PARTICIPATION.—In carrying out subsection (b), the Secretary shall—

(1) consult with, and consider the activities being carried out by—

- (A) other Federal agencies;
- (B) Indian tribes;
- (C) conservation districts; and
- (D) the Yellowstone River Conservation District Council; and

(2) seek the participation of the State of Montana.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$30,000,000.

SEC. 3111. ANTELOPE CREEK, LINCOLN, NEBRASKA.

The project for flood damage reduction, Antelope Creek, Lincoln, Nebraska, authorized by section 101(b)(19) of the Water Resources Development Act of 2000 (114 Stat. 2578), is modified—

(1) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

(2) to allow the non-Federal interest for the project to use, and to direct the Secretary to accept, funds provided under any other Federal program to satisfy, in whole or in part, the non-Federal share of the project if the Federal agency that provides such funds determines that the funds are authorized to be used to carry out the project.

SEC. 3112. SAND CREEK WATERSHED, WAHOO, NEBRASKA.

The project for ecosystem restoration and flood damage reduction, Sand Creek watershed, Wahoo, Nebraska, authorized by section 101(b)(20) of the Water Resources Development Act of 2000 (114 Stat. 2578), is modified—

(1) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project or reimbursement for the costs of any work performed by the non-Federal interest for the project before the approval of the project partnership agreement, including work performed by the non-Federal interest in connection with the design and construction of 7 upstream detention storage structures;

(2) to require that in-kind work to be credited under paragraph (1) be subject to audit; and

(3) to direct the Secretary to accept advance funds from the non-Federal interest as needed to maintain the project schedule.

SEC. 3113. WESTERN SARPY AND CLEAR CREEK, NEBRASKA.

The project for ecosystem restoration and flood damage reduction, Western Sarpy and Clear Creek, Nebraska, authorized by section 101(b)(21) of the Water Resources Development Act of 2000 (114 Stat. 2578), is modified to authorize the Secretary to construct the project at a total cost of \$21,664,000, with an estimated Federal cost of \$14,082,000 and an estimated non-Federal cost of \$7,582,000.

SEC. 3114. LOWER TRUCKEE RIVER, MCCARRAN RANCH, NEVADA.

The maximum amount of Federal funds that may be expended for the project being carried out, as of the date of enactment of this Act, under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a) for environmental restoration of McCarran Ranch, Nevada, shall be \$5,775,000.

SEC. 3115. LOWER CAPE MAY MEADOWS, CAPE MAY POINT, NEW JERSEY.

The project for navigation mitigation, ecosystem restoration, shore protection, and hurricane and storm damage reduction, Lower Cape May Meadows, Cape May Point, New Jersey, authorized by section 101(a)(25) of the Water Resources Development Act of 1999 (113 Stat. 278), is modified to incorporate the project for shoreline erosion control, Cape May Point, New Jersey, carried out under section 5 of the Act entitled “An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property”, approved August 13, 1946 (33 U.S.C. 426h), if the Secretary determines that such incorporation is feasible.

SEC. 3116. PASSAIC RIVER BASIN FLOOD MANAGEMENT, NEW JERSEY.

The project for flood control, Passaic River, New Jersey and New York, authorized by section 101(a)(18) of the Water Resources Development Act of 1990 (104 Stat. 4607) and modified by section 327 of the Water Resources Development Act of 2000 (114 Stat. 2607), is modified to direct the Secretary to include the benefits and costs of preserving natural flood storage in any future economic analysis of the project.

SEC. 3117. COOPERATIVE AGREEMENTS, NEW MEXICO.

The Secretary may enter into cooperative agreements with any Indian tribe any land of which is located in the State of New Mexico and occupied by a flood control project that is owned and operated by the Corps of Engineers to assist in carrying out any operation or maintenance activity associated with the flood control project.

SEC. 3118. MIDDLE RIO GRANDE RESTORATION, NEW MEXICO.

(a) **RESTORATION PROJECTS DEFINED.**—In this section, the term “restoration project” means a project that will produce, consistent with other Federal programs, projects, and activities, immediate and substantial ecosystem restoration and recreation benefits.

(b) **PROJECT SELECTION.**—The Secretary shall select and shall carry out restoration projects in the Middle Rio Grande from Cochiti Dam to the headwaters of Elephant Butte Reservoir in the State of New Mexico.

(c) **LOCAL PARTICIPATION.**—In carrying out subsection (b), the Secretary shall consult with, and consider the activities being carried out by—

(1) the Middle Rio Grande Endangered Species Act Collaborative Program; and

(2) the Bosque Improvement Group of the Middle Rio Grande Bosque Initiative.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$25,000,000 to carry out this section.

SEC. 3119. BUFFALO HARBOR, NEW YORK.

The project for navigation, Buffalo Harbor, New York, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1176), is modified to include measures to enhance public access, at Federal cost of \$500,000.

SEC. 3120. LONG ISLAND SOUND OYSTER RESTORATION, NEW YORK AND CONNECTICUT.

Plans.

(a) **IN GENERAL.**—The Secretary shall plan, design, and construct projects to increase aquatic habitats within Long Island Sound and adjacent waters, including the construction and restoration of oyster beds and related shellfish habitat.

(b) **COST SHARING.**—The non-Federal share of the cost of activities carried out under this section shall be 25 percent and may be provided through in-kind services and materials.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$25,000,000 to carry out this section.

SEC. 3121. MAMARONECK AND SHELDRAKE RIVERS WATERSHED MANAGEMENT, NEW YORK.

(a) **WATERSHED MANAGEMENT PLAN DEVELOPMENT.**—

(1) **IN GENERAL.**—The Secretary, in consultation with the State of New York and local entities, shall develop watershed management plans for the Mamaroneck and Sheldrake River watershed for the purposes of evaluating existing and new flood damage reduction and ecosystem restoration.

(2) **EXISTING PLANS.**—In developing the watershed management plans, the Secretary shall use existing studies and plans, as appropriate.

(b) **CRITICAL RESTORATION PROJECTS.**—

(1) **IN GENERAL.**—The Secretary may participate in any eligible critical restoration project in the Mamaroneck and Sheldrake Rivers watershed in accordance with the watershed management plans developed under subsection (a).

(2) **ELIGIBLE PROJECTS.**—A critical restoration project shall be eligible for assistance under this section if the project—

(A) meets the purposes described in the watershed management plans developed under subsection (a); and

(B) with respect to the Mamaroneck and Sheldrake Rivers watershed in New York, consists of flood damage reduction or ecosystem restoration through—

(i) bank stabilization of the mainstem, tributaries, and streams;

(ii) wetland restoration;

(iii) soil and water conservation;

(iv) restoration of natural flows;

(v) restoration of stream stability;

(vi) structural and nonstructural flood damage reduction measures; or

(vii) any other project or activity the Secretary determines to be appropriate.

(c) **COOPERATIVE AGREEMENTS.**—In carrying out this section, the Secretary may enter into one or more cooperative agreements to provide financial assistance to appropriate Federal, State, or local governments or nonprofit agencies, including assistance for the implementation of projects to be carried out under subsection (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$30,000,000, to remain available until expended.

SEC. 3122. ORCHARD BEACH, BRONX, NEW YORK.

Section 554 of the Water Resources Development Act of 1996 (110 Stat. 3781) is amended by striking “maximum Federal cost of \$5,200,000” and inserting “total cost of \$20,000,000”.

SEC. 3123. PORT OF NEW YORK AND NEW JERSEY, NEW YORK AND NEW JERSEY.

The navigation project, Port of New York and New Jersey, New York and New Jersey, authorized by section 101(a)(2) of the Water Resources Development Act of 2000 (114 Stat. 2576), is modified—

(1) to authorize the Secretary to allow the non-Federal interest to construct a temporary dredged material storage facility to receive dredged material from the project if—

(A) the non-Federal interest submits, in writing, a list of potential sites for the temporary storage facility to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Secretary at least 180 days before the selection of the final site; and

(B) at least 70 percent of the dredged material generated in connection with the project suitable for beneficial reuse will be used at sites in the State of New Jersey to the extent that there are sufficient sites available; and

(2) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of construction of the temporary storage facility for the project.

List.
Deadline.

SEC. 3124. NEW YORK STATE CANAL SYSTEM.

Section 553(c) of the Water Resources Development Act of 1996 (110 Stat. 3781) is amended to read as follows:

“(c) NEW YORK STATE CANAL SYSTEM DEFINED.—In this section, the term ‘New York State Canal System’ means the 524 miles of navigable canal that comprise the New York State Canal System, including the Erie, Cayuga-Seneca, Oswego, and Champlain Canals and the historic alignments of these canals, including the cities of Albany, Rochester, and Buffalo.”.

SEC. 3125. SUSQUEHANNA RIVER AND UPPER DELAWARE RIVER WATERSHED MANAGEMENT, NEW YORK.

(a) WATERSHED MANAGEMENT PLAN DEVELOPMENT.—

(1) IN GENERAL.—The Secretary, in consultation with the State of New York, the Delaware or Susquehanna River Basin Commission, as appropriate, and local entities, shall develop watershed management plans for the Susquehanna River watershed in New York State and the Upper Delaware River watershed for the purposes of evaluating existing and new flood damage reduction and ecosystem restoration.

(2) EXISTING PLANS.—In developing the watershed management plans, the Secretary shall use existing studies and plans, as appropriate.

(b) **CRITICAL RESTORATION PROJECTS.**—

(1) **IN GENERAL.**—The Secretary may participate in any eligible critical restoration project in the Susquehanna River or Upper Delaware Rivers in accordance with the watershed management plans developed under subsection (a).

(2) **ELIGIBLE PROJECTS.**—A critical restoration project shall be eligible for assistance under this section if the project—

(A) meets the purposes described in the watershed management plans developed under subsection (a); and

(B) with respect to the Susquehanna River or Upper Delaware River watershed in New York, consists of flood damage reduction or ecosystem restoration through—

(i) bank stabilization of the mainstem, tributaries, and streams;

(ii) wetland restoration;

(iii) soil and water conservation;

(iv) restoration of natural flows;

(v) restoration of stream stability;

(vi) structural and nonstructural flood damage reduction measures; or

(vii) any other project or activity the Secretary determines to be appropriate.

(c) **COOPERATIVE AGREEMENTS.**—In carrying out this section, the Secretary may enter into 1 or more cooperative agreements to provide financial assistance to appropriate Federal, State, or local governments or nonprofit agencies, including assistance for the implementation of projects to be carried out under subsection (b).

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$30,000,000, to remain available until expended.

SEC. 3126. MISSOURI RIVER RESTORATION, NORTH DAKOTA.

Section 707(a) of the Water Resources Development Act of 2000 (114 Stat. 2699) is amended in the first sentence by striking “\$5,000,000” and all that follows through “2005” and inserting “\$25,000,000”.

SEC. 3127. WAHPETON, NORTH DAKOTA.

The maximum amount of Federal funds that may be allotted for the project for flood damage reduction, Wahpeton, North Dakota, being carried out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), shall be \$12,000,000.

SEC. 3128. OHIO.

Section 594 of the Water Resources Development Act of 1999 (113 Stat. 381) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

“(f) **NONPROFIT ENTITIES.**—In accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), a non-Federal interest for any project carried out under this section may include a nonprofit entity, with the consent of the affected local government.”.

SEC. 3129. LOWER GIRARD LAKE DAM, GIRARD, OHIO.

Section 507 of the Water Resources Development Act of 1996 (110 Stat. 3758) is amended—

(1) by inserting “(a) IN GENERAL.—” before “The Secretary”;

(2) in paragraph (1) of subsection (a) (as designated by paragraph (1) of this subsection)—

(A) by striking “Repair and rehabilitation” and all that follows through “Ohio” and inserting “Correction of structural deficiencies of the Lower Girard Lake Dam, Girard, Ohio, and the appurtenant features to meet the dam safety standards of the State of Ohio”; and

(B) by striking “\$2,500,000” and inserting “\$16,000,000”; and

(3) by adding at the end the following:

“(b) SPECIAL RULES.—The project for Lower Girard Lake Dam, Girard, Ohio, authorized by subsection (a)(1) is justified on the basis of public safety.”.

SEC. 3130. MAHONING RIVER, OHIO.

In carrying out the project for environmental dredging, authorized by section 312(f)(4) of the Water Resources Development Act of 1990 (33 U.S.C. 1272(f)(4)), the Secretary is directed to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3131. ARCADIA LAKE, OKLAHOMA.

Payments made by the city of Edmond, Oklahoma, to the Secretary in October 1999 of all costs associated with present and future water storage costs at Arcadia Lake, Oklahoma, under Arcadia Lake Water Storage Contract Number DACW56–79–C–0072 shall satisfy the obligations of the city under that contract.

SEC. 3132. ARKANSAS RIVER CORRIDOR, OKLAHOMA.

(a) IN GENERAL.—The Secretary is authorized to participate in the ecosystem restoration, recreation, and flood damage reduction components of the Arkansas River Corridor Master Plan dated October 2005. The Secretary shall coordinate with appropriate representatives in the vicinity of Tulsa, Oklahoma, including representatives of Tulsa County and surrounding communities and the Indian Nations Council of Governments.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$50,000,000 to carry out this section.

SEC. 3133. LAKE EUFAULA, OKLAHOMA.

(a) PROJECT GOAL.—

(1) IN GENERAL.—The goal for operation of Lake Eufaula, Oklahoma, shall be to maximize the use of available storage in a balanced approach that incorporates advice from representatives from all the project purposes to ensure that the full value of the reservoir is realized by the United States.

(2) RECOGNITION OF PURPOSE.—To achieve the goal described in paragraph (1), recreation is recognized as a project purpose at Lake Eufaula, pursuant to section 4 of the Flood Control Act of December 22, 1944 (58 Stat. 889).

(b) LAKE EUFAULA ADVISORY COMMITTEE.—

Establishment.

(1) **IN GENERAL.**—In accordance with the Federal Advisory Committee Act (5 U.S.C. App.), the Secretary shall establish an advisory committee for the Lake Eufaula, Canadian River, Oklahoma project authorized by the first section of the River and Harbor Act of July 24, 1946 (60 Stat. 635).

(2) **PURPOSE.**—The purpose of the committee shall be advisory only.

Recommendations.

(3) **DUTIES.**—The committee shall provide information and recommendations to the Corps of Engineers regarding the operations of Lake Eufaula for the project purposes for Lake Eufaula.

(4) **COMPOSITION.**—The Committee shall be composed of members that equally represent the project purposes for Lake Eufaula.

(c) **REALLOCATION STUDY.**—

(1) **IN GENERAL.**—Subject to the appropriation of funds, the Secretary shall perform a reallocation study, at Federal expense, to develop and present recommendations concerning the best value, while minimizing ecological damages, for current and future use of the Lake Eufaula storage capacity for the authorized project purposes of flood control, water supply, hydroelectric power, navigation, fish and wildlife, and recreation.

(2) **FACTORS FOR CONSIDERATION.**—The reallocation study shall take into consideration the recommendations of the Lake Eufaula Advisory Committee.

(d) **POOL MANAGEMENT PLAN.**—

Deadline.

(1) **IN GENERAL.**—Not later than one year after the date of enactment of this Act, to the extent feasible within available project funds and subject to the completion and approval of the reallocation study under subsection (c), the Tulsa district engineer, taking into consideration recommendations of the Lake Eufaula Advisory Committee, shall develop an interim management plan that accommodates all project purposes for Lake Eufaula.

(2) **MODIFICATIONS.**—A modification of the plan under paragraph (1) shall not cause significant adverse impacts on any existing permit, lease, license, contract, public law, or project purpose, including flood control operation, relating to Lake Eufaula.

SEC. 3134. OKLAHOMA LAKES DEMONSTRATION PROGRAM, OKLAHOMA.

Deadline.

(a) **IMPLEMENTATION OF PROGRAM.**—Not later than one year after the date of enactment of this Act, the Secretary shall implement an innovative program at the lakes located primarily in the State of Oklahoma that are a part of an authorized civil works project under the administrative jurisdiction of the Corps of Engineers for the purpose of demonstrating the benefits of enhanced recreation facilities and activities at those lakes.

(b) **REQUIREMENTS.**—In implementing the program under subsection (a), the Secretary, consistent with authorized project purposes, shall—

(1) pursue strategies that will enhance, to the maximum extent practicable, recreation experiences at the lakes included in the program;

(2) use creative management strategies that optimize recreational activities; and

(3) ensure continued public access to recreation areas located on or associated with the civil works project.

(c) **GUIDELINES.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines for the implementation of this section, to be developed in coordination with the State of Oklahoma. Deadline.

(d) **REPORT.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the results of the program under subsection (a).

(2) **INCLUSIONS.**—The report under paragraph (1) shall include a description of the projects undertaken under the program, including—

(A) an estimate of the change in any related recreational opportunities;

(B) a description of any leases entered into, including the parties involved; and

(C) the financial conditions that the Corps of Engineers used to justify those leases.

(3) **AVAILABILITY TO PUBLIC.**—The Secretary shall make the report available to the public in electronic and written formats.

(e) **TERMINATION.**—The authority provided by this section shall terminate on the date that is 10 years after the date of enactment of this Act.

SEC. 3135. OTTAWA COUNTY, OKLAHOMA.

(a) **IN GENERAL.**—There is authorized to be appropriated \$30,000,000 for the purposes set forth in subsection (b).

(b) **PURPOSES.**—Notwithstanding any other provision of law, funds appropriated under subsection (a) may be used for the purpose of—

(1) the buyout of properties and permanently relocating residents and businesses in or near Picher, Cardin, and Hockerville, Oklahoma, from areas determined by the State of Oklahoma to be at risk of damage caused by land subsidence and remaining properties; and

(2) providing funding to the State of Oklahoma to buyout properties and permanently relocate residents and businesses of Picher, Cardin, and Hockerville, Oklahoma, from areas determined by the State of Oklahoma to be at risk of damage caused by land subsidence and remaining properties.

(c) **LIMITATION.**—The use of funds in accordance with subsection (b) shall not be considered to be part of a federally assisted program or project for purposes of Public Law 91–646 (42 U.S.C. 4601 et seq.), consistent with section 2301 of Public Law 109–234 (120 Stat. 455).

(d) **CONSISTENCY WITH STATE PROGRAM.**—Any actions taken under subsection (b) shall be consistent with the relocation program in the State of Oklahoma under 27A O.S. Supp. 2006, sections 2201 et seq.

(e) **CONSIDERATION OF REMEDIAL ACTION.**—The Administrator of the Environmental Protection Agency shall consider, without delay, a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) for the Tar Creek, Oklahoma, National Priorities List site that includes permanent relocation of residents consistent with the program currently being administered by the State of Oklahoma. Such relocation shall not be subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(f) **ESTIMATING COSTS.**—In estimating and comparing the cost of a remedial alternative for the Tar Creek Oklahoma, National Priorities List site that includes the permanent relocation of residents, the Administrator shall not include the cost of compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(g) **EFFECT OF CERTAIN REMEDIES.**—Inclusion of subsidence remedies, such as permanent relocation within any remedial action, shall not preempt, alter, or delay the right of any sovereign entity, including any State or tribal government, to seek remedies, including abatement, for land subsidence and subsidence risks under State law.

(h) **AMENDMENT.**—Section 111 of Public Law 108–137 (117 Stat. 1835) is amended—

(1) by adding at the end of subsection (a) the following: “Such activities also may include the provision of financial assistance to facilitate the buy out of properties located in areas identified by the State as areas that are or will be at risk of damage caused by land subsidence and associated properties otherwise identified by the State. Any buyout of such properties shall not be considered to be part of a federally assisted program or project for purposes of Public Law 91–646 (42 U.S.C. 4601 et seq.), consistent with section 2301 of Public Law 109–234 (120 Stat. 455–456).”; and

(2) by striking the first sentence of subsection (d) and inserting the following: “Non-Federal interests shall be responsible for operating and maintaining any restoration alternatives constructed or carried out pursuant to this section.”.

SEC. 3136. RED RIVER CHLORIDE CONTROL, OKLAHOMA AND TEXAS.

The project for water quality control in the Arkansas and Red River Basin, Texas, Oklahoma, and Kansas, authorized by section 203 of the Flood Control Act of 1966 (80 Stat. 1420) and modified by section 1107(a) of the Water Resources Development Act of 1986 (100 Stat. 4229) is further modified to direct the Secretary to provide operation and maintenance for the Red River Chloride Control project, Oklahoma and Texas, at Federal expense.

SEC. 3137. WAURIKA LAKE, OKLAHOMA.

The remaining obligation of the Waurika Project Master Conservancy District payable to the United States Government in the amounts, rates of interest, and payment schedules—

(1) is set at the amounts, rates of interest, and payment schedules that existed on June 3, 1986, with respect to the project for Waurika Lake, Oklahoma; and

(2) may not be adjusted, altered, or changed without a specific, separate, and written agreement between the District and the United States.

SEC. 3138. UPPER WILLAMETTE RIVER WATERSHED ECOSYSTEM RESTORATION, OREGON.

(a) **IN GENERAL.**—The Secretary shall conduct studies and ecosystem restoration projects for the upper Willamette River watershed from Albany, Oregon, to the headwaters of the Willamette River and tributaries. Study.

(b) **CONSULTATION.**—The Secretary shall carry out ecosystem restoration projects under this section for the Upper Willamette River watershed in consultation with the Governor of the State of Oregon, the heads of appropriate Indian tribes, the Environmental Protection Agency, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the Bureau of Land Management, the Forest Service, and local entities.

(c) **AUTHORIZED ACTIVITIES.**—In carrying out ecosystem restoration projects under this section, the Secretary shall undertake activities necessary to protect, monitor, and restore fish and wildlife habitat.

(d) **PRIORITY.**—In carrying out this section, the Secretary shall give priority to a project to restore the millrace in Eugene, Oregon, and shall include noneconomic benefits associated with the historical significance of the millrace and associated with preservation and enhancement of resources in evaluating the benefits of the project.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$15,000,000.

SEC. 3139. DELAWARE RIVER, PENNSYLVANIA, NEW JERSEY, AND DELAWARE.

The Secretary may remove debris from the project for navigation, Delaware River, Pennsylvania, New Jersey, and Delaware, Philadelphia to the Sea.

SEC. 3140. RAYSTOWN LAKE, PENNSYLVANIA.

The Secretary may take such action as may be necessary, including construction of a breakwater, to prevent shoreline erosion between .07 and 2.7 miles south of Pennsylvania State Route 994 on the east shore of Raystown Lake, Pennsylvania.

SEC. 3141. SHERADEN PARK STREAM AND CHARTIERS CREEK, ALLEGHENY COUNTY, PENNSYLVANIA.

The project for aquatic ecosystem restoration, Sheraden Park Stream and Chartiers Creek, Allegheny County, Pennsylvania, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), up to \$400,000 toward the non-Federal share of the cost of the project for planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3142. SOLOMON'S CREEK, WILKES-BARRE, PENNSYLVANIA.

The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), is modified to include as a project element the project for flood control for Solomon's Creek, Wilkes-Barre, Pennsylvania.

SEC. 3143. SOUTH CENTRAL PENNSYLVANIA.

Section 313 of the Water Resources Development Act of 1992 (106 Stat. 4845; 109 Stat. 407; 110 Stat. 3723; 113 Stat. 310; 117 Stat. 142) is amended—

(1) in subsection (g)(1) by striking “\$180,000,000” and inserting “\$200,000,000”; and

(2) in subsection (h)(2) by striking “Allegheny, Armstrong, Bedford, Blair, Cambria, Clearfield, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Juniata, Mifflin, Somerset, Snyder, Washington, and Westmoreland Counties” and inserting “Allegheny, Armstrong, Bedford, Blair, Cambria, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Juniata, Somerset, Washington, and Westmoreland Counties”.

SEC. 3144. WYOMING VALLEY, PENNSYLVANIA.

In carrying out the project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), the Secretary shall coordinate with non-Federal interests to review opportunities for increased public access.

SEC. 3145. NARRAGANSETT BAY, RHODE ISLAND.

The Secretary may use amounts in the Environmental Restoration Account, Formerly Used Defense Sites, under section 2703(a)(5) of title 10, United States Code, for the removal of abandoned marine camels at any formerly used defense site under the jurisdiction of the Department of Defense that is undergoing (or is scheduled to undergo) environmental remediation under chapter 160 of title 10, United States Code (and other provisions of law), in Narragansett Bay, Rhode Island, in accordance with the Corps of Engineers prioritization process under the Formerly Used Defense Sites program.

SEC. 3146. MISSOURI RIVER RESTORATION, SOUTH DAKOTA.

(a) MEMBERSHIP.—Section 904(b)(1)(B) of the Water Resources Development Act of 2000 (114 Stat. 2708) is amended—

- (1) in clause (vii) by striking “and” at the end;
- (2) by redesignating clause (viii) as clause (ix); and
- (3) by inserting after clause (vii) the following:
“(viii) rural water systems; and”.

(b) REAUTHORIZATION.—Section 907(a) of such Act (114 Stat. 2712) is amended in the first sentence by striking “2005” and inserting “2010”.

SEC. 3147. CEDAR BAYOU, TEXAS.

(a) CREDIT FOR PLANNING AND DESIGN.—The project for navigation, Cedar Bayou, Texas, reauthorized by section 349(a)(2) of the Water Resources Development Act of 2000 (114 Stat. 2632), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(b) COST SHARING.—Cost sharing for construction and operation and maintenance of the project shall be determined in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

(c) **PROJECT FOR NAVIGATION.**—Section 349(a)(2) of the Water Resources Development Act of 2000 (114 Stat. 2632) is amended by striking “12 feet deep by 125 feet wide” and inserting “that is 10 feet deep by 100 feet wide”.

SEC. 3148. FREEPORT HARBOR, TEXAS.

(a) **IN GENERAL.**—The project for navigation, Freeport Harbor, Texas, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1818), is modified to provide that—

(1) all project costs incurred as a result of the discovery of the sunken vessel COMSTOCK of the Corps of Engineers are a Federal responsibility; and

(2) the Secretary shall not seek further obligation or responsibility for removal of the vessel COMSTOCK, or costs associated with a delay due to the discovery of the sunken vessel COMSTOCK, from the Port of Freeport.

(b) **COST SHARING.**—This section does not affect the authorized cost sharing for the balance of the project described in subsection (a).

SEC. 3149. LAKE KEMP, TEXAS.

(a) **IN GENERAL.**—The Secretary may not take any legal or administrative action seeking to remove a Lake Kemp improvement before the earlier of January 1, 2020, or the date of any transfer of ownership of the improvement occurring after the date of enactment of this Act.

Effective date.

(b) **LIMITATION ON LIABILITY.**—The United States, or any of its officers, agents, or assignees, shall not be liable for any injury, loss, or damage accruing to the owners of a Lake Kemp improvement, their lessees, or occupants as a result of any flooding or inundation of such improvements by the waters of the Lake Kemp reservoir, or for such injury, loss, or damage as may occur through the operation and maintenance of the Lake Kemp dam and reservoir in any manner.

(c) **LAKE KEMP IMPROVEMENT DEFINED.**—In this section, the term “Lake Kemp improvement” means an improvement (including dwellings) located within the flowage easement of Lake Kemp, Texas, below elevation 1159 feet mean sea level.

SEC. 3150. LOWER RIO GRANDE BASIN, TEXAS.

The project for flood control, Lower Rio Grande Basin, Texas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4125), is modified—

(1) to include as part of the project flood protection works to reroute drainage to Raymondville Drain constructed by the non-Federal interests in Hidalgo County in the vicinity of Edinburg, Texas, if the Secretary determines that such work is feasible;

(2) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

(3) to direct the Secretary in calculating the non-Federal share of the cost of the project, to make a determination, within 180 days after the date of enactment of this Act, under section 103(m) of the Water Resources Development Act of

Determination.
Deadline.

1986 (33 U.S.C. 2213(m)) on the non-Federal interest's ability to pay.

SEC. 3151. NORTH PADRE ISLAND, CORPUS CHRISTI BAY, TEXAS.

The project for ecosystem restoration and storm damage reduction, North Padre Island, Corpus Christi Bay, Texas, authorized by section 556 of the Water Resources Development Act of 1999 (113 Stat. 353), is modified to include recreation as a project purpose.

SEC. 3152. PAT MAYSE LAKE, TEXAS.

The Secretary is directed to accept from the city of Paris, Texas, \$3,461,432 as payment in full of monies owed to the United States for water supply storage space in Pat Mayse Lake, Texas, under contract number DA–34–066–CIVENG–65–1272, including accrued interest.

SEC. 3153. PROCTOR LAKE, TEXAS.

The Secretary is authorized to purchase fee simple title to all properties located within the boundaries, and necessary for the operation, of the Proctor Lake project, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1259).

SEC. 3154. SAN ANTONIO CHANNEL, SAN ANTONIO, TEXAS.

The project for flood control, San Antonio Channel, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1259) as part of the comprehensive plan for flood protection on the Guadalupe and San Antonio Rivers in Texas and modified by section 103 of the Water Resources Development Act of 1976 (90 Stat. 2921) and section 335 of the Water Resources Development Act of 2000 (114 Stat. 2611), is modified to authorize the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest for the project.

SEC. 3155. CONNECTICUT RIVER RESTORATION, VERMONT.

Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), as in effect on August 5, 2005, with respect to the study entitled “Connecticut River Restoration Authority”, dated May 23, 2001, a nonprofit entity may act as the non-Federal interest for purposes of carrying out the activities described in the agreement executed between The Nature Conservancy and the Department of the Army on August 5, 2005.

SEC. 3156. DAM REMEDIATION, VERMONT.

Section 543 of the Water Resources Development Act of 2000 (114 Stat. 2673) is amended—

- (1) in subsection (a)(2) by striking “and” at the end;
- (2) in subsection (a)(3) by striking the period at the end and inserting “; and”;
- (3) by adding at the end of subsection (a) the following:
“(4) may carry out measures to restore, protect, and preserve an ecosystem affected by a dam described in subsection (b).”; and
- (4) by adding at the end of subsection (b) the following:
“(11) Camp Wapanacki, Hardwick.
“(12) Star Lake Dam, Mt. Holly.
“(13) Curtis Pond, Calais.

- “(14) Weathersfield Reservoir, Springfield.
- “(15) Burr Pond, Sudbury.
- “(16) Maidstone Lake, Guildhall.
- “(17) Upper and Lower Hurricane Dam.
- “(18) Lake Fairlee.
- “(19) West Charleston Dam.
- “(20) White River, Sharon.”.

SEC. 3157. LAKE CHAMPLAIN EURASIAN MILFOIL, WATER CHESTNUT, AND OTHER NONNATIVE PLANT CONTROL, VERMONT.

Under authority of section 104 of the River and Harbor Act of 1958 (33 U.S.C. 610), the Secretary may revise the existing General Design Memorandum to permit the use of chemical means of control, when appropriate, of Eurasian milfoil, water chestnuts, and other nonnative plants in the Lake Champlain basin, Vermont.

SEC. 3158. UPPER CONNECTICUT RIVER BASIN WETLAND RESTORATION, VERMONT AND NEW HAMPSHIRE.

(a) **IN GENERAL.**—The Secretary, in cooperation with the States of Vermont and New Hampshire, shall carry out a study and develop a strategy for the use of wetland restoration, soil and water conservation practices, and nonstructural measures to reduce flood damage, improve water quality, and create wildlife habitat in the Upper Connecticut River watershed. Study.

(b) **COOPERATIVE AGREEMENTS.**—In conducting the study and developing the strategy under this section, the Secretary may enter into one or more cooperative agreements to provide technical assistance to appropriate Federal, State, and local agencies and nonprofit organizations with wetland restoration experience. Such assistance may include assistance for the implementation of wetland restoration projects and soil and water conservation measures.

(c) **IMPLEMENTATION.**—The Secretary shall carry out development and implementation of the strategy under this section in cooperation with local landowners and local government officials.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$5,000,000, to remain available until expended.

SEC. 3159. UPPER CONNECTICUT RIVER BASIN ECOSYSTEM RESTORATION, VERMONT AND NEW HAMPSHIRE.

(a) **GENERAL MANAGEMENT PLAN DEVELOPMENT.**—

(1) **IN GENERAL.**—The Secretary, in cooperation with the Secretary of Agriculture and in consultation with the States of Vermont and New Hampshire and the Connecticut River Joint Commission, shall conduct a study and develop a general management plan for ecosystem restoration of the Upper Connecticut River ecosystem for the purposes of— Study.

- (A) habitat protection and restoration;
- (B) streambank stabilization;
- (C) restoration of stream stability;
- (D) water quality improvement;
- (E) aquatic nuisance species control;
- (F) wetland restoration;
- (G) fish passage; and
- (H) natural flow restoration.

(2) **EXISTING PLANS.**—In developing the general management plan, the Secretary shall depend heavily on existing plans for the restoration of the Upper Connecticut River.

(b) CRITICAL RESTORATION PROJECTS.—

(1) IN GENERAL.—The Secretary may participate in any critical restoration project in the Upper Connecticut River basin in accordance with the general management plan developed under subsection (a).

(2) ELIGIBLE PROJECTS.—A critical restoration project shall be eligible for assistance under this section if the project—

(A) meets the purposes described in the general management plan developed under subsection (a); and

(B) with respect to the Upper Connecticut River and Upper Connecticut River watershed, consists of—

(i) bank stabilization of the main stem, tributaries, and streams;

(ii) wetland restoration and migratory bird habitat restoration;

(iii) soil and water conservation;

(iv) restoration of natural flows;

(v) restoration of stream stability;

(vi) implementation of an intergovernmental agreement for coordinating ecosystem restoration, fish passage installation, streambank stabilization, wetland restoration, habitat protection and restoration, or natural flow restoration;

(vii) water quality improvement;

(viii) aquatic nuisance species control;

(ix) improvements in fish migration; and

(x) conduct of any other project or activity determined to be appropriate by the Secretary.

(c) COOPERATIVE AGREEMENTS.—In carrying out this section, the Secretary may enter into one or more cooperative agreements to provide financial assistance to appropriate Federal, State, or local governments or nonprofit agencies. Such assistance may include assistance for the implementation of projects to be carried out under subsection (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$20,000,000. Such sums shall remain available until expended.

SEC. 3160. LAKE CHAMPLAIN WATERSHED, VERMONT AND NEW YORK.

Section 542 of the Water Resources Development Act of 2000 (114 Stat. 2671) is amended—

(1) in subsection (b)(2)—

(A) by striking “or” at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (G); and

(C) by inserting after subparagraph (D) the following:

“(E) river corridor assessment, protection, management, and restoration for the purposes of ecosystem restoration;

“(F) geographic mapping conducted by the Secretary using existing technical capacity to produce a high-resolution, multispectral satellite imagery-based land use and cover data set; or”;

(2) in subsection (e)(2)(A)—

(A) by striking “The non-Federal” and inserting the following:

“(i) IN GENERAL.—The non-Federal”; and

(B) by adding at the end the following:

“(ii) APPROVAL OF DISTRICT ENGINEER.—Approval of credit for design work of less than \$100,000 shall be determined by the appropriate district engineer.”;

(3) in subsection (e)(2)(C) by striking “up to 50 percent of”; and

(4) in subsection (g) by striking “\$20,000,000” and inserting “\$32,000,000”.

SEC. 3161. SANDBRIDGE BEACH, VIRGINIA BEACH, VIRGINIA.

The project for beach erosion control and hurricane protection, Sandbridge Beach, Virginia Beach, Virginia, authorized by section 101(22) of the Water Resources Development Act of 1992 (106 Stat. 4804) and modified by section 338 of the Water Resources Development Act of 2000 (114 Stat. 2612), is modified to authorize the Secretary to review the project to determine whether any additional Federal interest exists with respect to the project, taking into consideration conditions and development levels relating to the project in existence on the date of enactment of this Act.

SEC. 3162. TANGIER ISLAND SEAWALL, VIRGINIA.

Section 577(a) of the Water Resources Development Act of 1996 (110 Stat. 3789) is amended by striking “at a total cost of \$1,200,000, with an estimated Federal cost of \$900,000 and an estimated non-Federal cost of \$300,000.” and inserting “at a total cost of \$3,600,000.”.

SEC. 3163. DUWAMISH/GREEN, WASHINGTON.

The project for ecosystem restoration, Duwamish/Green, Washington, authorized by section 101(b)(26) of the Water Resources Development Act of 2000 (114 Stat. 2579), is modified—

(1) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

(2) to authorize the non-Federal interest to provide any portion of the non-Federal share of the cost of the project in the form of in-kind services and materials.

SEC. 3164. MCNARY LOCK AND DAM, MCNARY NATIONAL WILDLIFE REFUGE, WASHINGTON AND IDAHO.

16 USC 668dd
note.

(a) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the land acquired for the McNary Lock and Dam project and managed by the United States Fish and Wildlife Service under cooperative agreement number DACW68–4–00–13 with the Corps of Engineers, Walla Walla District, is transferred from the Secretary to the Secretary of the Interior.

(b) EASEMENTS.—The transfer of administrative jurisdiction under paragraph (1) shall be subject to easements in existence as of the date of enactment of this Act on land subject to the transfer.

(c) RIGHTS OF SECRETARY.—

(1) IN GENERAL.—Except as provided in subparagraph (C), the Secretary shall retain rights described in subparagraph (B) with respect to the land for which administrative jurisdiction is transferred under paragraph (1).

(2) **RIGHTS.**—The rights of the Secretary referred to in paragraph (1) are the rights—

(A) to flood land described in subsection (a) to the standard project flood elevation;

(B) to manipulate the level of the McNary project pool;

(C) to access land described in subsection (a) as may be required to install, maintain, and inspect sediment ranges and carry out similar activities;

(D) to construct and develop wetland, riparian habitat, or other environmental restoration features authorized by section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a) and section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330);

(E) to dredge and deposit fill materials; and

(F) to carry out management actions for the purpose of reducing the take of juvenile salmonids by avian colonies that inhabit, before, on, or after the date of enactment of this Act, any island included in the land described in subsection (a).

(3) **COORDINATION.**—Before exercising a right described in any of subparagraphs (C) through (F) of paragraph (2), the Secretary shall coordinate the exercise with the Director of the United States Fish and Wildlife Service.

(d) **MANAGEMENT.**—

(1) **IN GENERAL.**—The land described in subsection (a) shall be managed by the Secretary of the Interior as part of the McNary National Wildlife Refuge.

(2) **CUMMINS PROPERTY.**—

(A) **RETENTION OF CREDITS.**—Habitat unit credits described in the memorandum entitled “Design Memorandum No. 6, LOWER SNAKE RIVER FISH AND WILDLIFE COMPENSATION PLAN, Wildlife Compensation and Fishing Access Site Selection, Letter Supplement No. 15, SITE DEVELOPMENT PLAN FOR THE WALLULA HMU” provided for the Lower Snake River Fish and Wildlife Compensation Plan through development of the parcel of land formerly known as the “Cummins property” shall be retained by the Secretary despite any changes in management of the parcel on or after the date of enactment of this Act.

(B) **SITE DEVELOPMENT PLAN.**—The Director shall obtain prior approval of the Washington State department of fish and wildlife for any change to the previously approved site development plan for the parcel of land formerly known as the “Cummins property”.

(3) **MADAME DORIAN RECREATION AREA.**—The Director shall continue operation of the Madame Dorian Recreation Area for public use and boater access.

(e) **ADMINISTRATIVE COSTS.**—The Director shall be responsible for all survey, environmental compliance, and other administrative costs required to implement the transfer of administrative jurisdiction under subsection (a).

SEC. 3165. SNAKE RIVER PROJECT, WASHINGTON AND IDAHO.

(a) **IN GENERAL.**—The fish and wildlife compensation plan for the Lower Snake River, Washington and Idaho, as authorized by section 102 of the Water Resources Development Act of 1976 (90

Stat. 2921), is amended to authorize the Secretary to conduct studies and implement aquatic and riparian ecosystem restorations and improvements specifically for fisheries and wildlife.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$5,000,000 to carry out this section.

SEC. 3166. YAKIMA RIVER, PORT OF SUNNYSIDE, WASHINGTON.

The project for aquatic ecosystem restoration, Yakima River, Port of Sunnyside, Washington, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 3167. BLUESTONE LAKE, OHIO RIVER BASIN, WEST VIRGINIA.

Section 102(ff) of the Water Resources Development Act of 1992 (106 Stat. 4810; 110 Stat. 3726; 113 Stat. 312) is amended to read as follows:

“(ff) BLUESTONE LAKE, OHIO RIVER BASIN, WEST VIRGINIA.—

“(1) IN GENERAL.—The project for flood control, Bluestone Lake, Ohio River Basin, West Virginia, authorized by section 4 of the Flood Control Act of 1938 (52 Stat. 1217) is modified to direct the Secretary to implement Plan C/G, as defined in the Evaluation Report of the District Engineer dated December 1996, to prohibit the release of drift and debris into waters downstream of the project (other than organic matter necessary to maintain and enhance the biological resources of such waters and such nonobtrusive items of debris as may not be economically feasible to prevent being released through such project), including measures to prevent the accumulation of drift and debris at the project, the collection and removal of drift and debris on the segment of the New River upstream of the project, and the removal (through use of temporary or permanent systems) and disposal of accumulated drift and debris at Bluestone Dam.

“(2) COOPERATIVE AGREEMENT.—In carrying out the downstream cleanup under the plan referred to in paragraph (1), the Secretary may enter into a cooperative agreement with the West Virginia department of environmental protection for the department to carry out the cleanup, including contracting and procurement services, contract administration and management, transportation and disposal of collected materials, and disposal fees.

“(3) INITIAL CLEANUP.—The Secretary may provide the West Virginia department of environmental protection up to \$150,000 from funds previously appropriated for this purpose for the Federal share of the costs of the initial cleanup under the plan.”.

SEC. 3168. GREENBRIER RIVER BASIN, WEST VIRGINIA.

Section 579(c) of the Water Resources Development Act of 1996 (110 Stat. 3790; 113 Stat. 312) is amended by striking “\$47,000,000” and inserting “\$99,000,000”.

SEC. 3169. LESAGE/GREENBOTTOM SWAMP, WEST VIRGINIA.

Section 30(d) of the Water Resources Development Act of 1988 (102 Stat. 4030; 114 Stat. 2678) is amended to read as follows:

“(d) HISTORIC STRUCTURE.—The Secretary shall ensure the preservation and restoration of the structure known as the ‘Jenkins House’ and the reconstruction of associated buildings and landscape features of such structure located within the Lesage/Greenbottom Swamp in accordance with the standards of the Department of the Interior for the treatment of historic properties. Amounts made available for expenditure for the project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110) shall be available for the purposes of this subsection.”.

SEC. 3170. LOWER MUD RIVER, MILTON, WEST VIRGINIA.

The project for flood control at Milton, West Virginia, authorized by section 580 of the Water Resources Development Act of 1996 (110 Stat. 3790) and modified by section 340 of the Water Resources Development Act of 2000 (114 Stat. 2612), is modified to authorize the Secretary to construct the project substantially in accordance with the draft report of the Corps of Engineers dated May 2004, at an estimated total cost of \$57,100,000, with an estimated Federal cost of \$42,825,000 and an estimated non-Federal cost of \$14,275,000.

SEC. 3171. MCDOWELL COUNTY, WEST VIRGINIA.

The McDowell County nonstructural component of the project for flood control, Levisa and Tug Fork of the Big Sandy and Cumberland Rivers, West Virginia, Virginia, and Kentucky, authorized by section 202(a) of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), is modified to direct the Secretary to take measures to provide protection, throughout McDowell County, West Virginia, from the reoccurrence of the greater of—

- (1) the April 1977 flood;
- (2) the July 2001 flood;
- (3) the May 2002 flood; or
- (4) the 100-year frequency event.

SEC. 3172. PARKERSBURG, WEST VIRGINIA.

The Secretary is authorized to carry out the ecosystem restoration, recreation, and flood control components of the report of the Corps of Engineers, entitled “Parkersburg/Vienna Riverfront Park Feasibility Study”, dated June 1998, as amended by the limited reevaluation report of the Corps of Engineers, dated March 2004, at a total cost of \$12,000,000, with an estimated Federal cost of \$6,000,000, and an estimated non-Federal cost of \$6,000,000.

SEC. 3173. GREEN BAY HARBOR, GREEN BAY, WISCONSIN.

The portion of the inner harbor of the Federal navigation channel of the Green Bay Harbor project, authorized by the first section of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved July 5, 1884 (23 Stat. 136), from Station 190+00 to Station 378+00 is authorized to a width of 75 feet and a depth of 6 feet.

SEC. 3174. MANITOWOC HARBOR, WISCONSIN.

The project for navigation, Manitowoc Harbor, Wisconsin, authorized by the River and Harbor Act of August 30, 1852 (10

Stat. 58), is modified to direct the Secretary to deepen the upstream reach of the navigation channel from 12 feet to 18 feet, at a total cost of \$405,000.

SEC. 3175. MISSISSIPPI RIVER HEADWATERS RESERVOIRS.

Section 21 of the Water Resources Development Act of 1988 (102 Stat. 4027) is amended—

(1) in subsection (a)—

(A) by striking “1276.42” and inserting “1278.42”;

(B) by striking “1218.31” and inserting “1221.31”; and

(C) by striking “1234.82” and inserting “1235.30”; and

(2) by striking subsection (b) and inserting the following:

“(b) EXCEPTION.—The Secretary may operate the headwaters reservoirs below the minimum or above the maximum water levels established in subsection (a) in accordance with water control regulation manuals (or revisions thereto) developed by the Secretary, after consultation with the Governor of Minnesota and affected tribal governments, landowners, and commercial and recreational users. The water control regulation manuals (and any revisions thereto) shall be effective when the Secretary transmits them to Congress. The Secretary shall report to Congress at least 14 days before operating any such headwaters reservoir below the minimum or above the maximum water level limits specified in subsection (a); except that notification is not required for operations necessary to prevent the loss of life or to ensure the safety of the dam or if the drawdown of lake levels is in anticipation of flood control operations.”.

Effective date.

Reports.
Deadline.

SEC. 3176. UPPER BASIN OF MISSOURI RIVER.

(a) USE OF FUNDS.—Notwithstanding the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103), funds made available for recovery or mitigation activities in the lower basin of the Missouri River may be used for recovery or mitigation activities in the upper basin of the Missouri River, including the States of Montana, Nebraska, North Dakota, and South Dakota.

(b) CONFORMING AMENDMENT.—The matter under the heading “MISSOURI RIVER MITIGATION, MISSOURI, KANSAS, IOWA, AND NEBRASKA” of section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4143), as modified by section 334 of the Water Resources Development Act of 1999 (113 Stat. 306), is amended by adding at the end the following: “The Secretary may carry out any recovery or mitigation activities in the upper basin of the Missouri River, including the States of Montana, Nebraska, North Dakota, and South Dakota, using funds made available under this paragraph in accordance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and consistent with the project purposes of the Missouri River Mainstem System as authorized by section 10 of the Flood Control Act of December 22, 1944 (58 Stat. 897).”.

SEC. 3177. UPPER MISSISSIPPI RIVER SYSTEM ENVIRONMENTAL MANAGEMENT PROGRAM.

Section 1103(e)(1)(A)(ii) of the Water Resources Development Act of 1986 (33 U.S.C. 652(e)(1)(A)(ii)) is amended by inserting before the period at the end the following: “, including research on water quality issues affecting the Mississippi River (including elevated nutrient levels) and the development of remediation strategies”.

**SEC. 3178. UPPER OHIO RIVER AND TRIBUTARIES NAVIGATION SYSTEM
NEW TECHNOLOGY PILOT PROGRAM.**

(a) **UPPER OHIO RIVER AND TRIBUTARIES NAVIGATION SYSTEM DEFINED.**—In this section, the term “Upper Ohio River and Tributaries navigation system” means the Allegheny, Kanawha, Monongahela, and Ohio Rivers.

(b) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—The Secretary shall establish a pilot program to evaluate new technologies applicable to the Upper Ohio River and Tributaries navigation system.

(2) **INCLUSIONS.**—The program may include the design, construction, or implementation of innovative technologies and solutions for the Upper Ohio River and Tributaries navigation system, including projects for—

- (A) improved navigation;
- (B) environmental stewardship;
- (C) increased navigation reliability; and
- (D) reduced navigation costs.

(3) **PURPOSES.**—The purposes of the program shall be—

- (A) to increase the reliability and availability of federally owned and federally operated navigation facilities;
- (B) to decrease system operational risks; and
- (C) to improve—
 - (i) vessel traffic management;
 - (ii) access; and
 - (iii) Federal asset management.

(c) **FEDERAL OWNERSHIP REQUIREMENT.**—The Secretary may provide assistance for a project under this section only if the project is federally owned.

(d) **LOCAL COOPERATION AGREEMENTS.**—

(1) **IN GENERAL.**—The Secretary shall enter into local cooperation agreements with non-Federal interests to provide for the design, construction, installation, and operation of the projects to be carried out under the program.

(2) **REQUIREMENTS.**—Each local cooperation agreement entered into under this subsection shall include the following:

(A) **PLAN.**—Development by the Secretary, in consultation with appropriate Federal and State officials, of a navigation improvement project, including appropriate engineering plans and specifications.

(B) **LEGAL AND INSTITUTIONAL STRUCTURES.**—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project.

(3) **COST SHARING.**—Total project costs under each local cooperation agreement shall be cost-shared in accordance with the formula relating to the applicable original construction project.

(4) **EXPENDITURES.**—

(A) **IN GENERAL.**—Expenditures under the program may include, for establishment at federally owned property, such as locks, dams, and bridges—

- (i) transmitters;
- (ii) responders;
- (iii) hardware;
- (iv) software; and
- (v) wireless networks.

(B) EXCLUSIONS.—Transmitters, responders, hardware, software, and wireless networks and other equipment installed on privately owned vessels or equipment shall not be eligible under the program.

(e) REPORT.—Not later than December 31, 2008, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this section, together with recommendations concerning whether the program or any component of the program should be implemented on a national basis.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$3,100,000. Such sums shall remain available until expended.

SEC. 3179. CONTINUATION OF PROJECT AUTHORIZATIONS.

(a) IN GENERAL.—Notwithstanding section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)), the following projects shall remain authorized to be carried out by the Secretary:

(1) The project for navigation, Sacramento Deep Water Ship Channel, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092).

(2) The project for flood control, Agana River, Guam, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4127).

(3) The project for navigation, Baltimore Harbor and Channels, Maryland and Virginia, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1818).

(4) The project for navigation, Fall River Harbor, Massachusetts, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731); except that the authorized depth of that portion of the project extending riverward of the Charles M. Braga, Jr. Memorial Bridge, Fall River and Somerset, Massachusetts, shall not exceed 35 feet.

(5) The project for flood control, Ecorse Creek, Wayne County, Michigan, authorized by section 101(a)(14) of the Water Resources Development Act of 1990 (104 Stat. 4607).

(b) LIMITATION.—A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period beginning on the date of enactment of this Act, unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

SEC. 3180. PROJECT REAUTHORIZATIONS.

Each of the following projects may be carried out by the Secretary and no construction on any such project may be initiated until the Secretary determines that the project is feasible:

(1) MENOMINEE HARBOR AND RIVER, MICHIGAN AND WISCONSIN.—The project for navigation, Menominee Harbor and River, Michigan and Wisconsin, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 482) and deauthorized on April 15, 2002, in accordance with section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)).

(2) HEARDING ISLAND INLET, DULUTH HARBOR, MINNESOTA.—The project for dredging, Hearing Island Inlet, Duluth Harbor, Minnesota, authorized by section 22 of the Water Resources Development Act of 1988 (102 Stat. 4027).

(3) MANITOWOC HARBOR, WISCONSIN.—That portion of the project for navigation, Manitowoc Harbor, Wisconsin, authorized by the first section of the River and Harbor Act of August 30, 1852 (10 Stat. 58), consisting of the channel in the south part of the outer harbor, deauthorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1176).

SEC. 3181. PROJECT DEAUTHORIZATIONS.

(a) IN GENERAL.—The following projects are not authorized after the date of enactment of this Act:

(1) BRIDGEPORT HARBOR, CONNECTICUT.—The portion of the project for navigation, Bridgeport Harbor, Connecticut, authorized by the first section of the River and Harbor Act of July 3, 1930 (46 Stat. 919), consisting of an 18-foot channel in Yellow Mill River and described as follows: Beginning at a point along the eastern limit of the existing project, N123,649.75, E481,920.54, thence running northwesterly about 52.64 feet to a point N123,683.03, E481,879.75, thence running northeasterly about 1,442.21 feet to a point N125,030.08, E482,394.96, thence running northeasterly about 139.52 feet to a point along the eastern limit of the existing channel, N125,133.87, E482,488.19, thence running southwesterly about 1,588.98 feet to the point of origin.

(2) MYSTIC RIVER, CONNECTICUT.—The portion of the project for navigation, Mystic River, Connecticut, authorized by the first section of the River and Harbor Appropriations Act of September 19, 1890 (26 Stat. 436) consisting of a 12-foot-deep channel, approximately 7,554 square feet in area, starting at a point N193,086.51, E815,092.78, thence running north 59 degrees 21 minutes 46.63 seconds west about 138.05 feet to a point N193,156.86, E814,974.00, thence running north 51 degrees 04 minutes 39.00 seconds west about 166.57 feet to a point N193,261.51, E814,844.41, thence running north 43 degrees 01 minutes 34.90 seconds west about 86.23 feet to a point N193,324.55, E814,785.57, thence running north 06 degrees 42 minutes 03.86 seconds west about 156.57 feet to a point N193,480.05, E814,767.30, thence running south 21 degrees 21 minutes 17.94 seconds east about 231.42 feet to a point N193,264.52, E814,851.57, thence running south 53 degrees 34 minutes 23.28 seconds east about 299.78 feet to the point of origin.

(3) NORWALK HARBOR, CONNECTICUT.—

(A) IN GENERAL.—The portions of a 10-foot channel of the project for navigation, Norwalk Harbor, Connecticut, authorized by the first section of the Act of March 2, 1919 (40 Stat. 1276) and described in subparagraph (B).

(B) DESCRIPTION OF PORTIONS.—The portions of the channel referred to in subparagraph (A) are as follows:

(i) RECTANGULAR PORTION.—An approximately rectangular-shaped section along the northwesterly terminus of the channel. The section is 35-foot wide and about 460-feet long and is further described as commencing at a point N104,165.85, E417,662.71, thence running south 24 degrees 06 minutes 55 seconds east 395.00 feet to a point N103,805.32, E417,824.10, thence running south 00 degrees 38 minutes 06 seconds east 87.84 feet to a point N103,717.49, E417,825.07, thence

running north 24 degrees 06 minutes 55 seconds west 480.00 feet, to a point N104,155.59, E417,628.96, thence running north 73 degrees 05 minutes 25 seconds east 35.28 feet to the point of origin.

(ii) PARALLELOGRAM-SHAPED PORTION.—An area having the approximate shape of a parallelogram along the northeasterly portion of the channel, southeast of the area described in clause (i), approximately 20 feet wide and 260 feet long, and further described as commencing at a point N103,855.48, E417,849.99, thence running south 33 degrees 07 minutes 30 seconds east 133.40 feet to a point N103,743.76, E417,922.89, thence running south 24 degrees 07 minutes 04 seconds east 127.75 feet to a point N103,627.16, E417,975.09, thence running north 33 degrees 07 minutes 30 seconds west 190.00 feet to a point N103,786.28, E417,871.26, thence running north 17 degrees 05 minutes 15 seconds west 72.39 feet to the point of origin.

(C) EXCLUSION.—Notwithstanding any other provision of this paragraph, the Secretary shall realign the 10-foot channel portion of the project referred to in subparagraph (A) to include, immediately north of the area described in subparagraph (B)(ii), a triangular section described as commencing at a point N103,968.35, E417,815.29, thence running south 17 degrees 05 minutes 15 seconds east 118.09 feet to a point N103,855.48, E417,849.99, thence running north 33 degrees 07 minutes 30 seconds west 36.76 feet to a point N103,886.27, E417,829.90, thence running north 10 degrees 05 minutes 26 seconds west 83.37 feet to the point of origin.

(4) ROCKLAND HARBOR, MAINE.—The portion of the project for navigation, Rockland Harbor, Maine, authorized by the Act of June 3, 1896 (29 Stat. 202), consisting of a 14-foot channel located in Lermond Cove and beginning at a point with coordinates N99,977.37, E340,290.02, thence running easterly about 200.00 feet to a point with coordinates N99,978.49, E340,490.02, thence running northerly about 138.00 feet to a point with coordinates N100,116.49, E340,289.25, thence running westerly about 200.00 feet to a point with coordinates N100,115.37, E340,289.25, thence running southerly about 138.00 feet to the point of origin.

(5) ROCKPORT HARBOR, MAINE.—

(A) IN GENERAL.—The portion of the project for navigation, Rockport Harbor, Maine, authorized by the first section of the Act of August 11, 1888 (25 Stat. 400), located within the 12-foot anchorage described in subparagraph (B).

(B) DESCRIPTION OF ANCHORAGE.—The anchorage referred to in subparagraph (A) is more particularly described as—

(i) beginning at the westernmost point of the anchorage at N128800.00, E349311.00;

(ii) thence running north 12 degrees, 52 minutes, 37.2 seconds east 127.08 feet to a point N128923.88, E349339.32;

(iii) thence running north 17 degrees, 40 minutes, 13.0 seconds east 338.61 feet to a point N129246.51, E349442.10;

(iv) thence running south 89 degrees, 21 minutes, 21.0 seconds east 45.36 feet to a point N129246.00, E349487.46;

(v) thence running south 44 degrees, 13 minutes, 32.6 seconds east 18.85 feet to a point N129232.49, E349500.61;

(vi) thence running south 17 degrees, 40 minutes 13.0 seconds west 340.50 feet to a point N128908.06, E349397.25;

(vii) thence running south 12 degrees, 52 minutes, 37.2 seconds west 235.41 feet to a point at N128678.57, E349344.79; and

(viii) thence running north 15 degrees, 32 minutes, 59.3 seconds west 126.04 feet to the point of origin.

(6) FALMOUTH HARBOR, MASSACHUSETTS.—The portion of the project for navigation, Falmouth Harbor, Massachusetts, authorized by section 101 of the River and Harbor Act of 1948 (62 Stat. 1172), beginning at a point along the eastern side of the inner harbor N200,415.05, E845,307.98, thence running north 25 degrees 48 minutes 54.3 seconds east 160.24 feet to a point N200,559.20, E845,377.76, thence running north 22 degrees 7 minutes 52.4 seconds east 596.82 feet to a point N201,112.15, E845,602.60, thence running north 60 degrees 1 minute 0.3 seconds east 83.18 feet to a point N201,153.72, E845,674.65, thence running south 24 degrees 56 minutes 43.4 seconds west 665.01 feet to a point N200,550.75, E845,394.18, thence running south 32 degrees 25 minutes 29.0 seconds west 160.76 feet to the point of origin.

(7) ISLAND END RIVER, MASSACHUSETTS.—The portion of the project for navigation, Island End River, Massachusetts, carried out under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), described as follows: Beginning at a point along the eastern limit of the existing project, N507,348.98, E721,180.01, thence running northeast about 35 feet to a point N507,384.17, E721,183.36, thence running northeast about 324 feet to a point N507,590.51, E721,433.17, thence running northeast about 345 feet to a point along the northern limit of the existing project, N507,927.29, E721,510.29, thence running southeast about 25 feet to a point N507,921.71, E721,534.66, thence running southwest about 354 feet to a point N507,576.65, E721,455.64, thence running southwest about 357 feet to the point of origin.

(8) CITY WATERWAY, TACOMA, WASHINGTON.—The portion of the project for navigation, City Waterway, Tacoma, Washington, authorized by the first section of the River and Harbor Appropriations Act of June 13, 1902 (32 Stat. 347), consisting of the last 1,000 linear feet of the inner portion of the waterway beginning at station 70+00 and ending at station 80+00.

(9) AUNT LYDIA'S COVE, MASSACHUSETTS.—

(A) IN GENERAL.—The portion of the project for navigation, Aunt Lydia's Cove, Massachusetts, constructed under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), consisting of the 8-foot deep anchorage in the cove described in subparagraph (B).

(B) DESCRIPTION OF PORTION.—The portion of the project described in subparagraph (A) is more particularly described as the portion beginning at a point along the southern limit of the existing project, N254,332.00, E1,023,103.96, thence running northwesterly about 761.60 feet to a point along the western limit of the existing project N255,076.84, E1,022,945.07, thence running southwesterly about 38.11 feet to a point N255,038.99, E1,022,940.60, thence running southeasterly about 267.07 feet to a point N254,772.00, E1,022,947.00, thence running southeasterly about 462.41 feet to a point N254,320.06, E1,023,044.84, thence running northeasterly about 60.31 feet to the point of origin.

(10) WHATCOM CREEK WATERWAY, BELLINGHAM, WASHINGTON.—The portion of the project for navigation, Whatcom Creek Waterway, Bellingham, Washington, authorized by the River and Harbor Act of June 25, 1910 (36 Stat. 664), and section 101 of the River and Harbor Act of 1958 (72 Stat. 299), consisting of the last 2,900 linear feet of the inner portion of the waterway and beginning at station 29+00 to station 0+00.

(11) OCONTO HARBOR, WISCONSIN.—

(A) IN GENERAL.—The portion of the project for navigation, Oconto Harbor, Wisconsin, authorized by the Act of August 2, 1882 (22 Stat. 196), and the Act of June 25, 1910 (36 Stat. 664) (commonly known as the “River and Harbor Act of 1910”), consisting of a 15-foot-deep turning basin in the Oconto River, as described in subparagraph (B).

(B) PROJECT DESCRIPTION.—The project referred to in subparagraph (B) is more particularly described as—

(i) beginning at a point along the western limit of the existing project, N394,086.71, E2,530,202.71;

(ii) thence northeasterly about 619.93 feet to a point N394,459.10, E2,530,698.33;

(iii) thence southeasterly about 186.06 feet to a point N394,299.20, E2,530,793.47;

(iv) thence southwesterly about 355.07 feet to a point N393,967.13, E2,530,667.76;

(v) thence southwesterly about 304.10 feet to a point N393,826.90, E2,530,397.92; and

(vi) thence northwesterly about 324.97 feet to the point of origin.

(b) ANCHORAGE AREA, NEW LONDON HARBOR, CONNECTICUT.—The portion of the project for navigation, New London Harbor, Connecticut, authorized by the River and Harbor Appropriations Act of June 13, 1902 (32 Stat. 333), that consists of a 23-foot waterfront channel and that is further described as beginning at a point along the western limit of the existing project, N188, 802.75, E779, 462.81, thence running northeasterly about 1,373.88 feet to a point N189, 554.87, E780, 612.53, thence running southeasterly about 439.54 feet to a point N189, 319.88, E780, 983.98, thence running southwesterly about 831.58 feet to a point N188, 864.63, E780, 288.08, thence running southeasterly about 567.39 feet to a point N188, 301.88, E780, 360.49, thence running northwesterly about 1,027.96 feet to the point of origin, is redesignated as an anchorage area.

(c) SOUTHPORT HARBOR, FAIRFIELD, CONNECTICUT.—The project for navigation, Southport Harbor, Fairfield, Connecticut, authorized by section 2 of the River and Harbor Act of March 2, 1829, and by the first section of the River and Harbor Act of August 30, 1935 (49 Stat. 1029), and section 364 of the Water Resources Development Act of 1996 (110 Stat. 3733–3734), is modified to redesignate a portion of the 9-foot-deep channel to an anchorage area, approximately 900 feet in length and 90,000 square feet in area, and lying generally north of a line with points at coordinates N108,043.45, E452,252.04 and N107,938.74, E452,265.74.

(d) SACO RIVER, MAINE.—The portion of the project for navigation, Saco River, Maine, constructed under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) and described as a 6-foot deep, 10-acre maneuvering basin located at the head of navigation, is redesignated as an anchorage area.

(e) UNION RIVER, MAINE.—The project for navigation, Union River, Maine, authorized by the first section of the Act of June 3, 1896 (29 Stat. 215), is modified by redesignating as an anchorage area that portion of the project consisting of a 6-foot turning basin and lying northerly of a line commencing at a point N315,975.13, E1,004,424.86, thence running north 61 degrees 27 minutes 20.71 seconds west about 132.34 feet to a point N316,038.37, E1,004,308.61.

(f) MYSTIC RIVER, MASSACHUSETTS.—The portion of the project for navigation, Mystic River, Massachusetts, authorized by the first section of the River and Harbor Appropriations Act of July 13, 1892 (27 Stat. 96), between a line starting at a point N515,683.77, E707,035.45 and ending at a point N515,721.28, E707,069.85 and a line starting at a point N514,595.15, E707,746.15 and ending at a point N514,732.94, E707,658.38 shall be relocated and reduced from a 100-foot wide channel to a 50-foot wide channel after the date of enactment of this Act described as follows: Beginning at a point N515,721.28, E707,069.85, thence running southeasterly about 840.50 feet to a point N515,070.16, E707,601.27, thence running southeasterly about 177.54 feet to a point N514,904.84, E707,665.98, thence running southeasterly about 319.90 feet to a point with coordinates N514,595.15, E707,746.15, thence running northwesterly about 163.37 feet to a point N514,732.94, E707,658.38, thence running northwesterly about 161.58 feet to a point N514,889.47, E707,618.30, thence running northwesterly about 166.61 feet to a point N515,044.62, E707,557.58, thence running northwesterly about 825.31 feet to a point N515,683.77, E707,035.45, thence running northeasterly about 50.90 feet returning to a point N515,721.28, E707,069.85.

(g) RIVERCENTER, PHILADELPHIA, PENNSYLVANIA.—Section 38(c) of the Water Resources Development Act of 1988 (33 U.S.C. 59j–1; 102 Stat. 4038) is amended by striking “subsection (a) of this section” and inserting “subsection (a) (except 30 years from such date of enactment, in the case of the area or any part thereof described in subsection (a)(5))”.

(h) ADDITIONAL DEAUTHORIZATIONS.—The following projects are not authorized after the date of enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date or is under construction on such date:

(1) The project for flood protection on Atascadero Creek and its tributaries of Goleta, California, authorized by section 201 of the Flood Control Act of 1970 (84 Stat. 1826).

(2) The project for the construction of bridge fenders for the Summit and St. Georges Bridge for the Inland Waterway of the Delaware River to the C & D Canal of the Chesapeake Bay, Delaware and Maryland, authorized by the River and Harbor Act of 1954 (68 Stat. 1249).

(3) The project for flood control, central and southern Florida, Shingle Creek basin, Florida, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1182).

(4) The project for flood control, Brevoort, Indiana, authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1587).

(5) The project for flood control, Middle Wabash, Greenfield Bayou, Indiana, authorized by section 10 of the Flood Control Act of July 24, 1946 (60 Stat. 649).

(6) The project for flood damage reduction, Lake George, Hobart, Indiana, authorized by section 602(a)(2) of the Water Resources Development Act of 1986 (100 Stat. 4148).

(7) The project for navigation at the Muscatine Harbor on the Mississippi River at Muscatine, Iowa, authorized by section 101 of the River and Harbor Act of 1950 (64 Stat. 166).

(8) The project for flood control and water supply, Eagle Creek Lake, Kentucky, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1188).

(9) The project for flood control, Hazard, Kentucky, authorized by section 3(a)(7) of the Water Resources Development Act of 1988 (100 Stat. 4014) and section 108 of the Water Resources Development Act of 1990 (104 Stat. 4621).

(10) The project for flood control, western Kentucky tributaries, Kentucky, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1076) and modified by section 210 of the Flood Control Act of 1970 (84 Stat. 1829).

(11) The project for flood damage reduction, Tensas-Cocodrie area, Louisiana, authorized by section 3 of the Flood Control Act of August 18, 1941 (55 Stat. 643).

(12) The uncompleted portions of the project for navigation improvement for Bayou LaFourche and LaFourche Jump, Louisiana, authorized by the Act of August 30, 1935 (49 Stat. 1033), and the River and Harbor Act of 1960 (74 Stat. 481).

(13) The project for flood control, Eastern Rapides and South-Central Avoyelles Parishes, Louisiana, authorized by section 201 of the Flood Control Act of 1970 (84 Stat. 1825).

(14) The project for erosion protection and recreation, Fort Livingston, Grande Terre Island, Louisiana, authorized by the Act of August 13, 1946 (33 U.S.C. 426e et seq.).

(15) The project for navigation, Northeast Harbor, Maine, authorized by section 2 of the Act of March 2, 1945 (59 Stat. 12).

(16) The project for navigation, Tenants Harbor, Maine, authorized by the first section of the Act of March 2, 1919 (40 Stat. 1275).

(17) The project for navigation, New York Harbor and adjacent channels, Claremont Terminal, Jersey City, New

Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098).

(18) The project for navigation, Olcott Harbor, Lake Ontario, New York, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4143).

(19) The project for navigation, Outer Harbor, Buffalo, New York, authorized by section 110 of the Water Resources Development Act of 1992 (106 Stat. 4817).

(20) The project for the Columbia River, Seafarers Memorial, Hammond, Oregon, authorized by title I of the Energy and Water Development Appropriations Act, 1991 (104 Stat. 2078).

(21) The project for navigation, Narragansett Town Beach, Narragansett, Rhode Island, authorized by section 361 of the Water Resources Development Act of 1992 (106 Stat. 4861).

(22) The project for bulkhead repairs, Quonset Point-Davisville, Rhode Island, authorized by section 571 of the Water Resources Development Act of 1996 (110 Stat. 3788).

(23) The structural portion of the project for flood control, Cypress Creek, Texas, authorized by section 3(a)(13) of the Water Resources Development Act of 1988 (102 Stat. 4014).

(24) The project for flood protection, East Fork Channel Improvement, Increment 2, East Fork of the Trinity River, Texas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1185).

(25) The project for flood control, Falfurrias, Texas, authorized by section 3(a)(14) of the Water Resources Development Act of 1988 (102 Stat. 4014).

(26) The project for flood control, Pecan Bayou Lake, Texas, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 742).

(27) The project for navigation improvements affecting Lake of the Pines, Texas, for the portion of the Red River below Fulton, Arkansas, authorized by the Act of July 13, 1892 (27 Stat. 103) and modified by the Act of July 24, 1946 (60 Stat. 635), the Act of May 17, 1950 (64 Stat. 163), and the River and Harbor Act of 1968 (82 Stat. 731).

(28) The project for navigation, Tennessee Colony Lake, Trinity River, Texas, authorized by section 204 of the River and Harbor Act of 1965 (79 Stat. 1091).

(29) The project for streambank erosion, Kanawha River, Charleston, West Virginia, authorized by section 603(f)(13) of the Water Resources Development Act of 1986 (100 Stat. 4153).

SEC. 3182. LAND CONVEYANCES.

(a) ST. FRANCIS BASIN, ARKANSAS AND MISSOURI.—

(1) IN GENERAL.—The Secretary shall convey to the State of Arkansas, without monetary consideration and subject to paragraph (2), all right, title, and interest in and to real property within the State acquired by the Federal Government as mitigation land for the project for flood control, St. Francis Basin, Arkansas and Missouri Project, authorized by the Flood Control Act of May 15, 1928 (33 U.S.C. 702a et seq.).

(2) TERMS AND CONDITIONS.—

(A) IN GENERAL.—The conveyance by the United States under this subsection shall be subject to—

(i) the condition that the State of Arkansas agree to operate, maintain, and manage the real property for fish and wildlife, recreation, and environmental purposes at no cost or expense to the United States; and

(ii) such other terms and conditions as the Secretary determines to be in the interest of the United States.

(B) REVERSION.—If the Secretary determines that the real property conveyed under paragraph (1) ceases to be held in public ownership or the State ceases to operate, maintain, and manage the real property in accordance with this subsection, all right, title, and interest in and to the property shall revert to the United States, at the option of the Secretary.

(3) MITIGATION.—Nothing in this subsection extinguishes the responsibility of the Federal Government or the non-Federal interest for the project referred to in paragraph (1) from the obligation to implement mitigation for such project that existed on the day prior to the transfer authorized by this subsection.

(b) OAKLAND INNER HARBOR TIDAL CANAL, CALIFORNIA.—

(1) IN GENERAL.—The Secretary may convey, by separate quitclaim deeds, as soon as the conveyance of each individual portion is practicable, the title of the United States in and to all or portions of the approximately 86 acres of upland, tideland, and submerged land, commonly referred to as the “Oakland Inner Harbor Tidal Canal”, California (referred to in this section as the “Canal Property”), as follows:

(A) To the city of Oakland, without consideration, the title of the United States in and to all or portions of that part of the Canal Property that are located within the boundaries of the City of Oakland.

(B) To the city of Alameda, or to a public entity created by or designated by the city of Alameda that is eligible to hold title to real property, without consideration, the title of the United States in and to all or portions of that part of the Canal Property that are located within the boundaries of the city of Alameda.

(C) To the owners of lands adjacent to the Canal Property, or to a public entity created by or designated by one or more of the adjacent land owners that are eligible to hold title to real property, at fair market value, the title of the United States in and to all or portions of that part of the Canal Property that are located within the boundaries of the city in which the adjacent land is located.

(2) REQUIREMENT.—The Secretary may reserve and retain from any conveyance under this subsection a right-of-way or other rights as the Secretary determines to be necessary for the operation and maintenance of the authorized Federal channel in the Canal Property.

(3) ANNUAL REPORTS.—Until the date on which each conveyance described in paragraph (1) is complete, the Secretary shall submit, by not later than November 30 of each year, to the Committee on Environment and Public Works of the Senate and Committee on Transportation and Infrastructure of the House of Representatives an annual report that

describes the efforts of the Secretary to complete that conveyance during the preceding fiscal year.

(4) FORM.—A conveyance made under this subsection may be, in whole or in part, in the form of an easement.

(5) RIGHT OF FIRST REFUSAL.—For any property on which an easement is granted under this subsection, should the Secretary seek to dispose of the property, the holder of the easement shall have the right of first refusal to the property without cost or consideration.

(6) REPEAL.—Section 205 of the Water Resources Development Act of 1990 (104 Stat. 4633; 110 Stat. 3748) is repealed.

(c) MILFORD, KANSAS.—

(1) IN GENERAL.—The Secretary shall convey by quitclaim deed without consideration to the Geary County Fire Department, Milford, Kansas, all right, title, and interest of the United States in and to real property consisting of approximately 7.4 acres located in Geary County, Kansas, for construction, operation, and maintenance of a fire station.

(2) REVERSION.—If the Secretary determines that the real property conveyed under paragraph (1) ceases to be held in public ownership or ceases to be operated and maintained as a fire station, all right, title, and interest in and to the property shall revert to the United States, at the option of the United States.

(d) STRAWN CEMETERY, JOHN REDMOND LAKE, KANSAS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary, acting through the Tulsa District of the Corps of Engineers, shall transfer to Pleasant Township, Coffey County, Kansas, for use as the New Strawn Cemetery, all right, title, and interest of the United States in and to the land described in paragraph (3).

(2) REVERSION.—If the land transferred under this subsection ceases at any time to be used as a nonprofit cemetery or for another public purpose, the land shall revert to the United States.

(3) DESCRIPTION.—The land to be conveyed under this subsection is a tract of land near John Redmond Lake, Kansas, containing approximately 3 acres and lying adjacent to the west line of the Strawn Cemetery located in the SE corner of the NE $\frac{1}{4}$ of section 32, township 20 south, range 14 east, Coffey County, Kansas.

(e) PIKE COUNTY, MISSOURI.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) FEDERAL LAND.—The term “Federal land” means the 2 parcels of Corps of Engineers land totaling approximately 42 acres, located on Buffalo Island in Pike County, Missouri, and consisting of Government Tract Numbers MIS-7 and a portion of FM-46.

(B) NON-FEDERAL LAND.—The term “non-Federal land” means the approximately 42 acres of land, subject to any existing flowage easements situated in Pike County, Missouri, upstream and northwest, about 200 feet from Drake Island (also known as Grimes Island).

(2) LAND EXCHANGE.—Subject to paragraph (3), on conveyance by S.S.S., Inc., to the United States of all right, title, and interest in and to the non-Federal land, the Secretary

shall convey to S.S.S., Inc., all right, title, and interest of the United States in and to the Federal land.

(3) CONDITIONS.—

(A) DEEDS.—

(i) NON-FEDERAL LAND.—The conveyance of the non-Federal land to the Secretary shall be by a warranty deed acceptable to the Secretary.

(ii) FEDERAL LAND.—The conveyance of the Federal land to S.S.S., Inc., shall be—

(I) by quitclaim deed; and

(II) subject to any reservations, terms, and conditions that the Secretary determines to be necessary to allow the United States to operate and maintain the Mississippi River 9-Foot Navigation Project.

(iii) LEGAL DESCRIPTIONS.—The Secretary shall provide a legal description of the Federal land, and S.S.S., Inc., shall provide a legal description of the non-Federal land, for inclusion in the deeds referred to in clauses (i) and (ii).

(B) REMOVAL OF IMPROVEMENTS.—

(i) IN GENERAL.—The Secretary may require the removal of, or S.S.S., Inc., may voluntarily remove, any improvements to the non-Federal land before the completion of the exchange or as a condition of the exchange.

(ii) NO LIABILITY.—If S.S.S., Inc., removes any improvements to the non-Federal land under clause (i)—

(I) S.S.S., Inc., shall have no claim against the United States relating to the removal; and

(II) the United States shall not incur or be liable for any cost associated with the removal or relocation of the improvements.

(C) ADMINISTRATIVE COSTS.—The Secretary shall require S.S.S., Inc. to pay reasonable administrative costs associated with the exchange.

(D) CASH EQUALIZATION PAYMENT.—If the appraised fair market value, as determined by the Secretary, of the Federal land exceeds the appraised fair market value, as determined by the Secretary, of the non-Federal land, S.S.S., Inc., shall make a cash equalization payment to the United States.

(E) DEADLINE.—The land exchange under subparagraph (B) shall be completed not later than 2 years after the date of enactment of this Act.

(f) UNION LAKE, MISSOURI.—

(1) IN GENERAL.—The Secretary shall offer to convey to the State of Missouri, before June 30, 2007, all right, title, and interest in and to approximately 205.50 acres of land described in paragraph (2) purchased for the Union Lake Project that was deauthorized as of January 1, 1990 (55 Fed. Reg. 40906), in accordance with section 1001(a) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(a)).

(2) LAND DESCRIPTION.—The land referred to in paragraph (1) is described as follows:

(A) TRACT 500.—A tract of land situated in Franklin County, Missouri, being part of the SW $\frac{1}{4}$ of section 7, and the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of section 8, township 42 north, range 2 west of the fifth principal meridian, consisting of approximately 112.50 acres.

(B) TRACT 605.—A tract of land situated in Franklin County, Missouri, being part of the N $\frac{1}{2}$ of the NE, and part of the SE of the NE of section 18, township 42 north, range 2 west of the fifth principal meridian, consisting of approximately 93.00 acres.

(3) CONVEYANCE.—On acceptance by the State of Missouri of the offer by the Secretary under paragraph (1), the land described in paragraph (2) shall immediately be conveyed, in its current condition, by Secretary to the State of Missouri.

(g) BOARDMAN, OREGON.—Section 501(g)(1) of the Water Resources Development Act of 1996 (110 Stat. 3751) is amended—

(1) by striking “city of Boardman,” and inserting “the Boardman Park and Recreation District, Boardman,”; and

(2) by striking “such city” and inserting “the city of Boardman”.

(h) LOOKOUT POINT PROJECT, LOWELL, OREGON.—

(1) IN GENERAL.—The Secretary may convey without consideration to Lowell School District, by quitclaim deed, all right, title, and interest of the United States in and to land and buildings thereon, known as Tract A–82, located in Lowell, Oregon, and described in paragraph (2).

(2) DESCRIPTION OF PROPERTY.—The parcel of land authorized to be conveyed under paragraph (1) is as follows: Commencing at the point of intersection of the west line of Pioneer Street with the westerly extension of the north line of Summit Street, in Meadows Addition to Lowell, as platted and recorded at page 56 of Volume 4, Lane County Oregon Plat Records; thence north on the west line of Pioneer Street a distance of 176.0 feet to the true point of beginning of this description; thence north on the west line of Pioneer Street a distance of 170.0 feet; thence west at right angles to the west line of Pioneer Street a distance of 250.0 feet; thence south and parallel to the west line of Pioneer Street a distance of 170.0 feet; thence east 250.0 feet to the true point of beginning of this description in Section 14, Township 19 South, Range 1 West of the Willamette Meridian, Lane County, Oregon.

(3) TERMS AND CONDITIONS.—Before conveying the parcel to the school district, the Secretary shall ensure that the conditions of buildings and facilities meet the requirements of applicable Federal law.

(4) REVERSION.—If the Secretary determines that the property conveyed under paragraph (1) ceases to be held in public ownership, all right, title, and interest in and to the property shall revert to the United States, at the option of the United States.

(i) RICHARD B. RUSSELL LAKE, SOUTH CAROLINA.—

(1) IN GENERAL.—The Secretary shall convey, at fair market value, to the State of South Carolina, by quitclaim deed, all right, title, and interest of the United States in and to the parcels of land described in paragraph (2)(A) that are managed, as of the date of enactment of this Act, by the South Carolina department of commerce for public recreation purposes for the

Richard B. Russell Dam and Lake, South Carolina, project authorized by section 203 of the Flood Control Act of 1966 (80 Stat. 1420).

(2) LAND DESCRIPTION.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the parcels of land referred to in paragraph (1) are the parcels contained in the portion of land described in Army Lease Number DACW21–1–92–0500.

(B) RETENTION OF INTERESTS.—The United States shall retain—

(i) ownership of all land included in the lease referred to in subparagraph (A) that would have been acquired for operational purposes in accordance with the 1971 implementation of the 1962 Army/Interior Joint Acquisition Policy; and

(ii) such other land as is determined by the Secretary to be required for authorized project purposes, including easement rights-of-way to remaining Federal land.

(C) SURVEY.—The cost of the survey shall be paid by the State.

(3) COSTS OF CONVEYANCE.—

(A) IN GENERAL.—The State shall be responsible for all costs, including real estate transaction and environmental costs, associated with the conveyance under this subsection.

(B) FORM OF CONTRIBUTION.—As determined appropriate by the Secretary, in lieu of payment of compensation to the United States under subparagraph (A), the State may perform certain environmental or real estate actions associated with the conveyance under this subsection if those actions are performed in close coordination with, to the satisfaction of, and in compliance with the laws of the United States.

(4) ADDITIONAL TERMS AND CONDITIONS.—

(A) NO EFFECT ON SHORE MANAGEMENT POLICY.—The Shoreline Management Policy (ER–1130–2–406) of the Corps of Engineers may not be changed or altered for any proposed development of land conveyed under this subsection.

(B) COST SHARING.—In carrying out the conveyance under this subsection, the Secretary and the State shall comply with all obligations of any cost sharing agreement between the Secretary and the State in effect as of the date of the conveyance.

(C) LAND NOT CONVEYED.—The State shall continue to manage the land that is subject to Army Lease Number DACW21–1–92–0500 and that is not conveyed under this subsection in accordance with the terms and conditions of Army Lease Number DACW21–1–92–0500.

(j) DENISON, TEXAS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall offer to convey at fair market value to the city of Denison, Texas, all right, title, and interest of the United States in and to the approximately 900 acres of land located in Grayson County, Texas, which is currently subject to an application for lease for public

Deadline.

park and recreational purposes made by the city of Denison, dated August 17, 2005.

(2) SURVEY TO OBTAIN LEGAL DESCRIPTION.—The exact acreage and description of the real property referred to in paragraph (1) shall be determined by a survey paid for by the city of Denison, Texas, that is satisfactory to the Secretary.

Deadline.

(3) CONVEYANCE.—Not later than 90 days after the date of acceptance by the city of Denison, Texas, of an offer under paragraph (1), the Secretary shall convey the land surveyed under paragraph (2) by quitclaim deed to the city of Denison, Texas.

(k) GENERALLY APPLICABLE PROVISIONS.—

(1) SURVEY TO OBTAIN LEGAL DESCRIPTION.—The exact acreage and the legal description of any real property to be conveyed under this section shall be determined by a survey that is satisfactory to the Secretary.

(2) APPLICABILITY OF PROPERTY SCREENING PROVISIONS.—Section 2696 of title 10, United States Code, shall not apply to any conveyance under this section.

(3) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require that any conveyance under this section be subject to such additional terms and conditions as the Secretary considers appropriate and necessary to protect the interests of the United States.

(4) COSTS OF CONVEYANCE.—An entity to which a conveyance is made under this section shall be responsible for all reasonable and necessary costs, including real estate transaction and environmental documentation costs, associated with the conveyance.

(5) LIABILITY.—An entity to which a conveyance is made under this section shall hold the United States harmless from any liability with respect to activities carried out, on or after the date of the conveyance, on the real property conveyed. The United States shall remain responsible for any liability with respect to activities carried out, before such date, on the real property conveyed.

SEC. 3183. EXTINGUISHMENT OF REVERSIONARY INTERESTS AND USE RESTRICTIONS.

(a) IDAHO.—

(1) IN GENERAL.—With respect to the property covered by each deed in paragraph (2)—

(A) the reversionary interests and use restrictions relating to port and industrial use purposes are extinguished;

(B) the restriction that no activity shall be permitted that will compete with services and facilities offered by public marinas is extinguished; and

(C) the human habitation or other building structure use restriction is extinguished if the elevation of the property is above the standard project flood elevation.

(2) AFFECTED DEEDS.—The deeds with the following county auditor's file numbers are referred to in paragraph (1):

(A) Auditor's Instrument No. 399218 of Nez Perce County, Idaho—2.07 acres.

(B) Auditor's Instrument No. 487437 of Nez Perce County, Idaho—7.32 acres.

(b) LAKE TEXOMA, OKLAHOMA.—

(1) RELEASE.—Any reversionary interest relating to public parks and recreation on the land conveyed by the Secretary to the State of Oklahoma at Lake Texoma pursuant to the Act entitled “An Act to authorize the sale of certain lands to the State of Oklahoma” (67 Stat. 63), shall terminate on the date of enactment of this Act.

Termination
date.

(2) INSTRUMENT OF RELEASE.—As soon as practicable after the date of enactment of this Act, the Secretary shall execute and file in the appropriate office a deed of release, an amended deed, or any other appropriate instrument to release each reversionary interest to which paragraph (1) applies.

(3) PRESERVATION OF RESERVED RIGHTS.—A release of a reversionary interest under this subsection shall not affect any other right of the United States in any deed of conveyance pursuant to the Act referred to in paragraph (1).

(c) LOWELL, OREGON.—

(1) RELEASE AND EXTINGUISHMENT OF DEED RESERVATIONS.—

(A) RELEASE AND EXTINGUISHMENT OF DEED RESERVATIONS.—The Secretary may release and extinguish the deed reservations for access and communication cables contained in the quitclaim deed, dated January 26, 1965, and recorded February 15, 1965, in the records of Lane County, Oregon; except that such reservations may only be released and extinguished for the lands owned by the city of Lowell as described in the quitclaim deed, dated April 11, 1991, in such records.

(B) ADDITIONAL RELEASE AND EXTINGUISHMENT OF DEED RESERVATIONS.—The Secretary may also release and extinguish the same deed reservations referred to in subparagraph (A) over land owned by Lane County, Oregon, within the city limits of Lowell, Oregon, to accommodate the development proposals of the city of Lowell/St. Vincent de Paul, Lane County, affordable housing project; except that the Secretary may require, at no cost to the United States—

(i) the alteration or relocation of any existing facilities, utilities, roads, or similar improvements on such lands; and

(ii) the right-of-way for such facilities, utilities, roads, or improvements as a precondition of any release or extinguishment of the deed reservations.

(2) CONVEYANCE.—The Secretary may convey to the city of Lowell, Oregon, the parcel of land situated in the city of Lowell, Oregon, at fair market value consisting of the strip of federally owned lands located northeast of West Boundary Road between Hyland Lane and the city of Lowell’s eastward city limits.

(3) ADMINISTRATIVE COST.—Notwithstanding paragraphs (1) and (2), the city of Lowell, Oregon, shall pay the administrative costs incurred by the United States to execute the release and extinguishment of the deed reservations under paragraph (1) and the conveyance under paragraph (2).

(d) OLD HICKORY LOCK AND DAM, CUMBERLAND RIVER, TENNESSEE.—

(1) RELEASE OF RETAINED RIGHTS, INTERESTS, RESERVATIONS.—With respect to land conveyed by the Secretary to the Tennessee Society of Crippled Children and Adults, Incorporated (commonly known as “Easter Seals Tennessee”) at Old Hickory Lock and Dam, Cumberland River, Tennessee, under section 211 of the Flood Control Act of 1965 (79 Stat. 1087), the reversionary interests and the use restrictions relating to recreation and camping purposes are extinguished.

(2) INSTRUMENT OF RELEASE.—As soon as practicable after the date of enactment of this Act, the Secretary shall execute and file in the appropriate office a deed of release, amended deed, or other appropriate instrument effectuating the release of interests required by paragraph (1).

(e) LOWER GRANITE POOL, WASHINGTON.—

(1) EXTINGUISHMENT OF REVERSIONARY INTERESTS AND USE RESTRICTIONS.—With respect to property covered by each deed described in paragraph (2)—

(A) the reversionary interests and use restrictions relating to port or industrial purposes are extinguished; and

(B) the human habitation or other building structure use restriction is extinguished in each area in which the elevation is above the standard project flood elevation.

(2) DEEDS.—The deeds referred to in paragraph (1) are as follows:

(A) Auditor’s File Numbers 432576, 443411, 499988, and 579771 of Whitman County, Washington.

(B) Auditor’s File Numbers 125806, 138801, 147888, 154511, 156928, and 176360 of Asotin County, Washington.

(f) PORT OF PASCO, WASHINGTON.—

(1) EXTINGUISHMENT OF USE RESTRICTIONS AND FLOWAGE EASEMENT.—With respect to the property covered by the deed in paragraph (3)(A)—

(A) the flowage easement and human habitation or other building structure use restriction is extinguished if the elevation of the property is above the standard project flood elevation; and

(B) the use of fill material to raise areas of the property above the standard project flood elevation is authorized, except in any area for which a permit under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is required.

(2) EXTINGUISHMENT OF FLOWAGE EASEMENT.—With respect to the property covered by each deed in paragraph (3)(B), the flowage easement is extinguished if the elevation of the property is above the standard project flood elevation.

(3) AFFECTED DEEDS.—The deeds referred to in paragraphs (1) and (2) are as follows:

(A) Auditor’s File Number 262980 of Franklin County, Washington.

(B) Auditor’s File Numbers 263334 and 404398 of Franklin County, Washington.

(g) NO EFFECT ON OTHER RIGHTS.—Nothing in this section affects the remaining rights and interests of the Corps of Engineers for authorized project purposes.

TITLE IV—STUDIES

SEC. 4001. JOHN GLENN GREAT LAKES BASIN PROGRAM.

Section 455 of the Water Resources Development Act of 1999 (42 U.S.C. 1962d–21) is amended by adding at the end the following:

“(g) IN-KIND CONTRIBUTIONS FOR STUDY.—The non-Federal interest may provide up to 100 percent of the non-Federal share required under subsection (f) in the form of in-kind services and materials.”.

SEC. 4002. LAKE ERIE DREDGED MATERIAL DISPOSAL SITES.

The Secretary shall conduct a study to determine the nature and frequency of avian botulism problems in the vicinity of Lake Erie associated with dredged material disposal sites and shall make recommendations to eliminate the conditions that result in such problems.

SEC. 4003. SOUTHWESTERN UNITED STATES DROUGHT STUDY.

(a) IN GENERAL.—The Secretary, in coordination with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and other appropriate agencies, shall conduct, at Federal expense, a comprehensive study of drought conditions in the southwestern United States, with particular emphasis on the Colorado River basin, the Rio Grande River basin, and the Great Basin.

(b) INVENTORY OF ACTIONS.—In conducting the study, the Secretary shall assemble an inventory of actions taken or planned to be taken to address drought-related situations in the southwestern United States.

(c) PURPOSE.—The purpose of the study shall be to develop recommendations to more effectively address current and future drought conditions in the southwestern United States.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section \$7,000,000. Such funds shall remain available until expended.

SEC. 4004. DELAWARE RIVER.

The Secretary shall review, in consultation with the Delaware River Basin Commission and the States of Delaware, Pennsylvania, New Jersey, and New York, the report of the Chief of Engineers on the Delaware River, published as House Document Numbered 522, 87th Congress, Second Session, as it relates to the Mid-Delaware River Basin from Wilmington to Port Jervis, and any other pertinent reports (including the strategy for resolution of interstate flow management issues in the Delaware River Basin dated August 2004 and the National Park Service Lower Delaware River Management Plan (1997–1999)), with a view to determining whether any modifications of recommendations contained in the first report referred to are advisable at the present time, in the interest of flood damage reduction, ecosystem restoration, and other related problems.

Review.

SEC. 4005. EURASIAN MILFOIL.

Under the authority of section 104 of the River and Harbor Act of 1958 (33 U.S.C. 610), the Secretary shall conduct a study, at Federal expense, to develop national protocols for the use of

the *Euhrychiopsis lecontei* weevil for biological control of Eurasian milfoil in the lakes of Vermont and other northeastern States.

SEC. 4006. FIRE ISLAND, ALASKA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for navigational improvements, including a barge landing facility, Fire Island, Alaska.

SEC. 4007. KNIK ARM, COOK INLET, ALASKA.

The Secretary shall conduct a study to determine the potential impacts on navigation of construction of a bridge across Knik Arm, Cook Inlet, Alaska.

SEC. 4008. KUSKOKWIM RIVER, ALASKA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for navigation, Kuskokwim River, Alaska, in the vicinity of the village of Crooked Creek.

SEC. 4009. NOME HARBOR, ALASKA.

The Secretary shall review the project for navigation, Nome Harbor improvements, Alaska, authorized by section 101(a)(1) of the Water Resources Development Act of 1999 (113 Stat. 273), to determine whether the project cost increases, including the cost of rebuilding the entrance channel damaged in a September 2005 storm, resulted from a design deficiency.

SEC. 4010. ST. GEORGE HARBOR, ALASKA.

The Secretary shall conduct a study to determine the feasibility of providing navigation improvements at St. George Harbor, Alaska.

SEC. 4011. SUSITNA RIVER, ALASKA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for hydropower, recreation, and related purposes on the Susitna River, Alaska.

SEC. 4012. VALDEZ, ALASKA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for navigation, Valdez, Alaska, and if the Secretary determines that the project is feasible, shall carry out the project at a total cost of \$20,000,000.

SEC. 4013. GILA BEND, MARICOPA, ARIZONA.

(a) **IN GENERAL.**—The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, Gila Bend, Maricopa, Arizona.

(b) **REVIEW OF PLANS.**—In conducting the study, the Secretary shall review plans and designs developed by non-Federal interests and shall incorporate such plans and designs into the Federal study if the Secretary determines that such plans and designs are consistent with Federal standards.

SEC. 4014. SEARCY COUNTY, ARKANSAS.

The Secretary shall conduct a study to determine the feasibility of using Greers Ferry Lake as a water supply source for Searcy County, Arkansas.

SEC. 4015. ALISO CREEK, CALIFORNIA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for streambank protection and environmental restoration along Aliso Creek, California.

SEC. 4016. FRESNO, KINGS, AND KERN COUNTIES, CALIFORNIA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply for Fresno, Kings, and Kern Counties, California.

SEC. 4017. FRUITVALE AVENUE RAILROAD BRIDGE, ALAMEDA, CALIFORNIA.

(a) **IN GENERAL.**—The Secretary shall prepare a comprehensive report that examines the condition of the existing Fruitvale Avenue Railroad Bridge, Alameda County, California (referred to in this section as the “Railroad Bridge”), and determines the most economic means to maintain that rail link by either repairing or replacing the Railroad Bridge. Reports.

(b) **REQUIREMENTS.**—The report under this section shall include—

- (1) a determination of whether the Railroad Bridge is in immediate danger of failing or collapsing;
- (2) the annual costs to maintain the Railroad Bridge;
- (3) the costs to place the Railroad Bridge in a safe, “no-collapse” condition, such that the Railroad Bridge will not endanger maritime traffic;
- (4) the costs to retrofit the Railroad Bridge such that the Railroad Bridge may continue to serve as a rail link between the Island of Alameda and the mainland; and
- (5) the costs to construct a replacement for the Railroad Bridge capable of serving the current and future rail, light rail, and homeland security needs of the region.

(c) **SUBMISSION OF REPORT.**—The Secretary shall—

- (1) complete the Railroad Bridge report under subsection (a) not later than 180 days after the date of enactment of this Act; and
- (2) submit the report to the Committee on Environment and Public Works of the Senate and Committee on Transportation and Infrastructure of the House of Representatives.

(d) **LIMITATIONS.**—The Secretary shall not—

- (1) demolish the Railroad Bridge or otherwise render the Railroad Bridge unavailable or unusable for rail traffic; or
- (2) reduce maintenance of the Railroad Bridge.

(e) **EASEMENT.**—

(1) **IN GENERAL.**—The Secretary shall provide to the city of Alameda, California, a nonexclusive access easement over the Oakland Estuary that comprises the subsurface land and surface approaches for the Railroad Bridge that—

(A) is consistent with the Bay Trail Proposal of the city of Oakland; and

(B) is otherwise suitable for the improvement, operation, and maintenance of the Railroad Bridge or construction, operation, and maintenance of a suitable replacement bridge.

(2) **COST.**—The easement under paragraph (1) shall be provided to the city of Alameda without consideration and at no cost to the United States.

SEC. 4018. LOS ANGELES RIVER REVITALIZATION STUDY, CALIFORNIA.

(a) **IN GENERAL.**—The Secretary, in coordination with the city of Los Angeles, shall—

(1) prepare a feasibility study for environmental ecosystem restoration, flood control, recreation, and other aspects of Los Angeles River revitalization that is consistent with the goals of the Los Angeles River Revitalization Master Plan published by the city of Los Angeles; and

(2) consider any locally-preferred project alternatives developed through a full and open evaluation process for inclusion in the study.

(b) **USE OF EXISTING INFORMATION AND MEASURES.**—In preparing the study under subsection (a), the Secretary shall use, to the maximum extent practicable—

(1) information obtained from the Los Angeles River Revitalization Master Plan; and

(2) the development process of that plan.

(c) **DEMONSTRATION PROJECTS.**—

(1) **IN GENERAL.**—The Secretary is authorized to construct demonstration projects in order to provide information to develop the study under subsection (a)(1).

(2) **FEDERAL SHARE.**—The Federal share of the cost of any project under this subsection shall be not more than 65 percent.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this subsection \$25,000,000.

SEC. 4019. LYTLE CREEK, RIALTO, CALIFORNIA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction and groundwater recharge, Lytle Creek, Rialto, California.

SEC. 4020. MOKELUMNE RIVER, SAN JOAQUIN COUNTY, CALIFORNIA.

(a) **IN GENERAL.**—The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply along the Mokelumne River, San Joaquin County, California.

(b) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to invalidate, preempt, or create any exception to State water law, State water rights, or Federal or State permitted activities or agreements.

SEC. 4021. ORICK, CALIFORNIA.

(a) **IN GENERAL.**—The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction and ecosystem restoration, Orick, California.

(b) **FEASIBILITY OF RESTORING OR REHABILITATING REDWOOD CREEK LEVEES.**—In conducting the study, the Secretary shall determine the feasibility of restoring or rehabilitating the Redwood Creek Levees, Humboldt County, California.

SEC. 4022. SHORELINE STUDY, OCEANSIDE, CALIFORNIA.

Section 414 of the Water Resources Development Act of 2000 (114 Stat. 2636) is amended by striking “32 months” and inserting “44 months”.

SEC. 4023. RIALTO, FONTANA, AND COLTON, CALIFORNIA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply for Rialto, Fontana, and Colton, California.

SEC. 4024. SACRAMENTO RIVER, CALIFORNIA.

The Secretary shall conduct a comprehensive study to determine the feasibility of, and alternatives for, measures to protect

water diversion facilities and fish protective screen facilities in the vicinity of river mile 178 on the Sacramento River, California.

SEC. 4025. SAN DIEGO COUNTY, CALIFORNIA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply, San Diego County, California, including a review of the feasibility of connecting 4 existing reservoirs to increase usable storage capacity.

SEC. 4026. SAN FRANCISCO BAY, SACRAMENTO-SAN JOAQUIN DELTA, CALIFORNIA.

(a) **IN GENERAL.**—The Secretary shall conduct a study to determine the feasibility of the beneficial use of dredged material from the San Francisco Bay in the Sacramento-San Joaquin Delta, California, including the benefits and impacts of salinity in the Delta and the benefits to navigation, flood damage reduction, ecosystem restoration, water quality, salinity control, water supply reliability, and recreation.

(b) **COOPERATION.**—In conducting the study, the Secretary shall cooperate with the California department of water resources and appropriate Federal and State entities in developing options for the beneficial use of dredged material from San Francisco Bay for the Sacramento-San Joaquin Delta area.

(c) **REVIEW.**—The study shall include a review of the feasibility of using Sherman Island as a rehandling site for levee maintenance material, as well as for ecosystem restoration. The review may include carrying out and monitoring a pilot project using up to 150,000 cubic yards of dredged material and being carried out at the Sherman Island site, examining larger scale use of dredged materials from the San Francisco Bay and Suisun Bay Channel, and analyzing the feasibility of the potential use of saline materials from the San Francisco Bay for both rehandling and ecosystem restoration purposes.

SEC. 4027. SOUTH SAN FRANCISCO BAY SHORELINE, CALIFORNIA.

(a) **IN GENERAL.**—The Secretary, in cooperation with non-Federal interests, shall conduct a study of the feasibility of carrying out a project for—

(1) flood damage reduction along the South San Francisco Bay shoreline, California;

(2) restoration of the South San Francisco Bay salt ponds (including on land owned by other Federal agencies); and

(3) other related purposes, as the Secretary determines to be appropriate.

(b) **REPORT.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subsection (a).

(2) **INCLUSIONS.**—The report under paragraph (1) shall include recommendations of the Secretary with respect to the project described in subsection (a) based on planning, design, and land acquisition documents prepared by—

(A) the California State Coastal Conservancy;

(B) the Santa Clara Valley Water District; and

(C) other local interests.

(c) **CREDIT.**—

(1) IN GENERAL.—In accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), and subject to paragraph (2), the Secretary shall credit toward the non-Federal share of the cost of any project authorized by law as a result of the South San Francisco Bay shoreline study—

(A) the cost of work performed by the non-Federal interest in preparation of the feasibility study that is conducted before the date of the feasibility cost sharing agreement; and

(B) the funds expended by the non-Federal interest for acquisition costs of land that constitutes a part of such a project and that is owned by the United States Fish and Wildlife Service.

(2) CONDITIONS.—The Secretary may provide credit under paragraph (1) if—

(A) the value of all or any portion of land referred to in paragraph (1)(B) that would be subject to the credit has not previously been credited to the non-Federal interest for a project; and

(B) the land was not acquired to meet any mitigation requirement of the non-Federal interest.

SEC. 4028. TWENTYNINE PALMS, CALIFORNIA.

The Secretary shall conduct a study to determine the feasibility of carrying out projects for flood damage reduction in the vicinity of Twentynine Palms, California.

SEC. 4029. YUCCA VALLEY, CALIFORNIA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, Burnt Mountain basin, in the vicinity of Yucca Valley, California.

SEC. 4030. SELENIUM STUDIES, COLORADO.

(a) IN GENERAL.—The Director of the United States Geological Survey, in consultation with State water quality and resource and conservation agencies, shall conduct regional and watershed-wide studies to address selenium concentrations in the State of Colorado, including studies—

(1) to measure selenium on specific sites; and

(2) to determine whether specific selenium measures studied should be recommended for use in demonstration projects.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,000,000.

SEC. 4031. DELAWARE AND CHRISTINA RIVERS AND SHELLPOT CREEK, WILMINGTON, DELAWARE.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction and related purposes along the Delaware and Christina Rivers and Shellpot Creek, Wilmington, Delaware.

SEC. 4032. DELAWARE INLAND BAYS AND TRIBUTARIES AND ATLANTIC COAST, DELAWARE.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of modifying the project for navigation, Indian River Inlet and Bay, Delaware.

(b) **FACTORS FOR CONSIDERATION AND PRIORITY.**—In carrying out the study under subsection (a), the Secretary shall—

(1) take into consideration all necessary activities to stabilize the scour holes threatening the Inlet and Bay shorelines; and

(2) give priority to stabilizing and restoring the Inlet channel and scour holes adjacent to the United States Coast Guard pier and helipad and the adjacent State-owned properties.

SEC. 4033. COLLIER COUNTY BEACHES, FLORIDA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for hurricane and storm damage reduction and flood damage reduction in the vicinity of Vanderbilt, Park Shore, and Naples beaches, Collier County, Florida.

SEC. 4034. LOWER ST. JOHNS RIVER, FLORIDA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for environmental restoration, including improved water quality, and related purposes, Lower St. Johns River, Florida.

SEC. 4035. HERBERT HOOVER DIKE SUPPLEMENTAL MAJOR REHABILITATION REPORT, FLORIDA.

(a) **IN GENERAL.**—Not later than 120 days after the date of enactment of this Act, the Secretary shall publish a supplemental report to the major rehabilitation report for the Herbert Hoover Dike system approved by the Chief of Engineers in November 2000.

(b) **INCLUSIONS.**—The supplemental report under subsection (a) shall include—

(1) an evaluation of existing conditions at the Herbert Hoover Dike system;

(2) an identification of additional risks associated with flood events at the system that are equal to or greater than the standard projected flood risks;

(3) an evaluation of the potential to integrate projects of the Corps of Engineers into an enhanced flood protection system for Lake Okeechobee, including—

(A) the potential for additional water storage north of Lake Okeechobee; and

(B) an analysis of other project features included in the Comprehensive Everglades Restoration Plan; and

(4) a review of the report prepared for the South Florida Water Management District dated April 2006.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$1,500,000.

SEC. 4036. VANDERBILT BEACH LAGOON, FLORIDA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for environmental restoration, water supply, and improvement of water quality at Vanderbilt Beach Lagoon, Florida.

SEC. 4037. MERIWETHER COUNTY, GEORGIA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply, Meriwether County, Georgia.

SEC. 4038. BOISE RIVER, IDAHO.

The study for flood control, Boise River, Idaho, authorized by section 414 of the Water Resources Development Act of 1999 (113 Stat. 324), is modified—

(1) to add ecosystem restoration and water supply as project purposes to be studied; and

(2) to require the Secretary to credit toward the non-Federal share of the cost of the study the cost, not to exceed \$500,000, of work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project.

SEC. 4039. BALLARD'S ISLAND SIDE CHANNEL, ILLINOIS.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for ecosystem restoration, Ballard's Island side channel, Illinois.

SEC. 4040. CHICAGO, ILLINOIS.

Section 425(a) of the Water Resources Development Act of 2000 (114 Stat. 2638) is amended by inserting "Lake Michigan and" before "the Chicago River".

SEC. 4041. SALEM, INDIANA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project to provide an additional water supply source for Salem, Indiana.

SEC. 4042. BUCKHORN LAKE, KENTUCKY.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of modifying the project for flood damage reduction, Buckhorn Lake, Kentucky, authorized by section 2 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), to add ecosystem restoration and recreation as project purposes.

(b) IN-KIND CONTRIBUTIONS.—The non-Federal interest may provide the non-Federal share of the cost of the study in the form of in-kind services and materials.

SEC. 4043. DEWEY LAKE, KENTUCKY.

The Secretary shall conduct a study to determine the feasibility of modifying the project for Dewey Lake, Kentucky, to add water supply as a project purpose.

SEC. 4044. LOUISVILLE, KENTUCKY.

The Secretary shall conduct a study of the project for flood control, Louisville, Kentucky, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), to investigate measures to address the rehabilitation of the project.

SEC. 4045. VIDALIA PORT, LOUISIANA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for navigation improvement at Vidalia, Louisiana.

SEC. 4046. FALL RIVER HARBOR, MASSACHUSETTS AND RHODE ISLAND.

The Secretary shall conduct a study to determine the feasibility of deepening that portion of the navigation channel of the navigation project for Fall River Harbor, Massachusetts and Rhode Island, authorized by section 101 of the River and Harbor Act of 1968

(82 Stat. 731), seaward of the Charles M. Braga, Jr. Memorial Bridge, Fall River and Somerset, Massachusetts.

SEC. 4047. CLINTON RIVER, MICHIGAN.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for environmental restoration, Clinton River, Michigan.

SEC. 4048. HAMBURG AND GREEN OAK TOWNSHIPS, MICHIGAN.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction on Ore Lake and the Huron River for Hamburg and Green Oak Townships, Michigan.

SEC. 4049. LAKE ERIE AT LUNA PIER, MICHIGAN.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for storm damage reduction and other related purposes along Lake Erie at Luna Pier, Michigan.

SEC. 4050. DULUTH-SUPERIOR HARBOR, MINNESOTA AND WISCONSIN.

(a) IN GENERAL.—The Secretary shall conduct a study and prepare a report to evaluate the integrity of the bulkhead system located on and in the vicinity of Duluth-Superior Harbor, Duluth, Minnesota, and Superior, Wisconsin.

(b) CONTENTS.—The report shall include—

- (1) a determination of causes of corrosion of the bulkhead system;
- (2) recommendations to reduce corrosion of the bulkhead system;
- (3) a description of the necessary repairs to the bulkhead system; and
- (4) an estimate of the cost of addressing the causes of the corrosion and carrying out necessary repairs.

SEC. 4051. NORTHEAST MISSISSIPPI.

The Secretary shall conduct a study to determine the feasibility of modifying the project for navigation, Tennessee-Tombigbee Waterway, Alabama and Mississippi, to provide water supply for northeast Mississippi.

SEC. 4052. DREDGED MATERIAL DISPOSAL, NEW JERSEY.

The Secretary shall conduct a study to determine the feasibility of carrying out a project in the vicinity of the Atlantic Intracoastal Waterway, New Jersey, for the construction of a dredged material disposal transfer facility to make dredged material available for beneficial reuse.

SEC. 4053. BAYONNE, NEW JERSEY.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for environmental restoration, including improved water quality, enhanced public access, and recreation, on the Kill Van Kull, Bayonne, New Jersey.

SEC. 4054. CARTERET, NEW JERSEY.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for environmental restoration, including improved water quality, enhanced public access, and recreation, on the Raritan River, Carteret, New Jersey.

SEC. 4055. GLOUCESTER COUNTY, NEW JERSEY.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, Gloucester County, New Jersey, including the feasibility of restoring the flood protection dikes in Gibbstown, New Jersey, and the associated tidegates in Gloucester County, New Jersey.

SEC. 4056. PERTH AMBOY, NEW JERSEY.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for environmental restoration and recreation on the Arthur Kill, Perth Amboy, New Jersey.

SEC. 4057. BATAVIA, NEW YORK.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for hydropower and related purposes in the vicinity of Batavia, New York.

SEC. 4058. BIG SISTER CREEK, EVANS, NEW YORK.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, Big Sister Creek, Evans, New York.

(b) EVALUATION OF POTENTIAL SOLUTIONS.—In conducting the study, the Secretary shall evaluate potential solutions to flooding from all sources, including flooding that results from ice jams.

SEC. 4059. FINGER LAKES, NEW YORK.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for aquatic ecosystem restoration and protection, Finger Lakes, New York, to address water quality and aquatic nuisance species.

SEC. 4060. LAKE ERIE SHORELINE, BUFFALO, NEW YORK.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for storm damage reduction and shoreline protection in the vicinity of Gallagher Beach, Lake Erie Shoreline, Buffalo, New York.

SEC. 4061. NEWTOWN CREEK, NEW YORK.

The Secretary shall conduct a study to determine the feasibility of carrying out ecosystem restoration improvements on Newtown Creek, Brooklyn and Queens, New York.

SEC. 4062. NIAGARA RIVER, NEW YORK.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for a low-head hydroelectric generating facility in the Niagara River, New York.

SEC. 4063. SHORE PARKWAY GREENWAY, BROOKLYN, NEW YORK.

The Secretary shall conduct a study of the feasibility of carrying out a project for shoreline protection in the vicinity of the confluence of the Narrows and Gravesend Bay, Upper New York Bay, Shore Parkway Greenway, Brooklyn, New York.

SEC. 4064. UPPER DELAWARE RIVER WATERSHED, NEW YORK.

In accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), a nonprofit organization may serve, with the consent of the affected local government, as the non-Federal interest for a study for the Upper Delaware River watershed, New York, being carried out under Committee Resolution

2495 of the Committee on Transportation and Infrastructure of the House of Representatives, adopted May 9, 1996.

SEC. 4065. LINCOLN COUNTY, NORTH CAROLINA.

The Secretary shall conduct a study of existing water and water quality-related infrastructure in Lincoln County, North Carolina, to assist local interests in determining the most efficient and effective way to connect county infrastructure.

SEC. 4066. WILKES COUNTY, NORTH CAROLINA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply, Wilkes County, North Carolina.

SEC. 4067. YADKINVILLE, NORTH CAROLINA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply, Yadkinville, North Carolina.

SEC. 4068. FLOOD DAMAGE REDUCTION, OHIO.

The Secretary shall conduct a study to determine the feasibility of carrying out projects for flood damage reduction in Cuyahoga, Lake, Ashtabula, Geauga, Erie, Lucas, Sandusky, Huron, and Stark Counties, Ohio.

SEC. 4069. LAKE ERIE, OHIO.

The Secretary shall conduct a study to determine the feasibility of carrying out projects for power generation at confined disposal facilities along Lake Erie, Ohio.

SEC. 4070. OHIO RIVER, OHIO.

The Secretary shall conduct a study to determine the feasibility of carrying out projects for flood damage reduction on the Ohio River in Mahoning, Columbiana, Jefferson, Belmont, Noble, Monroe, Washington, Athens, Meigs, Gallia, Lawrence, and Scioto Counties, Ohio.

SEC. 4071. TOLEDO HARBOR DREDGED MATERIAL PLACEMENT, TOLEDO, OHIO.

The Secretary shall study the feasibility of removing previously dredged and placed materials from the Toledo Harbor confined disposal facility, transporting the materials, and disposing of the materials in or at abandoned mine sites in southeastern Ohio.

SEC. 4072. TOLEDO HARBOR, MAUMEE RIVER, AND LAKE CHANNEL PROJECT, TOLEDO, OHIO.

(a) **IN GENERAL.**—The Secretary shall conduct a study to determine the feasibility of constructing a project for navigation, Toledo, Ohio.

(b) **FACTORS FOR CONSIDERATION.**—In conducting the study under subsection (a), the Secretary shall take into consideration—

(1) realigning the existing Toledo Harbor channel widening occurring where the River Channel meets the Lake Channel from the northwest to the southeast side of the River Channel;

(2) realigning the entire 200-foot wide channel located at the upper river terminus of the River Channel southern river embankment towards the northern river embankment; and

(3) adjusting the existing turning basin to accommodate those changes.

SEC. 4073. ECOSYSTEM RESTORATION AND FISH PASSAGE IMPROVEMENTS, OREGON.

(a) **STUDY.**—The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration and fish passage improvements on rivers throughout the State of Oregon.

(b) **REQUIREMENTS.**—In carrying out the study, the Secretary shall—

(1) work in coordination with the State of Oregon, local governments, and other Federal agencies; and

(2) place emphasis on—

(A) fish passage and conservation and restoration strategies to benefit species that are listed or proposed for listing as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(B) other watershed restoration objectives.

(c) **PILOT PROGRAM.**—

(1) **IN GENERAL.**—In conjunction with conducting the study under subsection (a), the Secretary may carry out pilot projects to demonstrate the effectiveness of ecosystem restoration and fish passages.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$5,000,000 to carry out this subsection.

SEC. 4074. WALLA WALLA RIVER BASIN, OREGON.

In conducting the study of determine the feasibility of carrying out a project for ecosystem restoration, Walla Walla River basin, Oregon, the Secretary shall—

(1) credit toward the non-Federal share of the cost of the study the cost of work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project; and

(2) allow the non-Federal interest to provide the non-Federal share of the cost of the study in the form of in-kind services and materials.

SEC. 4075. CHARTIERS CREEK WATERSHED, PENNSYLVANIA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, Chartiers Creek watershed, Pennsylvania.

SEC. 4076. KINZUA DAM AND ALLEGHENY RESERVOIR, PENNSYLVANIA.

The Secretary shall conduct a study of the project for flood control, Kinzua Dam and Allegheny Reservoir, Warren, Pennsylvania, authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1570), and modified by section 2 of the Flood Control Act of June 28, 1938 (52 Stat. 1215), section 2 of the Flood Control Act of August 18, 1941 (55 Stat. 646), and section 4 of the Flood Control Act of December 22, 1944 (58 Stat. 887), to review operations of and identify modifications to the project to expand recreational opportunities.

SEC. 4077. WESTERN PENNSYLVANIA FLOOD DAMAGE REDUCTION.

(a) **IN GENERAL.**—The Secretary shall conduct a study of structural and nonstructural flood damage reduction, stream bank protection, storm water management, channel clearing and modification, and watershed coordination measures in the Mahoning

River basin, Pennsylvania, the Allegheny River basin, Pennsylvania, and the Upper Ohio River basin, Pennsylvania, to provide a level of flood protection sufficient to prevent future losses to communities located in such basins from flooding such as occurred in September 2004, but not less than a 100-year level of flood protection.

(b) **PRIORITY COMMUNITIES.**—In carrying out this section, the Secretary shall give priority to the following Pennsylvania communities: Marshall Township, Ross Township, Shaler Township, Jackson Township, Harmony, Zelienople, Darlington Township, Houston Borough, Chartiers Township, Washington, Canton Township, Tarentum Borough, and East Deer Township.

SEC. 4078. WILLIAMSPORT, PENNSYLVANIA.

The Secretary shall conduct a study of the project for flood control, Williamsport, Pennsylvania, authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1570), to investigate measures to rehabilitate the project.

SEC. 4079. YARDLEY BOROUGH, PENNSYLVANIA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, at Yardley Borough, Pennsylvania, including the alternative of raising River Road.

SEC. 4080. RIO VALENCIANO, JUNCOS, PUERTO RICO.

(a) **IN GENERAL.**—The Secretary shall conduct a study to reevaluate the project for flood damage reduction and water supply, Rio Valenciano, Juncos, Puerto Rico, authorized by section 209 of the Flood Control Act of 1962 (76 Stat. 1197) and section 204 of the Flood Control Act of 1970 (84 Stat. 1828), to determine the feasibility of carrying out the project.

(b) **CREDIT.**—The Secretary shall credit toward the non-Federal share of the cost of the study the cost of work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project.

SEC. 4081. WOONSOCKET LOCAL PROTECTION PROJECT, BLACKSTONE RIVER BASIN, RHODE ISLAND.

The Secretary shall conduct a study, and, not later than June 30, 2008, submit to Congress a report that describes the results of the study, on the flood damage reduction project, Woonsocket, Blackstone River basin, Rhode Island, authorized by section 10 of the Flood Control Act of December 22, 1944 (58 Stat. 892), to determine the measures necessary to restore the level of protection of the project as originally designed and constructed.

SEC. 4082. CROOKED CREEK, BENNETTSVILLE, SOUTH CAROLINA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply, Crooked Creek, Bennettsville, South Carolina.

SEC. 4083. BROAD RIVER, YORK COUNTY, SOUTH CAROLINA.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply, Broad River, York County, South Carolina.

SEC. 4084. SAVANNAH RIVER, SOUTH CAROLINA AND GEORGIA.

(a) **IN GENERAL.**—The Secretary shall determine the feasibility of carrying out projects—

(1) to improve the Savannah River for navigation and related purposes that may be necessary to support the location of container cargo and other port facilities to be located in Jasper County, South Carolina, in the vicinity of Mile 6 of the Savannah Harbor entrance channel; and

(2) to remove from the proposed Jasper County port site the easements used by the Corps of Engineers for placement of dredged fill materials for the Savannah Harbor Federal navigation project.

(b) **FACTORS FOR CONSIDERATION.**—In making a determination under subsection (a), the Secretary shall take into consideration—

(1) landside infrastructure;

(2) the provision of any additional dredged material disposal area as a consequence of removing from the proposed Jasper County port site the easements used by the Corps of Engineers for placement of dredged fill materials for the Savannah Harbor Federal navigation project; and

(3) the results of the proposed bistate compact between the State of Georgia and the State of South Carolina to own, develop, and operate port facilities at the proposed Jasper County port site, as described in the term sheet executed by the Governor of the State of Georgia and the Governor of the State of South Carolina on March 12, 2007.

SEC. 4085. CHATTANOOGA, TENNESSEE.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, Chattanooga Creek, Dobbs Branch, Chattanooga, Tennessee.

SEC. 4086. CLEVELAND, TENNESSEE.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, Cleveland, Tennessee.

SEC. 4087. CUMBERLAND RIVER, NASHVILLE, TENNESSEE.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for recreation on, riverbank protection for, and environmental protection of, the Cumberland River and riparian habitats in the city of Nashville and Davidson County, Tennessee.

SEC. 4088. LEWIS, LAWRENCE, AND WAYNE COUNTIES, TENNESSEE.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply for Lewis, Lawrence, and Wayne Counties, Tennessee.

SEC. 4089. WOLF RIVER AND NONCONNAH CREEK, MEMPHIS, TENNESSEE.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction along Wolf River and Nonconnah Creek, in the vicinity of Memphis, Tennessee, to include the repair, replacement, rehabilitation, and restoration of the following pumping stations: Cypress Creek, Nonconnah Creek, Ensley, Marble Bayou, and Bayou Gayoso.

SEC. 4090. ABILENE, TEXAS.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply, Abilene, Texas.

SEC. 4091. COASTAL TEXAS ECOSYSTEM PROTECTION AND RESTORATION, TEXAS.

(a) **IN GENERAL.**—The Secretary shall develop a comprehensive plan to determine the feasibility of carrying out projects for flood damage reduction, hurricane and storm damage reduction, and ecosystem restoration in the coastal areas of the State of Texas.

(b) **SCOPE.**—The comprehensive plan shall provide for the protection, conservation, and restoration of wetlands, barrier islands, shorelines, and related lands and features that protect critical resources, habitat, and infrastructure from the impacts of coastal storms, hurricanes, erosion, and subsidence.

(c) **DEFINITION.**—For purposes of this section, the term “coastal areas in the State of Texas” means the coastal areas of the State of Texas from the Sabine River on the east to the Rio Grande River on the west and includes tidal waters, barrier islands, marshes, coastal wetlands, rivers and streams, and adjacent areas.

SEC. 4092. PORT OF GALVESTON, TEXAS.

The Secretary shall conduct a study of the feasibility of carrying out a project for dredged material disposal in the vicinity of the project for navigation and environmental restoration, Houston-Galveston Navigation Channels, Texas, authorized by section 101(a)(30) of the Water Resources Development Act of 1996 (110 Stat. 3666).

SEC. 4093. GRAND COUNTY AND MOAB, UTAH.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply for Grand County and the city of Moab, Utah, including a review of the impact of current and future demands on the Spanish Valley Aquifer.

SEC. 4094. SOUTHWESTERN UTAH.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, Santa Clara River, Washington, Iron, and Kane Counties, Utah.

SEC. 4095. ECOSYSTEM AND HYDROPOWER GENERATION DAMS, VERMONT.

(a) **IN GENERAL.**—The Secretary shall conduct a study of the potential to carry out ecosystem restoration and hydropower generation at dams in the State of Vermont, including a review of the report of the Secretary on the land and water resources of the New England–New York region submitted to the President on April 27, 1956 (published as Senate Document Number 14, 85th Congress), and other relevant reports.

(b) **PURPOSE.**—The purpose of the study under subsection (a) shall be to determine the feasibility of providing water resource improvements and small-scale hydropower generation in the State of Vermont, including, as appropriate, options for dam restoration, hydropower, dam removal, and fish passage enhancement.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to carry out this section \$500,000. Such sums shall remain available until expended.

SEC. 4096. ELLIOTT BAY SEAWALL, SEATTLE, WASHINGTON.

(a) **IN GENERAL.**—The study for rehabilitation of the Elliott Bay Seawall, Seattle, Washington, being carried out under Committee Resolution 2704 of the Committee on Transportation and Infrastructure of the House of Representatives adopted September 25, 2002, is modified to include a determination of the feasibility of reducing future damage to the seawall from seismic activity.

(b) **ACCEPTANCE OF CONTRIBUTIONS.**—In carrying out the study, the Secretary may accept contributions in excess of the non-Federal share of the cost of the study from the non-Federal interest to the extent that the Secretary determines that the contributions will facilitate completion of the study.

(c) **CREDIT.**—The Secretary shall credit toward the non-Federal share of the cost of any project authorized by law as a result of the study the value of contributions accepted by the Secretary under subsection (b).

SEC. 4097. MONONGAHELA RIVER BASIN, NORTHERN WEST VIRGINIA.

The Secretary shall conduct a study to determine the feasibility of carrying out aquatic ecosystem restoration and protection projects in the watersheds of the Monongahela River Basin lying within the counties of Hancock, Ohio, Marshall, Wetzel, Tyler, Pleasants, Wood, Doddridge, Monongalia, Marion, Harrison, Taylor, Barbour, Preston, Tucker, Mineral, Grant, Gilmer, Brooke, and Ritchie, West Virginia.

SEC. 4098. KENOSHA HARBOR, WISCONSIN.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for navigation, Kenosha Harbor, Wisconsin, including the extension of existing piers.

SEC. 4099. JOHNSONVILLE DAM, JOHNSONVILLE, WISCONSIN.

The Secretary shall conduct a study of the Johnsonville Dam, Johnsonville, Wisconsin, to determine if the structure prevents ice jams on the Sheboygan River.

SEC. 4100. WAUWATOSA, WISCONSIN.

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction and environmental restoration, Menomonee River and Underwood Creek, Wauwatosa, Wisconsin, and greater Milwaukee watersheds, Wisconsin.

SEC. 4101. DEBRIS REMOVAL.

(a) **EVALUATION.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Comptroller General of the United States, in coordination with the Secretary and the Administrator of the Environmental Protection Agency, and in consultation with affected communities, shall conduct a complete evaluation of Federal and non-Federal demolition, debris removal, segregation, transportation, and disposal practices relating to disaster areas designated in response to Hurricanes Katrina and Rita (including regulated and nonregulated materials and debris).

(2) **INCLUSIONS.**—The evaluation under paragraph (1) shall include a review of—

(A) compliance with all applicable environmental laws;

Deadline.

(B) permits issued or required to be issued with respect to debris handling, transportation, storage, or disposal; and

(C) administrative actions relating to debris removal and disposal in the disaster areas described in paragraph (1).

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Comptroller General, in consultation with the Secretary and the Administrator, shall submit to the Committee on the Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(1) describes the findings of the Comptroller General with respect to the evaluation under subsection (a);

(2)(A) certifies compliance with all applicable environmental laws; and

(B) identifies any area in which a violation of such a law has occurred or is occurring;

(3) includes recommendations to ensure—

(A) the protection of the environment;

(B) sustainable practices; and

(C) the integrity of hurricane and flood protection infrastructure relating to debris disposal practices;

(4) contains an enforcement plan that is designed to prevent illegal dumping of hurricane debris in a disaster area; and

(5) contains plans of the Secretary and the Administrator to involve the public and non-Federal interests, including through the formation of a Federal advisory committee, as necessary, to seek public comment relating to the removal, disposal, and planning for the handling of post-hurricane debris.

(c) RESTRICTION.—

(1) IN GENERAL.—No Federal funds may be used to pay for or reimburse any State or local entity in Louisiana for the disposal of construction and demolition debris generated as a result of Hurricane Katrina in 2005 in a landfill designated for construction and demolition debris as described in section 257.2 of title 40, Code of Federal Regulations, unless that waste meets the definition of construction and demolition debris, as specified under Federal law and described in that section on the date of enactment of this Act.

(2) APPLICABILITY.—The restriction in paragraph (1) shall apply only to any disposal that occurs after the date of enactment of this Act.

TITLE V—MISCELLANEOUS

SEC. 5001. MAINTENANCE OF NAVIGATION CHANNELS.

(a) IN GENERAL.—Upon request of a non-Federal interest, the Secretary shall be responsible for maintenance of the following navigation channels and breakwaters constructed or improved by the non-Federal interest if the Secretary determines that such maintenance is economically justified and environmentally acceptable and that the channel or breakwater was constructed in accordance with applicable permits and appropriate engineering and design standards:

(1) Manatee Harbor basin, Florida.

(2) Tampa Harbor, Sparkman Channel and Davis Island, Florida.

(3) West turning basin, Canaveral Harbor, Florida.

(4) Bayou LaFourche Channel, Port Fourchon, Louisiana.

(5) Calcasieu River at Devil's Elbow, Louisiana.

(6) Pidgeon Industrial Harbor, Pidgeon Industrial Park, Memphis Harbor, Tennessee.

(7) Houston Ship Channel, Bayport Cruise Channel and Bayport Cruise turning basin, as part of the existing Bayport Channel, Texas.

(8) Pix Bayou Navigation Channel, Chambers County, Texas.

(9) Jacintoport Channel at Houston Ship Channel, Texas.

(10) Racine Harbor, Wisconsin.

Deadline.

(b) COMPLETION OF ASSESSMENT.—Not later than 6 months after the date of receipt of a request from a non-Federal interest for Federal assumption of maintenance of a channel listed in subsection (a), the Secretary shall make a determination as provided in subsection (a) and advise the non-Federal interest of the Secretary's determination.

SEC. 5002. WATERSHED MANAGEMENT.

(a) IN GENERAL.—The Secretary may provide technical, planning, and design assistance to non-Federal interests for carrying out watershed management, restoration, and development projects at the locations described in subsection (d).

(b) SPECIFIC MEASURES.—Assistance provided under subsection (a) may be in support of non-Federal projects for the following purposes:

(1) Management and restoration of water quality.

(2) Control and remediation of toxic sediments.

(3) Restoration of degraded streams, rivers, wetlands, and other water bodies to their natural condition as a means to control flooding, excessive erosion, and sedimentation.

(4) Protection and restoration of watersheds, including urban watersheds.

(5) Demonstration of technologies for nonstructural measures to reduce destructive impacts of flooding.

(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of assistance provided under subsection (a) shall be 25 percent.

(d) PROJECT LOCATIONS.—The locations referred to in subsection (a) are the following:

(1) Charlotte Harbor watershed, Florida.

(2) Those portions of the watersheds of the Chattahoochee, Etowah, Flint, Ocmulgee, and Oconee Rivers lying within the counties of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Fulton, Forsyth, Gwinnett, Hall, Henry, Paulding, Rockdale, and Walton, Georgia.

(3) Kinkaid Lake, Jackson County, Illinois.

(4) Amite River basin, Louisiana.

(5) East Atchafalaya River basin, Iberville Parish and Pointe Coupee Parish, Louisiana.

(6) Red River watershed, Louisiana.

(7) Taunton River basin, Massachusetts.

(8) Marlboro Township, New Jersey.

(9) Esopus, Plattekill, and Rondout Creeks, Greene, Sullivan, and Ulster Counties, New York.

(10) Greenwood Lake watershed, New York and New Jersey.

(11) Long Island Sound watershed, New York.

(12) Ramapo River watershed, New York.

(13) Tuscarawas River basin, Ohio.

(14) Western Lake Erie basin, Ohio.

(15) Those portions of the watersheds of the Beaver, Upper Ohio, Connoquenessing, Lower Allegheny, Kiskiminetas, Lower Monongahela, Youghiogheny, Shenango, and Mahoning Rivers lying within the counties of Beaver, Butler, Lawrence, and Mercer, Pennsylvania.

(16) Otter Creek watershed, Pennsylvania.

(17) Unami Creek watershed, Milford Township, Pennsylvania.

(18) Sauk River basin, Washington.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$15,000,000.

SEC. 5003. DAM SAFETY.

(a) ASSISTANCE.—The Secretary may provide assistance to enhance dam safety at the following locations:

(1) Fish Creek Dam, Blaine County, Idaho.

(2) Keith Creek, Rockford, Illinois.

(3) Mount Zion Mill Pond Dam, Fulton County, Indiana.

(4) Hamilton Dam, Flint River, Flint, Michigan.

(5) Congers Lake Dam, Rockland County, New York.

(6) Lake Lucille Dam, New City, New York.

(7) Peconic River Dams, town of Riverhead, Suffolk, Long Island, New York.

(8) Pine Grove Lakes Dam, Sloatsburg, New York.

(9) State Dam, Auburn, New York.

(10) Whaley Lake Dam, Pawling, New York.

(11) Brightwood Dam, Concord Township, Ohio.

(12) Ingham Spring Dam, Solebury Township, Pennsylvania.

(13) Leaser Lake Dam, Lehigh County, Pennsylvania.

(14) Stillwater Dam, Monroe County, Pennsylvania.

(15) Wissahickon Creek Dam, Montgomery County, Pennsylvania.

(b) SPECIAL RULE.—The assistance provided under subsection (a) for State Dam, Auburn, New York, shall be for a project for rehabilitation in accordance with the report on State Dam Rehabilitation, Owasco Lake Outlet, New York, dated March 1999, if the Secretary determines that the project is feasible.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (a) \$12,000,000.

SEC. 5004. STRUCTURAL INTEGRITY EVALUATIONS.

33 USC 701b–14.

(a) IN GENERAL.—Upon request of a non-Federal interest, the Secretary shall evaluate the structural integrity and effectiveness of a project for flood damage reduction and, if the Secretary determines that the project does not meet such minimum standards as the Secretary may establish and absent action by the Secretary the project will fail, the Secretary may take such action as may be necessary to restore the integrity and effectiveness of the project.

(b) PRIORITY.—The Secretary shall carry out an evaluation and take such actions as may be necessary under subsection (a) for

the project for flood damage reduction, Arkansas River Levees, Arkansas.

SEC. 5005. FLOOD MITIGATION PRIORITY AREAS.

(a) **IN GENERAL.**—Section 212(e) of the Water Resources Development Act of 1999 (33 U.S.C. 2332(e); 114 Stat. 2599) is amended—

(1) by striking “and” at the end of paragraphs (23) and (27);

(2) by striking the period at the end of paragraph (28) and inserting a semicolon; and

(3) by adding at the end the following:

“(29) Ascension Parish, Louisiana;

“(30) East Baton Rouge Parish, Louisiana;

“(31) Iberville Parish, Louisiana;

“(32) Livingston Parish, Louisiana; and

“(33) Pointe Coupee Parish, Louisiana.”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 212(i)(1) of such Act (33 U.S.C. 2332(i)(1)) is amended by striking “section—” and all that follows before the period at the end and inserting “section \$20,000,000”.

SEC. 5006. ADDITIONAL ASSISTANCE FOR AUTHORIZED PROJECTS.

(a) **IN GENERAL.**—Section 219(e) of the Water Resources Development Act of 1992 (106 Stat. 4835; 110 Stat. 3757; 113 Stat. 334) is amended—

(1) by striking “and” at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(3) by adding at the end the following:

“(9) \$35,000,000 for the project described in subsection (c)(18);

“(10) \$27,000,000 for the project described in subsection (c)(19);

“(11) \$20,000,000 for the project described in subsection (c)(20);

“(12) \$35,000,000 for the project described in subsection (c)(23);

“(13) \$20,000,000 for the project described in subsection (c)(25);

“(14) \$20,000,000 for the project described in subsection (c)(26);

“(15) \$35,000,000 for the project described in subsection (c)(27);

“(16) \$20,000,000 for the project described in subsection (c)(28); and

“(17) \$30,000,000 for the project described in subsection (c)(40).”.

(b) **EAST ARKANSAS ENTERPRISE COMMUNITY, ARKANSAS.**—Federal assistance made available under the rural enterprise zone program of the Department of Agriculture may be used toward payment of the non-Federal share of the costs of the project described in section 219(c)(20) of the Water Resources Development Act of 1992 (114 Stat. 2763A–219) if such assistance is authorized to be used for such purposes.

SEC. 5007. EXPEDITED COMPLETION OF REPORTS AND CONSTRUCTION FOR CERTAIN PROJECTS.

The Secretary shall expedite completion of the reports and, if the Secretary determines that the project is feasible, shall expedite completion of construction for the following projects:

- (1) Project for navigation, Whittier, Alaska.
- (2) Laguna Creek watershed flood damage reduction project, California.
- (3) Daytona Beach shore protection project, Florida.
- (4) Flagler Beach shore protection project, Florida.
- (5) St. Johns County shore protection project, Florida.
- (6) Chenier Plain environmental restoration project, Louisiana.
- (7) False River, Louisiana, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).
- (8) North River, Peabody, Massachusetts, being carried out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).
- (9) Fulmer Creek, Village of Mohawk, New York, being carried out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).
- (10) Moyer Creek, Village of Frankfort, New York, being carried out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).
- (11) Steele Creek, Village of Ilion, New York, being carried out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).
- (12) Oriskany Wildlife Management Area, Rome, New York, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).
- (13) Whitney Point Lake, Otselic River, Whitney Point, New York, being carried out under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a).
- (14) Chenango Lake, Chenango County, New York, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

SEC. 5008. EXPEDITED COMPLETION OF REPORTS FOR CERTAIN PROJECTS.

(a) IN GENERAL.—The Secretary shall expedite completion of the reports for the following projects and, if the Secretary determines that a project is justified in the completed report, proceed directly to project preconstruction, engineering, and design:

- (1) Project for water supply, Little Red River, Arkansas.
- (2) Watershed study, Fountain Creek, north of Pueblo, Colorado.
- (3) Project for shoreline stabilization at Egmont Key, Florida.
- (4) Project for navigation, Sabine-Neches Waterway, Texas and Louisiana.
- (5) Project for ecosystem restoration, University Lake, Baton Rouge, Louisiana.

(b) SPECIAL RULE FOR EGMONT KEY, FLORIDA.—In carrying out the project for shoreline stabilization at Egmont Key, Florida, referred to in subsection (a)(3), the Secretary shall waive any cost

share to be provided by non-Federal interests for any portion of the project that benefits federally owned property.

SEC. 5009. SOUTHEASTERN WATER RESOURCES ASSESSMENT.

(a) **IN GENERAL.**—The Secretary shall conduct, at Federal expense, an assessment of the water resources needs of the river basins and watersheds of the southeastern United States.

(b) **COOPERATIVE AGREEMENTS.**—In carrying out the assessment, the Secretary may enter into cooperative agreements with State and local agencies, non-Federal and nonprofit entities, and regional researchers.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$7,000,000 to carry out this section.

SEC. 5010. MISSOURI AND MIDDLE MISSISSIPPI RIVERS ENHANCEMENT PROJECT.

Section 514 of the Water Resources Development Act of 1999 (113 Stat. 343; 117 Stat. 142) is amended—

(1) in subsection (b)(2)(A) by adding at the end the following: “The Secretary shall ensure that such activities are carried out throughout the geographic area that is subject to the plan.”;

(2) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(3) by inserting after subsection (e) the following:

“(f) **NONPROFIT ENTITIES.**—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project or activity carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.”;

(4) in subsection (g) (as redesignated by paragraph (2) of this section) by adding at the end the following:

“(4) **NON-FEDERAL SHARE.**—

“(A) **IN GENERAL.**—The non-Federal share of the costs of activities carried out under the plan may be provided—

“(i) in cash;

“(ii) by the provision of land, easements, rights-of-way, relocations, or disposal areas;

“(iii) by in-kind services to implement the project;

or

“(iv) by any combination thereof.

“(B) **PRIVATE OWNERSHIP.**—Land needed for activities carried out under the plan and credited toward the non-Federal share of the cost of an activity may remain in private ownership subject to easements that are—

“(i) satisfactory to the Secretary; and

“(ii) necessary to ensure achievement of the project purposes.”; and

(5) in subsection (h) (as redesignated by paragraph (2) of this section) by striking “for the period of fiscal years 2003 and 2004.” and inserting “per fiscal year through fiscal year 2015.”.

SEC. 5011. GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION PROGRAM.

(a) **GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION.**—Section 506(c) of the Water Resources Development Act of 2000 (42 U.S.C. 1962d–22(c)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following:

“(2) RECONNAISSANCE STUDIES.—Before planning, designing, or constructing a project under paragraph (3), the Secretary shall carry out a reconnaissance study—

“(A) to identify methods of restoring the fishery, ecosystem, and beneficial uses of the Great Lakes; and

“(B) to determine whether planning of a project under paragraph (3) should proceed.”; and

(3) in paragraph (4)(A) (as redesignated by paragraph (1) of this subsection) by striking “paragraph (2)” and inserting “paragraph (3)”.

(b) COST SHARING.—Section 506(f) of the Water Resources Development Act of 2000 (42 U.S.C. 1962d–22(f)) is amended—

(1) in paragraph (2)—

(A) by striking “The Federal share” and inserting “Except for reconnaissance studies, the Federal share”; and

(B) by striking “(2) or (3)” and inserting “(3) or (4)”;

(2) in paragraph (3)—

(A) in subparagraph (A) by striking “subsection (c)(2)” and inserting “subsection (c)(3)”; and

(B) in subparagraph (B) by striking “50 percent” and inserting “100 percent”; and

(3) in paragraph (5) by striking “Notwithstanding” and inserting “In accordance with”.

SEC. 5012. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION.

Section 401(c) of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; 104 Stat. 4644; 114 Stat. 2613) is amended by striking “through 2006” and inserting “through 2012”.

SEC. 5013. GREAT LAKES TRIBUTARY MODELS.

Section 516(g)(2) of the Water Resources Development Act of 1996 (33 U.S.C. 2326b(g)(2)) is amended by striking “through 2006” and inserting “through 2012”.

SEC. 5014. GREAT LAKES NAVIGATION AND PROTECTION.

33 USC 426o–2.

(a) GREAT LAKES NAVIGATION.—Using available funds, the Secretary shall expedite the operation and maintenance, including dredging, of the navigation features of the Great Lakes and Connecting Channels for the purpose of supporting commercial navigation to authorized project depths.

(b) GREAT LAKES PILOT PROJECT.—Using available funds, the Director of the Animal and Plant Health Inspection Service, in coordination with the Secretary, the Administrator of the Environmental Protection Agency, the Commandant of the Coast Guard, and the Director of the United States Fish and Wildlife Service, shall carry out a pilot project, on an emergency basis, to control and prevent further spreading of viral hemorrhagic septicemia in the Great Lakes and Connecting Channels.

(c) GREAT LAKES AND CONNECTING CHANNELS DEFINED.—In this section, the term “Great Lakes and Connecting Channels” includes Lakes Superior, Huron, Michigan, Erie, and Ontario, all connecting waters between and among such lakes used for commercial navigation, any navigation features in such lakes or waters that are a Federal operation or maintenance responsibility, and

areas of the Saint Lawrence River that are operated or maintained by the Federal Government for commercial navigation.

SEC. 5015. SAINT LAWRENCE SEAWAY.

(a) **IN GENERAL.**—The Secretary is authorized, using amounts contributed by the Saint Lawrence Seaway Development Corporation under subsection (b), to carry out projects for operations, maintenance, repair, and rehabilitation, including associated maintenance dredging, of the Eisenhower and Snell lock facilities and related navigational infrastructure for the Saint Lawrence Seaway, at a total cost of \$134,650,000.

(b) **SOURCE OF FUNDS.**—The Secretary is authorized to accept funds from the Saint Lawrence Seaway Development Corporation to carry out projects under this section. Such funds may include amounts made available to the Corporation from the Harbor Maintenance Trust Fund and the general fund of the Treasury of the United States pursuant to section 210 of the Water Resources Development Act of 1986 (33 U.S.C. 2238).

(c) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section authorizes the construction of any project to increase the depth or width of the navigation channel to a level greater than that previously authorized and existing on the date of enactment of this Act or to increase the dimensions of the Eisenhower and Snell lock facilities.

SEC. 5016. UPPER MISSISSIPPI RIVER DISPERSAL BARRIER PROJECT.

Study.

(a) **IN GENERAL.**—The Secretary, in consultation with appropriate Federal and State agencies, shall study, design, and carry out a project to delay, deter, impede, or restrict the dispersal of aquatic nuisance species into the northern reaches of the Upper Mississippi River system. The Secretary shall complete the study, design, and construction of the project not later than 6 months after the date of enactment of this Act.

Deadline.

(b) **DISPERSAL BARRIER.**—In carrying out subsection (a), the Secretary, at Federal expense, shall—

(1) investigate and identify environmentally sound methods for preventing and reducing the dispersal of aquatic nuisance species through the northern reaches of the Upper Mississippi River system;

(2) use available technologies and measures;

(3) monitor and evaluate, in cooperation with the Director of the United States Fish and Wildlife Service, the effectiveness of the project in preventing and reducing the dispersal of aquatic nuisance species through the northern reaches of the Upper Mississippi River system;

Reports.

(4) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the evaluation conducted under paragraph (3); and

(5) operate and maintain the project.

(c) **REQUIREMENT.**—In conducting the study under subsection (a), the Secretary shall take into consideration the feasibility of locating the dispersal barrier at the lock portion of the project at Lock and Dam 11 in the Upper Mississippi River basin.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$4,000,000 to carry out this section.

SEC. 5017. ESTUARY RESTORATION.

(a) **PURPOSES.**—Section 102 of the Estuary Restoration Act of 2000 (33 U.S.C. 2901) is amended—

(1) in paragraph (1) by inserting before the semicolon at the end the following: “by implementing a coordinated Federal approach to estuary habitat restoration activities, including the use of common monitoring standards and a common system for tracking restoration acreage”;

(2) in paragraph (2) by inserting “and implement” after “to develop”; and

(3) in paragraph (3) by inserting “through cooperative agreements” after “restoration projects”.

(b) **DEFINITION OF ESTUARY HABITAT RESTORATION PLAN.**—Section 103(6)(A) of the Estuary Restoration Act of 2000 (33 U.S.C. 2902(6)(A)) is amended by striking “Federal or State” and inserting “Federal, State, or regional”.

(c) **ESTUARY HABITAT RESTORATION PROGRAM.**—Section 104 of the Estuary Restoration Act of 2000 (33 U.S.C. 2903) is amended—

(1) in subsection (a) by inserting “through the award of contracts and cooperative agreements” after “assistance”;

(2) in subsection (c)—

(A) in paragraph (3)(A) by inserting “or State” after “Federal”; and

(B) in paragraph (4)(B) by inserting “or approach” after “technology”;

(3) in subsection (d)—

(A) in paragraph (1)—

(i) by striking “Except” and inserting the following:

“(A) IN GENERAL.—Except”; and

(ii) by adding at the end the following:

“(B) MONITORING.—

“(i) **COSTS.**—The costs of monitoring an estuary habitat restoration project funded under this title may be included in the total cost of the estuary habitat restoration project.

“(ii) **GOALS.**—The goals of the monitoring shall be—

“(I) to measure the effectiveness of the restoration project; and

“(II) to allow adaptive management to ensure project success.”;

(B) in paragraph (2) by inserting “or approach” after “technology”; and

(C) in paragraph (3) by inserting “(including monitoring)” after “services”;

(4) in subsection (f)(1)(B) by inserting “long-term” before “maintenance”; and

(5) in subsection (g)—

(A) by striking “In carrying” and inserting the following:

“(1) IN GENERAL.—In carrying”; and

(B) by adding at the end the following:

“(2) **SMALL PROJECTS.**—

“(A) **SMALL PROJECT DEFINED.**—In this paragraph, the term ‘small project’ means a project carried out under this title with an estimated Federal cost of less than \$1,000,000.

“(B) DELEGATION OF PROJECT IMPLEMENTATION.—In carrying out this section, the Secretary, on recommendation of the Council, may delegate implementation of a small project to—

“(i) the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service);

“(ii) the Under Secretary for Oceans and Atmosphere of the Department of Commerce;

“(iii) the Administrator of the Environmental Protection Agency; or

“(iv) the Secretary of Agriculture.

“(C) FUNDING.—A small project delegated to the head of a Federal department or agency under this paragraph may be carried out using funds appropriated to the department or agency under section 109(a)(1) or other funds available to the department or agency.

“(D) AGREEMENTS.—The head of a Federal department or agency to which a small project is delegated under this paragraph shall enter into an agreement with the non-Federal interest for the project generally in conformance with the criteria in subsections (d) and (e). Cooperative agreements may be used for any delegated project to allow the non-Federal interest to carry out the project on behalf of the Federal agency.”.

(d) ESTABLISHMENT OF ESTUARY HABITAT RESTORATION COUNCIL.—Section 105(b) of the Estuary Restoration Act of 2000 (33 U.S.C. 2904(b)) is amended—

(1) in paragraph (4) by striking “and” after the semicolon;

(2) in paragraph (5) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(6) cooperating in the implementation of the strategy developed under section 106;

“(7) recommending standards for monitoring for restoration projects and contribution of project information to the database developed under section 107; and

“(8) otherwise using the respective authorities of the Council members to carry out this title.”.

(e) MONITORING OF ESTUARY HABITAT RESTORATION PROJECTS.—Section 107(d) of the Estuary Restoration Act of 2000 (33 U.S.C. 2906(d)) is amended by striking “compile” and inserting “have general data compilation, coordination, and analysis responsibilities to carry out this title and in support of the strategy developed under this section, including compilation of”.

(f) REPORTING.—Section 108(a) of the Estuary Restoration Act of 2000 (33 U.S.C. 2907(a)) is amended by striking “At the end of the third and fifth fiscal years following the date of enactment of this Act” and inserting “Not later than September 30, 2008, and every 2 years thereafter”.

(g) FUNDING.—Section 109(a) of the Estuary Restoration Act of 2000 (33 U.S.C. 2908(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A) by striking “to the Secretary”; and

(B) by striking subparagraphs (A) through (D) and inserting the following:

“(A) to the Secretary, \$25,000,000 for each of fiscal years 2008 through 2012;

“(B) to the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service), \$2,500,000 for each of fiscal years 2008 through 2012;

“(C) to the Under Secretary for Oceans and Atmosphere of the Department of Commerce, \$2,500,000 for each of fiscal years 2008 through 2012;

“(D) to the Administrator of the Environmental Protection Agency, \$2,500,000 for each of fiscal years 2008 through 2012; and

“(E) to the Secretary of Agriculture, \$2,500,000 for each of fiscal years 2008 through 2012.”; and

(2) in the first sentence of paragraph (2)—

(A) by inserting “and other information compiled under section 107” after “this title”; and

(B) by striking “2005” and inserting “2012”.

(h) GENERAL PROVISIONS.—Section 110 of the Estuary Restoration Act of 2000 (33 U.S.C. 2909) is amended—

(1) in subsection (b)(1)—

(A) by inserting “or contracts” after “agreements”; and

(B) by inserting “, nongovernmental organizations,” after “agencies”; and

(2) by striking subsections (d) and (e).

SEC. 5018. MISSOURI RIVER AND TRIBUTARIES, MITIGATION, RECOVERY, AND RESTORATION, IOWA, KANSAS, MISSOURI, MONTANA, NEBRASKA, NORTH DAKOTA, SOUTH DAKOTA, AND WYOMING.

(a) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Missouri River Recovery Implementation Committee to be established under subsection (b)(1), shall conduct a study of the Missouri River and its tributaries to determine actions required—

(A) to mitigate losses of aquatic and terrestrial habitat;

(B) to recover federally listed species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) to restore the ecosystem to prevent further declines among other native species.

(2) FUNDING.—The study to be conducted under paragraph

(1) shall be funded using amounts made available to carry out the Missouri River recovery and mitigation plan authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4143).

(b) MISSOURI RIVER RECOVERY IMPLEMENTATION COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish a committee to be known as the Missouri River Recovery Implementation Committee (in this section referred to as the “Committee”).

Deadline.

(2) MEMBERSHIP.—The Committee shall include representatives from—

(A) Federal agencies;

(B) States located near the Missouri River basin; and

(C) other appropriate entities, as determined by the Secretary, including—

- (i) water management and fish and wildlife agencies;
- (ii) Indian tribes located near the Missouri River basin; and
- (iii) nongovernmental stakeholders, which may include—
 - (I) navigation interests;
 - (II) irrigation interests;
 - (III) flood control interests;
 - (IV) fish, wildlife, and conservation organizations;
 - (V) recreation interests; and
 - (VI) power supply interests.

(3) DUTIES.—The Committee shall—

(A) with respect to the study to be conducted under subsection (a)(1), provide guidance to the Secretary and any affected Federal agency, State agency, or Indian tribe; and

(B) provide guidance to the Secretary with respect to the Missouri River recovery and mitigation plan in existence on the date of enactment of this Act, including recommendations relating to—

- (i) changes to the implementation strategy from the use of adaptive management;
- (ii) coordination of the development of consistent policies, strategies, plans, programs, projects, activities, and priorities for the Missouri River recovery and mitigation plan;
- (iii) exchange of information regarding programs, projects, and activities of the agencies and entities represented on the Committee to promote the goals of the Missouri River recovery and mitigation plan;
- (iv) establishment of such working groups as the Committee determines to be necessary to assist in carrying out the duties of the Committee, including duties relating to public policy and scientific issues;
- (v) facilitating the resolution of interagency and intergovernmental conflicts between entities represented on the Committee associated with the Missouri River recovery and mitigation plan;
- (vi) coordination of scientific and other research associated with the Missouri River recovery and mitigation plan; and
- (vii) annual preparation of a work plan and associated budget requests.

(4) RECOMMENDATIONS AND GUIDANCE.—In providing recommendations and guidance from the Committee, the members of the Committee may include dissenting opinions.

(5) COMPENSATION; TRAVEL EXPENSES.—

(A) COMPENSATION.—Members of the Committee shall not receive compensation from the Secretary in carrying out the duties of the Committee under this section.

(B) TRAVEL EXPENSES.—Travel expenses incurred by a member of the Committee in carrying out the duties of the Committee under this section shall not be eligible for Federal reimbursement.

(c) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

SEC. 5019. SUSQUEHANNA, DELAWARE, AND POTOMAC RIVER BASINS, DELAWARE, MARYLAND, PENNSYLVANIA, AND VIRGINIA.

Contracts.

(a) EX OFFICIO MEMBER.—Notwithstanding section 3001(a) of the 1997 Emergency Supplemental Appropriations Act for Recovery From Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia (Public Law 105–18; 111 Stat. 176), section 2.2 of the Susquehanna River Basin Compact to which consent was given by Public Law 91–575 (84 Stat. 1512), and section 2.2 of the Delaware River Basin Compact to which consent was given by Public Law 87–328 (75 Stat. 691), beginning in fiscal year 2002, and each fiscal year thereafter, the Division Engineer, North Atlantic Division, Corps of Engineers—

(1) shall be—

(A) the ex officio United States member of the Susquehanna River Basin Compact and the Delaware River Basin Compact; and

(B) one of the 3 members appointed by the President under the Potomac River Basin Compact to which consent was given by Public Law 91–407 (84 Stat. 856);

(2) shall serve without additional compensation; and

(3) may designate an alternate member in accordance with the terms of those compacts.

(b) AUTHORIZATION TO ALLOCATE.—The Secretary shall allocate funds to the Susquehanna River Basin Commission, Delaware River Basin Commission, and the Interstate Commission on the Potomac River Basin to fulfill the equitable funding requirements of the respective interstate compacts.

(c) WATER SUPPLY AND CONSERVATION STORAGE, DELAWARE RIVER BASIN.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the Delaware River Basin Commission to provide temporary water supply and conservation storage at the Francis E. Walter Dam, Pennsylvania, for any period during which the Commission has determined that a drought warning or drought emergency exists.

(2) LIMITATION.—The agreement shall provide that the cost for water supply and conservation storage under paragraph (1) shall not exceed the incremental operating costs associated with providing the storage.

(d) WATER SUPPLY AND CONSERVATION STORAGE, SUSQUEHANNA RIVER BASIN.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the Susquehanna River Basin Commission to provide temporary water supply and conservation storage at Federal facilities operated by the Corps of Engineers in the Susquehanna River basin for any period for which the Commission has determined that a drought warning or drought emergency exists.

(2) LIMITATION.—The agreement shall provide that the cost for water supply and conservation storage under paragraph (1) shall not exceed the incremental operating costs associated with providing the storage.

(e) WATER SUPPLY AND CONSERVATION STORAGE, POTOMAC RIVER BASIN.—

(1) **IN GENERAL.**—The Secretary shall enter into an agreement with the Interstate Commission on the Potomac River Basin to provide temporary water supply and conservation storage at Federal facilities operated by the Corps of Engineers in the Potomac River basin for any period for which the Commission has determined that a drought warning or drought emergency exists.

(2) **LIMITATION.**—The agreement shall provide that the cost for water supply and conservation storage under paragraph (1) shall not exceed the incremental operating costs associated with providing the storage.

SEC. 5020. CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PROGRAM.

(a) **FORM OF ASSISTANCE.**—Section 510(a)(2) of the Water Resources Development Act of 1996 (110 Stat. 3759) is amended by striking “, and beneficial uses of dredged material” and inserting “, beneficial uses of dredged material, and restoration of submerged aquatic vegetation”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 510(i) of such Act (110 Stat. 3761) is amended by striking “\$10,000,000” and inserting “\$40,000,000”.

SEC. 5021. CHESAPEAKE BAY OYSTER RESTORATION, VIRGINIA AND MARYLAND.

Section 704(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2263(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) in paragraph (1)—

(A) in the second sentence by striking “\$30,000,000” and inserting “\$50,000,000”; and

(B) in the third sentence by striking “Such projects” and inserting the following:

“(2) **INCLUSIONS.**—Such projects”;

(3) by striking paragraph (2)(D) (as redesignated by paragraph (2)(B) of this subsection) and inserting the following:

“(D) the restoration and rehabilitation of habitat for fish, including native oysters, in the Chesapeake Bay and its tributaries in Virginia and Maryland, including—

“(i) the construction of oyster bars and reefs;

“(ii) the rehabilitation of existing marginal habitat;

“(iii) the use of appropriate alternative substrate material in oyster bar and reef construction;

“(iv) the construction and upgrading of oyster hatcheries; and

“(v) activities relating to increasing the output of native oyster broodstock for seeding and monitoring of restored sites to ensure ecological success.

“(3) **RESTORATION AND REHABILITATION ACTIVITIES.**—The restoration and rehabilitation activities described in paragraph (2)(D) shall be—

“(A) for the purpose of establishing permanent sanctuaries and harvest management areas; and

“(B) consistent with plans and strategies for guiding the restoration of the Chesapeake Bay oyster resource and fishery.”; and

(4) by adding at the end the following:

“(5) DEFINITION OF ECOLOGICAL SUCCESS.—In this subsection, the term ‘ecological success’ means—

“(A) achieving a tenfold increase in native oyster biomass by the year 2010, from a 1994 baseline; and

“(B) the establishment of a sustainable fishery as determined by a broad scientific and economic consensus.”.

SEC. 5022. HYPOXIA ASSESSMENT.

16 USC 1451
note.

The Secretary may participate with Federal, State, and local agencies, non-Federal and nonprofit entities, regional researchers, and other interested parties to assess hypoxia in the Gulf of Mexico.

SEC. 5023. POTOMAC RIVER WATERSHED ASSESSMENT AND TRIBUTARY STRATEGY EVALUATION AND MONITORING PROGRAM.

The Secretary may participate in the Potomac River watershed assessment and tributary strategy evaluation and monitoring program to identify a series of resource management indicators to accurately monitor the effectiveness of the implementation of the agreed upon tributary strategies and other public policies that pertain to natural resource protection of the Potomac River watershed.

SEC. 5024. LOCK AND DAM SECURITY.

33 USC 467f–1.

(a) STANDARDS.—The Secretary, in consultation with the Federal Emergency Management Agency, the Tennessee Valley Authority, and the Coast Guard, shall develop standards for the security of locks and dams, including the testing and certification of vessel exclusion barriers.

(b) SITE SURVEYS.—At the request of a lock or dam owner, the Secretary shall provide technical assistance, on a reimbursable basis, to improve lock or dam security.

(c) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with a nonprofit alliance of public and private organizations that has the mission of promoting safe waterways and seaports to carry out testing and certification activities, and to perform site surveys, under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$3,000,000 to carry out this section.

SEC. 5025. RESEARCH AND DEVELOPMENT PROGRAM FOR COLUMBIA AND SNAKE RIVER SALMON SURVIVAL.

Section 511 of the Water Resources Development Act of 1996 (16 U.S.C. 3301 note; 110 Stat. 3761; 113 Stat. 375) is amended—

(1) in subsection (a)(6) by striking “\$10,000,000” and inserting “\$25,000,000”; and

(2) in subsection (c)(2) by striking “\$1,000,000” and inserting “\$10,000,000”.

SEC. 5026. WAGE SURVEYS.

5 USC 5343 note.

Employees of the Corps of Engineers who are paid wages determined under the last undesignated paragraph under the heading “Administrative Provisions” of chapter V of the Supplemental Appropriations Act, 1982 (5 U.S.C. 5343 note; 96 Stat. 832) shall be allowed, through appropriate employee organization representatives, to participate in wage surveys under such paragraph to the same extent as are prevailing rate employees under subsection (c)(2) of section 5343 of title 5, United States Code. Nothing in

such section 5343 shall be construed to affect which agencies are to be surveyed under such paragraph.

SEC. 5027. REHABILITATION.

The Secretary, at Federal expense and in an amount not to exceed \$1,000,000, shall rehabilitate and improve the water-related infrastructure and the transportation infrastructure for the historic property in the Anacostia River watershed located in the District of Columbia, including measures to address wet weather conditions. To carry out this section, the Secretary shall accept funds provided for such project under any other Federal program.

SEC. 5028. AUBURN, ALABAMA.

The Secretary may provide technical assistance relating to water supply to Auburn, Alabama. There is authorized to be appropriated \$5,000,000 to carry out this section.

SEC. 5029. PINHOOK CREEK, HUNTSVILLE, ALABAMA.

(a) **PROJECT AUTHORIZATION.**—The Secretary shall design and construct the locally preferred plan for flood protection at Pinhook Creek, Huntsville, Alabama. In carrying out the project, the Secretary shall utilize, to the extent practicable, the existing detailed project report for the project prepared under the authority of section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(b) **PARTICIPATION BY NON-FEDERAL INTEREST.**—The Secretary shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184) if the detailed project report evaluation indicates that applying such section is necessary to implement the project.

(c) **CREDIT.**—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest before the date of the partnership agreement for the project.

SEC. 5030. ALASKA.

Section 570 of the Water Resources Development Act of 1999 (113 Stat. 369) is amended—

(1) in subsection (c) by inserting “environmental restoration,” after “water supply and related facilities,”;

(2) in subsection (e)(3)(B) by striking the last sentence;

(3) in subsection (h) by striking “\$25,000,000” and inserting “\$45,000,000”; and

(4) by adding at the end the following:

“(i) **NONPROFIT ENTITIES.**—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

“(j) **CORPS OF ENGINEERS EXPENSES.**—Not more than 10 percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.”.

SEC. 5031. BARROW, ALASKA.

The Secretary shall carry out, under section 117 of the Energy and Water Development Appropriations Act, 2005 (118 Stat. 2944),

a nonstructural project for coastal erosion and storm damage prevention and reduction at Barrow, Alaska, including relocation of infrastructure.

SEC. 5032. LOWELL CREEK TUNNEL, SEWARD, ALASKA.

(a) LONG-TERM MAINTENANCE AND REPAIR.—

(1) MAINTENANCE AND REPAIR.—The Secretary shall assume responsibility for the long-term maintenance and repair of the Lowell Creek tunnel, Seward, Alaska.

(2) DURATION OF RESPONSIBILITIES.—The responsibility of the Secretary for long-term maintenance and repair of the tunnel shall continue until an alternative method of flood diversion is constructed and operational under this section, or 15 years after the date of enactment of this Act, whichever is earlier.

(b) STUDY.—The Secretary shall conduct a study to determine whether an alternative method of flood diversion in Lowell Canyon is feasible.

(c) CONSTRUCTION.—

(1) ALTERNATIVE METHODS.—If the Secretary determines under the study conducted under subsection (b) that an alternative method of flood diversion in Lowell Canyon is feasible, the Secretary shall carry out the alternative method.

(2) FEDERAL SHARE.—The Federal share of the cost of carrying out an alternative method under paragraph (1) shall be the same as the Federal share of the cost of the construction of the Lowell Creek tunnel.

SEC. 5033. ST. HERMAN AND ST. PAUL HARBORS, KODIAK, ALASKA.

The Secretary shall carry out, on an emergency basis, necessary removal of rubble, sediment, and rock impeding the entrance to the St. Herman and St. Paul Harbors, Kodiak, Alaska, at a Federal cost of \$2,000,000.

SEC. 5034. TANANA RIVER, ALASKA.

The Secretary shall carry out, on an emergency basis, the removal of the hazard to navigation on the Tanana River, Alaska, near the mouth of the Chena River, as described in the January 3, 2005, memorandum from the Commander, Seventeenth Coast Guard District, to the Corps of Engineers, Alaska District, Anchorage, Alaska.

SEC. 5035. WRANGELL HARBOR, ALASKA.

(a) GENERAL NAVIGATION FEATURES.—In carrying out the project for navigation, Wrangell Harbor, Alaska, authorized by section 101(b)(1) of the Water Resources Development Act of 1999 (113 Stat. 279), the Secretary shall consider the dredging of the mooring basin and construction of the inner harbor facilities to be general navigation features for purposes of estimating the non-Federal share of project costs.

(b) REVISION OF PARTNERSHIP AGREEMENT.—The Secretary shall revise the partnership agreement for the project to reflect the change required by subsection (a).

SEC. 5036. AUGUSTA AND CLARENDON, ARKANSAS.

(a) IN GENERAL.—The Secretary may carry out rehabilitation of authorized and completed levees on the White River between Augusta and Clarendon, Arkansas, at a total estimated cost of

\$8,000,000, with an estimated Federal cost of \$5,200,000 and an estimated non-Federal cost of \$2,800,000.

(b) REIMBURSEMENT.—After performing the rehabilitation under subsection (a), the Secretary shall seek reimbursement from the Secretary of the Interior of an amount equal to the costs allocated to benefits to a Federal wildlife refuge of such rehabilitation.

SEC. 5037. DES ARC LEVEE PROTECTION, ARKANSAS.

The Secretary shall review the project for flood control, Des Arc, Arkansas, to determine whether bank and channel scour along the White River threaten the existing project and whether the scour is a result of a design deficiency. If the Secretary determines that such conditions exist as a result of a deficiency, the Secretary shall carry out measures to eliminate the deficiency.

SEC. 5038. LOOMIS LANDING, ARKANSAS.

The Secretary shall conduct a study of shore damage in the vicinity of Loomis Landing, Arkansas, to determine if the damage is the result of a Federal navigation project, and, if the Secretary determines that the damage is the result of a Federal navigation project, the Secretary shall carry out a project to mitigate the damage under section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i).

SEC. 5039. CALIFORNIA.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program to provide environmental assistance to non-Federal interests in California.

(b) FORM OF ASSISTANCE.—Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in California, including projects for wastewater treatment and related facilities, water supply and related facilities, environmental restoration, and surface water resource protection and development.

(c) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement for a project entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of a project under this section—

(i) shall be 75 percent; and

(ii) may be provided in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of the costs of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share.

(D) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but the credit may not exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) NONPROFIT ENTITIES.—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity.

(g) CORPS OF ENGINEERS EXPENSES.—Not more than 10 percent of amounts made available to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$40,000,000.

SEC. 5040. CALAVERAS RIVER AND LITTLEJOHN CREEK AND TRIBUTARIES, STOCKTON, CALIFORNIA.

(a) IN GENERAL.—Unless the Secretary determines, by not later than 30 days after the date of enactment of this Act, that the relocation of the portion of the project described in subsection (b)(2) would be injurious to the public interest, a non-Federal interest may reconstruct and relocate that portion of the project approximately 300 feet in a westerly direction. Deadline.

(b) PROJECT DESCRIPTION.—

(1) IN GENERAL.—The project referred to in subsection (a) is the project for flood control, Calaveras River and Littlejohn Creek and tributaries, California, authorized by section 10 of the Flood Control Act of December 22, 1944 (58 Stat. 902).

(2) SPECIFIC DESCRIPTION.—The portion of the project to be reconstructed and relocated is that portion consisting of

approximately 5.34 acres of dry land levee beginning at a point N. 2203542.3167, E. 6310930.1385, thence running west about 59.99 feet to a point N. 2203544.6562, E. 6310870.1468, thence running south about 3,874.99 feet to a point N. 2199669.8760, E. 6310861.7956, thence running east about 60.00 feet to a point N. 2199668.8026, E. 6310921.7900, thence running north about 3,873.73 feet to the point of origin.

(c) **COST SHARING.**—The non-Federal share of the cost of reconstructing and relocating the portion of the project described in subsection (b)(2) shall be 100 percent.

SEC. 5041. CAMBRIA, CALIFORNIA.

106 Stat. 4835; Section 219(f)(48) of the Water Resources Development Act of 1992 (114 Stat. 2763A–220) is amended—
113 Stat. 335.

(1) by striking “\$10,300,000” and inserting the following:

“(A) **IN GENERAL.**—\$10,300,000”;

(2) by adding at the end the following:

“(B) **CREDIT.**—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project not to exceed \$3,000,000 for the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.”; and

(3) by aligning the remainder of the text of subparagraph (A) (as designated by paragraph (1) of this section) with subparagraph (B) (as added by paragraph (2) of this section).

SEC. 5042. CONTRA COSTA CANAL, OAKLEY AND KNIGHTSEN, CALIFORNIA; MALLARD SLOUGH, PITTSBURG, CALIFORNIA.

Sections 512 and 514 of the Water Resources Development Act of 2000 (114 Stat. 2650) are each amended by adding at the end the following: “All planning, study, design, and construction on the project shall be carried out by the office of the district engineer, San Francisco, California.”.

Study.

SEC. 5043. DANA POINT HARBOR, CALIFORNIA.

The Secretary shall conduct a study of the causes of water quality degradation within Dana Point Harbor, California, to determine if the degradation is the result of a Federal navigation project, and, if the Secretary determines that the degradation is the result of a Federal navigation project, the Secretary shall carry out a project to mitigate the degradation at Federal expense.

SEC. 5044. EAST SAN JOAQUIN COUNTY, CALIFORNIA.

106 Stat. 4835. Section 219(f)(22) of the Water Resources Development Act of 1992 (113 Stat. 336) is amended—

(1) by striking “\$25,000,000” and inserting the following:

“(A) **IN GENERAL.**—\$25,000,000”;

(2) by adding at the end the following:

“(B) **CREDIT.**—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

“(C) **IN-KIND CONTRIBUTIONS.**—The non-Federal interest may provide any portion of the non-Federal share

of the cost of the project in the form of in-kind services and materials.”; and
(3) by aligning the remainder of the text of subparagraph (A) (as designated by paragraph (1) of this section) with subparagraph (B) (as added by paragraph (2) of this section).

SEC. 5045. EASTERN SANTA CLARA BASIN, CALIFORNIA.

Section 111(c) of the Miscellaneous Appropriations Act, 2001 (as enacted into law by Public Law 106–554; 114 Stat. 2763A–224) is amended—

- (1) by striking “\$25,000,000” and inserting “\$28,000,000”; and
- (2) by striking “\$7,000,000” and inserting “\$10,000,000”.

SEC. 5046. LA-3 DREDGED MATERIAL OCEAN DISPOSAL SITE DESIGNATION, CALIFORNIA.

The third sentence of section 102(c)(4) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412(c)(4)) is amended by striking “January 1, 2003” and inserting “January 1, 2011”.

SEC. 5047. LANCASTER, CALIFORNIA.

Section 219(f)(50) of the Water Resources Development Act of 1992 (114 Stat. 2763A–220) is amended—

- (1) by inserting after “water” the following: “and wastewater”; and
- (2) by striking “\$14,500,000” and inserting “\$24,500,000”.

106 Stat. 4835;
113 Stat. 335.

SEC. 5048. LOS OSOS, CALIFORNIA.

Section 219(c)(27) of the Water Resources Development Act of 1992 (114 Stat. 2763A–219) is amended to read as follows:
“(27) LOS OSOS, CALIFORNIA.—Wastewater infrastructure, Los Osos, California.”.

106 Stat. 4835.

SEC. 5049. PINE FLAT DAM FISH AND WILDLIFE HABITAT, CALIFORNIA.

(a) COOPERATIVE PROGRAM.—

(1) IN GENERAL.—The Secretary shall participate with appropriate State and local agencies in the implementation of a cooperative program to improve and manage fisheries and aquatic habitat conditions in Pine Flat Reservoir and in the 14-mile reach of the Kings River immediately below Pine Flat Dam, California, in a manner that—

(A) provides for long-term aquatic resource enhancement; and

(B) avoids adverse effects on water storage and water rights holders.

(2) GOALS AND PRINCIPLES.—The cooperative program described in paragraph (1) shall be carried out—

(A) substantially in accordance with the goals and principles of the document entitled “Kings River Fisheries Management Program Framework Agreement” and dated May 29, 1999, between the California department of fish and game and the Kings River Water Association and the Kings River Conservation District; and

(B) in cooperation with the parties to that agreement.

(b) PARTICIPATION BY SECRETARY.—

(1) **IN GENERAL.**—In furtherance of the goals of the agreement described in subsection (a)(2), the Secretary shall participate in the planning, design, and construction of projects and pilot projects on the Kings River and its tributaries to enhance aquatic habitat and water availability for fisheries purposes (including maintenance of a trout fishery) in accordance with flood control operations, water rights, and beneficial uses in existence as of the date of enactment of this Act.

(2) **PROJECTS.**—Projects referred to in paragraph (1) may include—

(A) projects to construct or improve pumping, conveyance, and storage facilities to enhance water transfers; and

(B) projects to carry out water exchanges and create opportunities to use floodwater within and downstream of Pine Flat Reservoir.

(c) **NO AUTHORIZATION OF CERTAIN DAM-RELATED PROJECTS.**—Nothing in this section shall be construed to authorize any project for the raising of Pine Flat Dam or the construction of a multilevel intake structure at Pine Flat Dam.

(d) **USE OF EXISTING STUDIES.**—In carrying out this section, the Secretary shall use, to the maximum extent practicable, studies in existence on the date of enactment of this Act, including data and environmental documentation in the document entitled “Final Feasibility Report and Report of the Chief of Engineers for Pine Flat Dam Fish and Wildlife Habitat Restoration” and dated July 19, 2002.

(e) **CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.**—The Secretary shall credit toward the non-Federal share of the cost of construction of any project under subsection (b) the value, regardless of the date of acquisition, of any land, easements, rights-of-way, dredged material disposal areas, or relocations provided by the non-Federal interest for use in carrying out the project.

(f) **OPERATION AND MAINTENANCE.**—The operation, maintenance, repair, rehabilitation, and replacement of projects carried out under this section shall be a non-Federal responsibility.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$20,000,000. Such sums shall remain available until expended.

SEC. 5050. RAYMOND BASIN, SIX BASINS, CHINO BASIN, AND SAN GABRIEL BASIN, CALIFORNIA.

(a) **COMPREHENSIVE PLAN.**—The Secretary, in consultation and coordination with appropriate Federal, State, and local entities, shall develop a comprehensive plan for the management of water resources in the Raymond Basin, Six Basins, Chino Basin, and San Gabriel Basin, California. The Secretary may carry out activities identified in the comprehensive plan to demonstrate practicable alternatives for water resources management.

(b) **OPERATION AND MAINTENANCE.**—The non-Federal share of the cost of operation and maintenance of any measures constructed under this section shall be 100 percent.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$5,000,000.

SEC. 5051. SAN FRANCISCO, CALIFORNIA.

(a) **IN GENERAL.**—The Secretary, in cooperation with the Port of San Francisco, California, may carry out the project for repair

and removal, as appropriate, of Piers 30–32, 35, 36, 70 (including Wharves 7 and 8), and 80 in San Francisco, California, substantially in accordance with the Port's redevelopment plan.

(b) **AUTHORIZATION OF APPROPRIATION.**—There is authorized to be appropriated \$25,000,000 to carry out this section.

SEC. 5052. SAN FRANCISCO, CALIFORNIA, WATERFRONT AREA.

33 USC 59h–1.

(a) **AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.**—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries of the portion of the San Francisco, California, waterfront area described in subsection (b) are not in the public interest, such portion is declared to be nonnavigable waters of the United States.

(b) **NORTHERN EMBARCADERO SOUTH OF BRYANT STREET.**—The portion of the San Francisco, California, waterfront area referred to in subsection (a) is as follows: Beginning at the intersection of the northeasterly prolongation of that portion of the northwesterly line of Bryant Street lying between Beale Street and Main Street with the southwesterly line of Spear Street, which intersection lies on the line of jurisdiction of the San Francisco Port Commission; following thence southerly along said line of jurisdiction as described in the State of California Harbor and Navigation Code Section 1770, as amended in 1961, to its intersection with the southeasterly line of Townsend Street; thence northeasterly along said southeasterly line of Townsend Street, to its intersection with a line that is parallel and distant 10 feet southerly from the existing southern boundary of Pier 40 produced; thence easterly along said parallel line, to its point of intersection with the United States Government Pierhead line; thence northerly along said Pierhead line to its intersection with a line parallel with, and distant 10 feet easterly from, the existing easterly boundary line of Pier 30–32; thence northerly along said parallel line and its northerly prolongation, to a point of intersection with a line parallel with, and distant 10 feet northerly from, the existing northerly boundary of Pier 30–32; thence westerly along last said parallel line to its intersection with the United States Government Pierhead line; thence northerly along said Pierhead line, to its intersection aforementioned northwesterly line of Bryant Street produced north-easterly; thence southwesterly along said northwesterly line of Bryant Street produced to the point of beginning.

(c) **REQUIREMENT THAT AREA BE IMPROVED.**—The declaration of nonnavigability under subsection (a) applies only to those parts of the area described in subsection (b) that are or will be bulkheaded, filled, or otherwise occupied by permanent structures and does not affect the applicability of any Federal statute or regulation applicable to such parts the day before the date of enactment of this Act, including sections 9 and 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403; 30 Stat. 1151), commonly known as the Rivers and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) **EXPIRATION DATE.**—If, 20 years from the date of enactment of this Act, any area or part thereof described in subsection (b) is not bulkheaded or filled or occupied by permanent structures,

Deadline.

including marina facilities, in accordance with the requirements set out in subsection (c), or if work in connection with any activity permitted in subsection (c) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 5053. SAN PABLO BAY, CALIFORNIA, WATERSHED AND SUISUN MARSH ECOSYSTEM RESTORATION.

(a) **SAN PABLO BAY WATERSHED, CALIFORNIA.**—

(1) **IN GENERAL.**—The Secretary shall complete work, as expeditiously as possible, on the ongoing San Pablo Bay watershed, California, study to determine the feasibility of opportunities for restoring, preserving, and protecting the San Pablo Bay watershed.

(2) **REPORT.**—Not later than March 31, 2008, the Secretary shall submit to Congress a report on the results of the study.

(b) **SUISUN MARSH, CALIFORNIA.**—The Secretary shall conduct a comprehensive study to determine the feasibility of opportunities for restoring, preserving, and protecting the Suisun Marsh, California.

(c) **SAN PABLO AND SUISUN BAY MARSH WATERSHED CRITICAL RESTORATION PROJECTS.**—

(1) **IN GENERAL.**—The Secretary may participate in critical restoration projects that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, and protection benefits in the following sub-watersheds of the San Pablo and Suisun Bay Marsh watersheds:

(A) The tidal areas of the Petaluma River, Napa-Sonoma Marsh.

(B) The shoreline of West Contra Costa County.

(C) Novato Creek.

(D) Suisun Marsh.

(E) Gallinas-Miller Creek.

(2) **TYPES OF ASSISTANCE.**—Participation in critical restoration projects under this subsection may include assistance for planning, design, or construction.

(d) **CREDIT.**—In accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), the Secretary shall credit toward the non-Federal share of the cost of construction of a project under this section—

(1) the value of any lands, easements, rights-of-way, dredged material disposal areas, or relocations provided by the non-Federal interest for carrying out the project, regardless of the date of acquisition;

(2) funds received from the CALFED Bay-Delta program; and

(3) the cost of the studies, design, and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$40,000,000.

SEC. 5054. ST. HELENA, CALIFORNIA.

(a) **IN GENERAL.**—The Secretary may construct a project for flood control and environmental restoration, St. Helena, California, substantially in accordance with the plan for the St. Helena comprehensive flood protection project dated 2006 and described in

Study.

the addendum dated June 27, 2006, to the report prepared by the city of St. Helena entitled “City of St. Helena Comprehensive Flood Protection Project, Final Environmental Impact Report”, and dated January 2004, if the Secretary determines that the plans and designs for the project are feasible.

(b) **COST.**—The total cost of the project to be constructed pursuant to subsection (a) shall be \$30,000,000, with an estimated Federal cost of \$19,500,000 and an estimated non-Federal cost of \$10,500,000.

(c) **REIMBURSEMENT.**—The non-Federal interest shall be reimbursed for any work performed by the non-Federal interest for the project described in subsection (a) that is in excess of the required non-Federal contribution toward the total cost of the project, if the Secretary determines that the work is integral to the project.

SEC. 5055. UPPER CALAVERAS RIVER, STOCKTON, CALIFORNIA.

(a) **REEVALUATION.**—The Secretary shall reevaluate the feasibility of the Lower Mosher Slough element and the levee extensions on the Upper Calaveras River element of the project for flood control, Stockton Metropolitan Area, California, carried out under section 211(f)(3) of the Water Resources Development Act of 1996 (110 Stat. 3683), to determine the eligibility of such elements for reimbursement under section 211 of such Act (33 U.S.C. 701b–13).

(b) **SPECIAL RULES FOR REEVALUATION.**—In conducting the reevaluation under subsection (a), the Secretary shall not reject a feasibility determination based on one or more of the policies of the Corps of Engineers concerning the frequency of flooding, the drainage area, and the amount of runoff.

(c) **REIMBURSEMENT.**—If the Secretary determines that the elements referred to subsection (a) are feasible, the Secretary shall reimburse, subject to appropriations, the non-Federal interest under section 211 of the Water Resources Development Act of 1996 for the Federal share of the cost of such elements.

SEC. 5056. RIO GRANDE ENVIRONMENTAL MANAGEMENT PROGRAM, COLORADO, NEW MEXICO, AND TEXAS.

(a) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **RIO GRANDE COMPACT.**—The term “Rio Grande Compact” means the compact approved by Congress under the Act of May 31, 1939 (53 Stat. 785), and ratified by the States.

(2) **RIO GRANDE BASIN.**—The term “Rio Grande Basin” means the Rio Grande (including all tributaries and their headwaters) located—

(A) in the State of Colorado, from the Rio Grande Reservoir, near Creede, Colorado, to the New Mexico State border;

(B) in the State of New Mexico, from the Colorado State border downstream to the Texas State border; and

(C) in the State of Texas, from the New Mexico State border to the southern terminus of the Rio Grande at the Gulf of Mexico.

(3) **STATES.**—The term “States” means the States of Colorado, New Mexico, and Texas.

(b) **PROGRAM AUTHORITY.**—

(1) **IN GENERAL.**—The Secretary shall carry out, in the Rio Grande Basin—

(A) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement; and

(B) implementation of a long-term monitoring, computerized data inventory and analysis, applied research, and adaptive management program.

(2) **REPORTS.**—Not later than December 31, 2008, and not later than December 31 of every sixth year thereafter, the Secretary, in consultation with the Secretary of the Interior and the States, shall submit to Congress a report that—

(A) contains an evaluation of the programs described in paragraph (1);

(B) describes the accomplishments of each program;

(C) provides updates of a systemic habitat needs assessment; and

(D) identifies any needed adjustments in the authorization of the programs.

(c) **STATE AND LOCAL CONSULTATION AND COOPERATIVE EFFORT.**—For the purpose of ensuring the coordinated planning and implementation of the programs described in subsection (b), the Secretary shall—

(1) consult with the States, and other appropriate entities in the States, the rights and interests of which might be affected by specific program activities; and

(2) enter into an interagency agreement with the Secretary of the Interior to provide for the direct participation of, and transfer of funds to, the United States Fish and Wildlife Service and any other agency or bureau of the Department of the Interior for the planning, design, implementation, and evaluation of those programs.

(d) **OPERATION AND MAINTENANCE.**—The costs of operation and maintenance of a project located on Federal land, or land owned or operated by a State or local government, shall be borne by the Federal, State, or local agency that has jurisdiction over fish and wildlife activities on the land.

(e) **EFFECT ON OTHER LAW.**—

(1) **WATER LAW.**—Nothing in this section shall be construed to preempt any State water law.

(2) **COMPACTS AND DECREES.**—In carrying out this section, the Secretary shall comply with the Rio Grande Compact, and any applicable court decrees or Federal and State laws, affecting water or water rights in the Rio Grande Basin.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to carry out this section \$15,000,000 for each of fiscal years 2008 through 2011.

Designation.

SEC. 5057. CHARLES HERVEY TOWNSHEND BREAKWATER, NEW HAVEN HARBOR, CONNECTICUT.

The western breakwater for the project for navigation, New Haven Harbor, Connecticut, authorized by the first section of the Act of September 19, 1890 (26 Stat. 428), shall be known and designated as the “Charles Hervey Townshend Breakwater”.

SEC. 5058. STAMFORD, CONNECTICUT.

(a) **IN GENERAL.**—The Secretary may participate in the ecosystem restoration, navigation, flood damage reduction, and recreation components of the Mill River and Long Island Sound revitalization project, Stamford, Connecticut.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$10,000,000 to carry out this section.

SEC. 5059. DELMARVA CONSERVATION CORRIDOR, DELAWARE, MARYLAND, AND VIRGINIA.

16 USC 3801
note.

(a) **ASSISTANCE.**—The Secretary may provide technical assistance to the Secretary of Agriculture for use in carrying out the Conservation Corridor Demonstration Program established under subtitle G of title II of the Farm Security and Rural Investment Act of 2002 (16 U.S.C. 3801 note; 116 Stat. 275).

(b) **COORDINATION AND INTEGRATION.**—In carrying out water resources projects in the States on the Delmarva Peninsula, the Secretary shall coordinate and integrate those projects, to the maximum extent practicable, with any activities carried out to implement a conservation corridor plan approved by the Secretary of Agriculture under section 2602 of the Farm Security and Rural Investment Act of 2002 (16 U.S.C. 3801 note; 116 Stat. 275).

SEC. 5060. ANACOSTIA RIVER, DISTRICT OF COLUMBIA AND MARYLAND.

(a) **COMPREHENSIVE ACTION PLAN.**—Not later than one year after the date of enactment of this Act, the Secretary, in coordination with the Mayor of the District of Columbia, the Governor of Maryland, the county executives of Montgomery County and Prince George's County, Maryland, and other interested entities, shall develop and make available to the public a 10-year comprehensive action plan to provide for the restoration and protection of the ecological integrity of the Anacostia River and its tributaries.

Deadline.
Public
information.

(b) **PUBLIC AVAILABILITY.**—On completion of the comprehensive action plan under subsection (a), the Secretary shall make the plan available to the public, including on the Internet.

SEC. 5061. EAST CENTRAL AND NORTHEAST FLORIDA.

(a) **EAST CENTRAL AND NORTHEAST FLORIDA REGION DEFINED.**—In this section, the term “East Central and Northeast Florida Region” means Flagler County, St. Johns County, Putman County (east of the St. Johns River), Seminole County, Volusia County, the towns of Winter Park, Maitland, and Palatka, Florida.

(b) **ESTABLISHMENT OF PROGRAM.**—The Secretary may establish a program to provide environmental assistance to non-Federal interests in the East Central and Northeast Florida Region.

(c) **FORM OF ASSISTANCE.**—Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in the East Central and Northeast Florida Region, including projects for wastewater treatment and related facilities, water supply and related facilities, environmental restoration, and surface water resource protection and development.

(d) **OWNERSHIP REQUIREMENT.**—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) **PARTNERSHIP AGREEMENTS.**—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement for a project entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of a project under this section—

(i) shall be 75 percent; and

(ii) may be provided in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of the costs of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share.

(D) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but the credit may not exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) NONPROFIT ENTITIES.—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) CORPS OF ENGINEERS EXPENSES.—Not more than 10 percent of the amounts appropriated to carry out this section may be

used by the Corps of Engineers district offices to administer projects under this section at Federal expense.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$40,000,000.

SEC. 5062. FLORIDA KEYS WATER QUALITY IMPROVEMENTS.

Section 109 of the Miscellaneous Appropriations Act, 2001 (enacted into law by Public Law 106–554) (114 Stat. 2763A–222) is amended—

(1) by adding at the end of subsection (e)(2) the following:

“(C) CREDIT FOR WORK PRIOR TO EXECUTION OF THE PARTNERSHIP AGREEMENT.—The Secretary shall credit toward the non-Federal share of the cost of the project—

“(i) in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), the cost of construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

“(ii) the cost of land acquisition carried out by the non-Federal interest for projects to be carried out under this section.”; and

(2) in subsection (f) by striking “\$100,000,000” and inserting “\$100,000,000, of which not more than \$15,000,000 may be used to provide planning, design, and construction assistance to the Florida Keys Aqueduct Authority for a water treatment plant, Florida City, Florida”.

SEC. 5063. LAKE WORTH, FLORIDA.

The Secretary may carry out necessary repairs for the Lake Worth bulkhead replacement project, West Palm Beach, Florida, at an estimated total cost of \$9,000,000.

SEC. 5064. BIG CREEK, GEORGIA, WATERSHED MANAGEMENT AND RESTORATION PROGRAM.

(a) IN GENERAL.—The Secretary may cooperate with, by providing technical, planning, and construction assistance to, the city of Roswell, Georgia, as the non-Federal interest and coordinator with other local governments in the Big Creek watershed, Georgia, to assess the quality and quantity of water resources, conduct comprehensive watershed management planning, develop and implement water efficiency technologies and programs, and plan, design, and construct water resource facilities to restore the watershed.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$5,000,000 to carry out this section.

SEC. 5065. METROPOLITAN NORTH GEORGIA WATER PLANNING DISTRICT.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide environmental assistance to non-Federal interests in the Metropolitan North Georgia Water Planning District.

(b) FORM OF ASSISTANCE.—Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in north Georgia, including projects

for wastewater treatment and related facilities, elimination or control of combined sewer overflows, water supply and related facilities, environmental restoration, and surface water resource protection and development.

(c) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement for a project entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of a project under this section—

(i) shall be 75 percent; and

(ii) may be provided in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of a project under this section, in an amount not to exceed 6 percent of the total construction costs of the project, the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of the costs of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share.

(D) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but the credit may not exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State

law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$20,000,000.

SEC. 5066. SAVANNAH, GEORGIA.

(a) **IN GENERAL.**—After completion of a Savannah Riverfront plan, the Secretary may participate in the ecosystem restoration, recreation, navigation, and flood damage reduction components of the plan.

(b) **COORDINATION.**—In carrying out this section, the Secretary shall coordinate with appropriate representatives in the vicinity of Savannah, Georgia, including the Georgia Ports Authority, the city of Savannah, and Camden County.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$10,000,000 to carry out this section.

SEC. 5067. IDAHO, MONTANA, RURAL NEVADA, NEW MEXICO, RURAL UTAH, AND WYOMING.

Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383; 117 Stat. 139; 117 Stat. 142; 117 Stat. 1836; 118 Stat. 440) is amended—

(1) in the section heading by striking “**AND RURAL UTAH**” and inserting “**RURAL UTAH, AND WYOMING**”;

(2) in subsections (b) and (c) by striking “and rural Utah” each place it appears and inserting “rural Utah, and Wyoming”; and

(3) by striking subsection (h) and inserting the following:

“(h) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section for the period beginning with fiscal year 2001 \$150,000,000 for rural Nevada, \$25,000,000 for each of Montana and New Mexico, \$55,000,000 for Idaho, \$50,000,000 for rural Utah, and \$30,000,000 for Wyoming. Such sums shall remain available until expended.”.

SEC. 5068. RILEY CREEK RECREATION AREA, IDAHO.

The Secretary is authorized to carry out the Riley Creek Recreation Area Operation Plan of the Albeni Falls Management Plan, dated October 2001, for the Riley Creek Recreation Area, Albeni Falls Dam, Bonner County, Idaho.

SEC. 5069. FLOODPLAIN MAPPING, LITTLE CALUMET RIVER, CHICAGO, ILLINOIS.

(a) **IN GENERAL.**—The Secretary shall provide assistance for a project to develop maps identifying 100- and 500-year flood inundation areas along the Little Calumet River, Chicago, Illinois.

(b) **REQUIREMENTS.**—Maps developed under the project shall include hydrologic and hydraulic information and shall accurately show the flood inundation of each property by flood risk in the floodplain. The maps shall be produced in a high resolution format and shall be made available to all flood prone areas along the Little Calumet River, Chicago, Illinois, in an electronic format.

(c) **PARTICIPATION OF FEMA.**—The Secretary and the non-Federal interests for the project shall work with the Administrator of the Federal Emergency Management Agency to ensure the validity of the maps developed under the project for flood insurance purposes.

(d) **FORMS OF ASSISTANCE.**—In carrying out the project, the Secretary may enter into contracts or cooperative agreements with the non-Federal interests or provide reimbursements of project costs.

(e) **FEDERAL SHARE.**—The Federal share of the cost of the project shall be 50 percent.

(f) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to modify the prioritization of map updates or the substantive requirements of the Federal Emergency Management Agency flood map modernization program authorized by section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101).

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$2,000,000.

SEC. 5070. RECONSTRUCTION OF ILLINOIS AND MISSOURI FLOOD PROTECTION PROJECTS.

(a) **IN GENERAL.**—The Secretary may participate in the reconstruction of an eligible flood control project if the Secretary determines that such reconstruction is not required as a result of improper operation and maintenance of the project by the non-Federal interest.

(b) **COST SHARING.**—The non-Federal share of the costs for the reconstruction of a flood control project authorized by this section shall be the same non-Federal share that was applicable to construction of the project. The non-Federal interest shall be responsible for operation and maintenance and repair of a project for which reconstruction is undertaken under this section.

(c) **RECONSTRUCTION DEFINED.**—In this section, the term “reconstruction”, as used with respect to a project, means addressing major project deficiencies caused by long-term degradation of the foundation, construction materials, or engineering systems or components of the project, the results of which render the project at risk of not performing in compliance with its authorized project purposes. In addressing such deficiencies, the Secretary may incorporate current design standards and efficiency improvements, including the replacement of obsolete mechanical and electrical components at pumping stations, if such incorporation does not significantly change the scope, function, and purpose of the project as authorized.

(d) **ELIGIBLE PROJECTS.**—The following flood control projects are eligible for reconstruction under this section:

- (1) Clear Creek Drainage and Levee District, Illinois.
- (2) Fort Chartres and Ivy Landing Drainage District, Illinois.
- (3) Prairie Du Pont Levee and Sanitary District, including Fish Lake Drainage and Levee District, Illinois.
- (4) Cairo, Illinois Mainline Levee, Cairo, Illinois.
- (5) Goose Pond Pump Station, Cairo, Illinois.
- (6) Cottonwood Slough Pump Station, Alexander County, Illinois.
- (7) 10th and 28th Street Pump Stations, Cairo, Illinois.
- (8) Flood control levee projects in Brookport, Shawneetown, Old Shawneetown, Golconda, Rosiclare, Harrisburg, and Reevesville, Illinois.
- (9) City of St. Louis, Missouri.
- (10) Missouri River Levee Drainage District, Missouri.

(e) JUSTIFICATION.—The reconstruction of a project authorized by this section shall not be considered a separable element of the project.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$50,000,000 to carry out this section.

SEC. 5071. ILLINOIS RIVER BASIN RESTORATION.

(a) EXTENSION OF AUTHORIZATION.—Section 519(c)(2) of the Water Resources Development Act of 2000 (114 Stat. 2654) is amended by striking “2004” and inserting “2010”.

(b) MAXIMUM FEDERAL SHARE.—Section 519(c)(3) of such Act (114 Stat. 2654) is amended by striking “\$5,000,000” and inserting “\$20,000,000”.

(c) IN-KIND SERVICES.—Section 519(g)(3) of such Act (114 Stat. 2655) is amended by inserting before the period at the end of the first sentence “if such services are provided not more than 5 years before the date of initiation of the project or activity”.

(d) MONITORING.—Section 519 of such Act (114 Stat. 2654) is amended by adding at the end the following:

“(h) MONITORING.—The Secretary shall develop an Illinois River basin monitoring program to support the plan developed under subsection (b). Data collected under the monitoring program shall incorporate data provided by the State of Illinois and shall be publicly accessible through electronic means, including on the Internet.”.

Public
information.

SEC. 5072. PROMONTORY POINT THIRD-PARTY REVIEW, CHICAGO SHORELINE, CHICAGO, ILLINOIS.

(a) REVIEW.—

(1) IN GENERAL.—The Secretary shall conduct a third-party review of the Promontory Point feature of the project for storm damage reduction and shoreline erosion protection, Lake Michigan, Illinois, from Wilmette, Illinois, to the Illinois-Indiana State line, authorized by section 101(a)(12) of the Water Resources Development Act of 1996 (110 Stat. 3664), at a cost not to exceed \$450,000.

(2) JOINT REVIEW.—The Buffalo and Seattle Districts of the Corps of Engineers shall jointly conduct the review under paragraph (1).

(3) STANDARDS.—The review under paragraph (1) shall be based on the standards under part 68 of title 36, Code of Federal Regulations (or any successor regulation).

(b) CONTRIBUTIONS.—The Secretary may accept funds from a State or political subdivision of a State to conduct the review under paragraph (1).

(c) TREATMENT.—The review under paragraph (1) shall not be considered to be an element of the project referred to in paragraph (1).

(d) EFFECT OF SECTION.—Nothing in this section shall be construed to affect the authorization for the project referred to in paragraph (1).

SEC. 5073. KASKASKIA RIVER BASIN, ILLINOIS, RESTORATION.

(a) KASKASKIA RIVER BASIN DEFINED.—In this section, the term “Kaskaskia River Basin” means the Kaskaskia River, Illinois, its backwaters, its side channels, and all tributaries, including their watersheds, draining into the Kaskaskia River.

(b) COMPREHENSIVE PLAN.—

(1) DEVELOPMENT.—The Secretary shall develop, as expeditiously as practicable, a comprehensive plan for the purpose of restoring, preserving, and protecting the Kaskaskia River Basin.

(2) TECHNOLOGIES AND INNOVATIVE APPROACHES.—The comprehensive plan shall provide for the development of new technologies and innovative approaches—

(A) to enhance the Kaskaskia River as a transportation corridor;

(B) to improve water quality within the entire Kaskaskia River Basin;

(C) to restore, enhance, and preserve habitat for plants and wildlife;

(D) to ensure aquatic integrity of side channels and backwaters and their connectivity with the mainstem river;

(E) to increase economic opportunity for agriculture and business communities; and

(F) to reduce the impacts of flooding to communities and landowners.

(3) SPECIFIC COMPONENTS.—The comprehensive plan shall include such features as are necessary to provide for—

(A) the development and implementation of a program for sediment removal technology, sediment characterization, sediment transport, and beneficial uses of sediment;

(B) the development and implementation of a program for the planning, conservation, evaluation, and construction of measures for fish and wildlife habitat conservation and rehabilitation, and stabilization and enhancement of land and water resources in the Kaskaskia River Basin;

(C) the development and implementation of a long-term resource monitoring program for the Basin;

(D) a conveyance study of the Kaskaskia River floodplain from Vandalia, Illinois, to Carlyle Lake to determine the impacts of existing and future waterfowl improvements on flood stages, including detailed surveys and mapping information to ensure proper hydraulic and hydrological analysis;

(E) the development and implementation of a computerized inventory and analysis system for the Basin;

(F) the development and implementation of a systemic plan for the Basin to reduce flood impacts by means of ecosystem restoration projects; and

(G) the study and design of necessary measures to reduce ongoing headcutting and restore the aquatic environment of the Basin that has been degraded by the headcutting that has occurred above the existing grade control structure.

(4) CONSULTATION.—The comprehensive plan shall be developed by the Secretary in consultation with appropriate Federal agencies, the State of Illinois, and the Kaskaskia River Watershed Association.

(5) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing the comprehensive plan.

(6) **ADDITIONAL STUDIES AND ANALYSES.**—After submission of a report under paragraph (5), the Secretary shall conduct studies and analyses of projects related to the comprehensive plan that are appropriate and consistent with this subsection.

(c) **GENERAL PROVISIONS.**—

(1) **WATER QUALITY.**—In carrying out activities under this section, the Secretary's recommendations shall be consistent with applicable State water quality standards.

(2) **PUBLIC PARTICIPATION.**—In developing the comprehensive plan under subsection (b), the Secretary shall implement procedures to facilitate public participation, including providing advance notice of meetings, providing adequate opportunity for public input and comment, maintaining appropriate records, and making a record of the proceedings of meetings available for public inspection.

Procedures.

(d) **CRITICAL PROJECTS AND INITIATIVES.**—If the Secretary, in cooperation with appropriate Federal agencies and the State of Illinois, determines that a project or initiative for the Kaskaskia River Basin will produce independent, immediate, and substantial benefits, the Secretary may proceed with the implementation of the project.

(e) **COORDINATION.**—The Secretary shall integrate activities carried out under this section with ongoing Federal and State programs, projects, and activities, including the following:

(1) Farm programs of the Department of Agriculture.

(2) Conservation Reserve Enhancement Program (State of Illinois) and Conservation 2000 Ecosystem Program of the Illinois department of natural resources.

(3) Conservation 2000 Conservation Practices Program and the Livestock Management Facilities Act administered by the Illinois department of agriculture.

(4) National Buffer Initiative of the Natural Resources Conservation Service.

(5) Nonpoint source grant program administered by the Illinois environmental protection agency.

(6) Other programs that may be developed by the State of Illinois or the Federal Government, or that are carried out by nonprofit organizations, to carry out the objectives of the Kaskaskia River Basin Comprehensive Plan.

(f) **IN-KIND SERVICES.**—The Secretary may credit the cost of in-kind services provided by the non-Federal interest for an activity carried out under this section toward not more than 80 percent of the non-Federal share of the cost of the activity. In-kind services shall include all State funds expended on programs that accomplish the goals of this section, as determined by the Secretary. The programs may include the Kaskaskia River Conservation Reserve Program, the Illinois Conservation 2000 Program, the Open Lands Trust Fund, and other appropriate programs carried out in the Kaskaskia River Basin.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$20,000,000 to carry out this section.

SEC. 5074. SOUTHWEST ILLINOIS.

(a) **SOUTHWEST ILLINOIS DEFINED.**—In this section, the term "Southwest Illinois" means the counties of Madison, St. Clair, Monroe, Randolph, Perry, Franklin, Jackson, Union, Alexander, Pulaski, and Williamson, Illinois.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program to provide environmental assistance to non-Federal interests in Southwest Illinois.

(c) FORM OF ASSISTANCE.—Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in Southwest Illinois, including projects for wastewater treatment and related facilities, water supply and related facilities, and surface water resource protection and development.

(d) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement for a project entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of a project under this section—

(i) shall be 75 percent; and

(ii) may be provided in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share.

(D) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but the credit may not exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) NONPROFIT ENTITIES.—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) CORPS OF ENGINEERS EXPENSES.—Not more than 10 percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$40,000,000.

SEC. 5075. CALUMET REGION, INDIANA.

Section 219(f)(12) of the Water Resources Development Act of 1992 (113 Stat. 335; 117 Stat. 1843) is amended—

(1) by striking “\$30,000,000” and inserting the following:

“(A) IN GENERAL.—\$100,000,000”;

(2) by adding at the end the following:

“(B) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.”; and

(3) by aligning the remainder of the text of subparagraph

(A) (as designated by paragraph (1) of this section) with subparagraph (B) (as added by paragraph (2) of this section).

106 Stat. 4835.

SEC. 5076. FLOODPLAIN MAPPING, MISSOURI RIVER, IOWA.

(a) IN GENERAL.—The Secretary shall provide assistance for a project to develop maps identifying 100- and 500-year flood inundation areas in the State of Iowa, along the Missouri River.

(b) REQUIREMENTS.—Maps developed under the project shall include hydrologic and hydraulic information and shall accurately portray the flood hazard areas in the floodplain. The maps shall be produced in a high resolution format and shall be made available to the State of Iowa in an electronic format.

(c) PARTICIPATION OF FEMA.—The Secretary and the non-Federal interests for the project shall work with the Administrator of the Federal Emergency Management Agency to ensure the validity of the maps developed under the project for flood insurance purposes.

(d) FORMS OF ASSISTANCE.—In carrying out the project, the Secretary may enter into contracts or cooperative agreements with the non-Federal interests or provide reimbursements of project costs.

(e) FEDERAL SHARE.—The Federal share of the cost of the project shall be 50 percent.

(f) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to modify the prioritization of map updates or the substantive requirements of the Federal Emergency Management Agency flood map modernization program authorized by section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101).

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$3,000,000.

Reports.

SEC. 5077. PADUCAH, KENTUCKY.

The Secretary shall complete a feasibility report for rehabilitation of the project for flood damage reduction, Paducah, Kentucky, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), and, if the Secretary determines that the project is feasible, the Secretary may carry out the project at a total cost of \$3,000,000.

SEC. 5078. SOUTHERN AND EASTERN KENTUCKY.

Section 531 of the Water Resources Development Act of 1996 (110 Stat. 3773; 113 Stat. 348; 117 Stat. 142) is amended by adding at the end the following:

“(i) **CORPS OF ENGINEERS EXPENSES.**—Not more than 10 percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.”.

SEC. 5079. WINCHESTER, KENTUCKY.

Section 219(c) of the Water Resources Development Act of 1992 (106 Stat. 4835; 114 Stat. 2763A–219) is amended by adding at the end the following:

“(41) **WINCHESTER, KENTUCKY.**—Wastewater infrastructure, Winchester, Kentucky.”.

SEC. 5080. BATON ROUGE, LOUISIANA.

106 Stat. 4835. Section 219(f)(21) of the Water Resources Development Act of 1992 (113 Stat. 336; 114 Stat. 2763A–220) is amended by striking “\$20,000,000” and inserting “\$35,000,000”.

SEC. 5081. CALCASIEU SHIP CHANNEL, LOUISIANA.

The Secretary shall expedite completion of a dredged material management plan for the Calcasieu Ship Channel, Louisiana, and may take interim measures to increase the capacity of existing disposal areas, or to construct new confined or beneficial use disposal areas, for the channel.

SEC. 5082. EAST ATCHAFALAYA BASIN AND AMITE RIVER BASIN REGION, LOUISIANA.

(a) **EAST ATCHAFALAYA BASIN AND AMITE RIVER BASIN REGION DEFINED.**—In this section, the term “East Atchafalaya Basin and Amite River Basin Region” means the following parishes and municipalities in the State of Louisiana: Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.

(b) **ESTABLISHMENT OF PROGRAM.**—The Secretary may establish a program to provide environmental assistance to non-Federal interests in the East Atchafalaya Basin and Amite River Basin Region.

(c) **FORM OF ASSISTANCE.**—Assistance provided under this section may be in the form of design and construction assistance

for water-related environmental infrastructure and resource protection and development projects in the East Atchafalaya Basin and Amite River Basin Region, including projects for wastewater treatment and related facilities, water supply and related facilities, environmental restoration, and surface water resource protection and development.

(d) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement of a project entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of a project under this section—

(i) shall be 75 percent; and

(ii) may be provided in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share.

(D) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but the credit may not exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State

law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) **NONPROFIT ENTITIES.**—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) **CORPS OF ENGINEERS EXPENSES.**—Not more than 10 percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$40,000,000.

SEC. 5083. INNER HARBOR NAVIGATION CANAL LOCK PROJECT, LOUISIANA.

Deadline.

Not later than July 1, 2008, the Secretary shall—

(1) issue a final environmental impact statement relating to the Inner Harbor Navigation Canal Lock project, Louisiana; and

(2) develop and maintain a transportation mitigation program relating to that project in coordination with—

(A) St. Bernard Parish;

(B) Orleans Parish;

(C) the Old Arabi Neighborhood Association; and

(D) other interested parties.

33 USC 1273
note.

SEC. 5084. LAKE PONTCHARTRAIN, LOUISIANA.

For purposes of carrying out section 121 of the Federal Water Pollution Control Act (33 U.S.C. 1273), the Lake Pontchartrain, Louisiana, basin stakeholders conference convened by the Environmental Protection Agency, National Oceanic and Atmospheric Administration, and United States Geological Survey on February 25, 2002, shall be treated as being a management conference convened under section 320 of such Act (33 U.S.C. 1330).

SEC. 5085. SOUTHEAST LOUISIANA REGION, LOUISIANA.

(a) **DEFINITION OF SOUTHEAST LOUISIANA REGION.**—In this section, the term “Southeast Louisiana Region” means any of the following parishes and municipalities in the State of Louisiana:

(1) Orleans.

(2) Jefferson.

(3) St. Tammany.

(4) Tangipahoa.

(5) St. Bernard.

(6) St. Charles.

(7) St. John.

(8) Plaquemines.

(b) **ESTABLISHMENT OF PROGRAM.**—The Secretary may establish a program to provide environmental assistance to non-Federal interests in the Southeast Louisiana Region.

(c) **FORM OF ASSISTANCE.**—Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in the Southeast Louisiana Region, including projects for wastewater treatment and related facilities, water supply and related facilities, environmental restoration, and

surface water resource protection and development (including projects to improve water quality in the Lake Pontchartrain basin).

(d) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement for a project entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of a project under this section—

(i) shall be 75 percent; and

(ii) may be provided in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of the costs of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share.

(D) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but the credit may not exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) NONPROFIT ENTITIES.—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any

project carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) CORPS OF ENGINEERS EXPENSES.—Not more than 10 percent of amounts made available to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$17,000,000.

SEC. 5086. WEST BATON ROUGE PARISH, LOUISIANA.

(a) MODIFICATION OF STUDY.—The study for the project for waterfront and riverine preservation, restoration, and enhancement, Mississippi River, West Baton Rouge Parish, Louisiana, being carried out under Committee Resolution 2570 of the Committee on Transportation and Infrastructure of the House of Representatives adopted July 23, 1998, is modified to add West Feliciana Parish and East Baton Rouge Parish to the geographic scope of the study.

(b) CONSTRUCTION.—The Secretary may, upon completion of the study, participate in the ecosystem restoration, navigation, flood damage reduction, and recreation components of the project.

(c) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(d) EXPEDITED CONSIDERATION.—Section 517(5) of the Water Resources Development Act of 1999 (113 Stat. 345) is amended to read as follows:

“(5) Mississippi River, West Baton Rouge, West Feliciana, and East Baton Rouge Parishes, Louisiana, project for waterfront and riverine preservation, restoration, and enhancement modifications.”.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000.

SEC. 5087. CHARLESTOWN, MARYLAND.

(a) IN GENERAL.—The Secretary may carry out a project for nonstructural flood damage reduction and ecosystem restoration at Charlestown, Maryland.

(b) LAND ACQUISITION.—The flood damage reduction component of the project may include the acquisition of private property from willing sellers.

(c) JUSTIFICATION.—Any nonstructural flood damage reduction project to be carried out under this section that will result in the conversion of property to use for ecosystem restoration and wildlife habitat shall be justified based on national ecosystem restoration benefits.

(d) USE OF ACQUIRED PROPERTY.—Property acquired under this section shall be maintained in public ownership for ecosystem restoration and wildlife habitat.

(e) ABILITY TO PAY.—In determining the appropriate non-Federal cost share for the project, the Secretary shall determine the ability of Cecil County, Maryland, to participate as a cost-sharing non-Federal interest in accordance with section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$2,000,000 to carry out this section.

SEC. 5088. ST. MARY’S RIVER, MARYLAND.

(a) **IN GENERAL.**—The Secretary shall carry out the project for shoreline protection, St. Mary’s River, Maryland, under section 3 of the Act entitled “An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property”, approved August 13, 1946 (33 U.S.C. 426g).

(b) **USE OF FUNDS.**—In carrying out the project under subsection (a), the Secretary shall use funds made available for such project under Energy and Water Development Appropriations Act, 2006 (Public Law 109–103).

SEC. 5089. MASSACHUSETTS DREDGED MATERIAL DISPOSAL SITES.

The Secretary may cooperate with Massachusetts in the management and long-term monitoring of aquatic dredged material disposal sites within the State and is authorized to accept funds from the State to carry out such activities.

SEC. 5090. ONTONAGON HARBOR, MICHIGAN.

Study.

The Secretary shall conduct a study of shore damage in the vicinity of the project for navigation, Ontonagon Harbor, Ontonagon County, Michigan, authorized by section 101 of the Rivers and Harbors Act of 1962 (76 Stat. 1176) and reauthorized by section 363 of the Water Resources Development Act of 1996 (110 Stat. 3730), to determine if the damage is the result of a Federal navigation project, and, if the Secretary determines that the damage is the result of a Federal navigation project, the Secretary shall carry out a project to mitigate the damage under section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i).

SEC. 5091. CROOKSTON, MINNESOTA.

The Secretary shall conduct a study for a project for emergency streambank protection along the Red Lake River in Crookston, Minnesota, and, if the Secretary determines that the project is feasible, the Secretary may carry out the project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r); except that the maximum amount of Federal funds that may be expended for the project shall be \$6,500,000.

SEC. 5092. GARRISON AND KATHIO TOWNSHIP, MINNESOTA.

(a) **PROJECT DESCRIPTION.**—Section 219(f)(61) of the Water Resources Development Act of 1992 (114 Stat. 2763A–221) is amended—

106 Stat. 4835;
113 Stat. 335.

(1) in the paragraph heading by striking “AND KATHIO TOWNSHIP” and inserting “, CROW WING COUNTY, MILLE LACS COUNTY, MILLE LACS INDIAN RESERVATION, AND KATHIO TOWNSHIP”;

(2) by striking “\$11,000,000” and inserting “\$17,000,000”;

(3) by inserting “, Crow Wing County, Mille Lacs County, Mille Lacs Indian Reservation established by the treaty of February 22, 1855 (10 Stat. 1165),” after “Garrison”; and

(4) by adding at the end the following: “Such assistance shall be provided directly to the Garrison-Kathio-West Mille Lacs Lake Sanitary District, Minnesota, except for assistance provided directly to the Mille Lacs Band of Ojibwe at the discretion of the Secretary.”.

(b) PROCEDURES.—In carrying out the project authorized by such section 219(f)(61), the Secretary may use the cost sharing and contracting procedures available to the Secretary under section 569 of the Water Resources Development Act of 1999 (113 Stat. 368).

SEC. 5093. ITASCA COUNTY, MINNESOTA.

The Secretary shall carry out a project for flood damage reduction, Trout Lake and Canisteo Pit, Itasca County, Minnesota, without regard to normal policy considerations.

SEC. 5094. MINNEAPOLIS, MINNESOTA.

(a) CONVEYANCE.—The Secretary shall convey to the city of Minneapolis by quitclaim deed and without consideration all right, title, and interest of the United States to the property known as the War Department (Fort Snelling Interceptor) Tunnel in Minneapolis, Minnesota.

(b) APPLICABILITY OF PROPERTY SCREENING PROVISIONS.—Section 2696 of title 10, United States Code, shall not apply to the conveyance under this section.

SEC. 5095. NORTHEASTERN MINNESOTA.

(a) IN GENERAL.—Section 569 of the Water Resources Development Act of 1999 (113 Stat. 368) is amended—

(1) in subsection (a) by striking “Benton, Sherburne,” and inserting “Beltrami, Hubbard, Wadena,”;

(2) by striking the last sentence of subsection (e)(3)(B);

(3) by striking subsection (g) and inserting the following:

“(g) NONPROFIT ENTITIES.—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.”;

(4) in subsection (h) by striking “\$40,000,000” and inserting “\$54,000,000”; and

(5) by adding at the end the following:

“(i) CORPS OF ENGINEERS EXPENSES.—Not more than 10 percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.”.

(b) BIWABIK, MINNESOTA.—The Secretary shall reimburse the non-Federal interest for the project for environmental infrastructure, Biwabik, Minnesota, carried out under section 569 of the Water Resources Development Act of 1999 (113 Stat. 368), for planning, design, and construction costs that were incurred by the non-Federal interest with respect to the project before the date of the partnership agreement for the project and that were in excess of the non-Federal share of the cost of the project if the Secretary determines that the costs are appropriate.

SEC. 5096. WILD RICE RIVER, MINNESOTA.

The Secretary shall expedite the completion of the general reevaluation report, authorized by section 438 of the Water Resources Development Act of 2000 (114 Stat. 2640), for the project for flood protection, Wild Rice River, Minnesota, authorized by section 201 of the Flood Control Act of 1970 (84 Stat. 1825), to develop alternatives to the Twin Valley Lake feature, and upon

the completion of such report, shall construct the project at a total cost of \$20,000,000.

SEC. 5097. MISSISSIPPI.

Section 592(g) of the Water Resources Development Act of 1999 (113 Stat. 380; 117 Stat. 1837) is amended by striking “\$100,000,000” and inserting “\$110,000,000”.

SEC. 5098. HARRISON, HANCOCK, AND JACKSON COUNTIES, MISSISSIPPI.

In carrying out projects for the protection, restoration, and creation of aquatic and ecologically related habitats located in Harrison, Hancock, and Jackson Counties, Mississippi, under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326), the Secretary shall accept any portion of the non-Federal share of the cost of the projects in the form of in-kind services and materials.

SEC. 5099. MISSISSIPPI RIVER, MISSOURI AND ILLINOIS.

As a part of the operation and maintenance of the project for the Mississippi River (Regulating Works), between the Ohio and Missouri Rivers, Missouri and Illinois, authorized by the first section of an Act entitled “Making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved June 25, 1910 (36 Stat. 630), the Secretary may carry out activities necessary to restore and protect fish and wildlife habitat in the middle Mississippi River system. Such activities may include modification of navigation training structures, modification and creation of side channels, modification and creation of islands, and studies and analysis necessary to apply adaptive management principles in design of future work.

SEC. 5100. ST. LOUIS, MISSOURI.

Section 219(f)(32) of the Water Resources Development Act of 1992 (113 Stat. 337) is amended—

- (1) by striking “a project” and inserting “projects”;
- (2) by striking “\$15,000,000” and inserting “\$35,000,000”;
- and
- (3) by inserting “and St. Louis County” before “, Missouri”.

106 Stat. 4835.

SEC. 5101. ST. LOUIS REGIONAL GREENWAYS, ST. LOUIS, MISSOURI.

(a) IN GENERAL.—The Secretary may participate in the ecosystem restoration, recreation, and flood damage reduction components of the St. Louis Regional Greenways Proposal of the Metropolitan Park and Recreation District, St. Louis, Missouri, dated March 31, 2004.

(b) COORDINATION.—In carrying out this section, the Secretary shall coordinate with appropriate representatives in the vicinity of St. Louis, Missouri, including the Metropolitan Park and Recreation District, the city of St. Louis, St. Louis County, and St. Charles County.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 to carry out this section.

SEC. 5102. MISSOULA, MONTANA.

(a) **IN GENERAL.**—The Secretary may participate in the ecosystem restoration, flood damage reduction, and recreation components of the Clark Fork River Revitalization Project, Missoula, Montana.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$5,000,000 to carry out this section.

SEC. 5103. ST. MARY PROJECT, GLACIER COUNTY, MONTANA.

(a) **IN GENERAL.**—The Secretary, in consultation with the Bureau of Reclamation, shall conduct all necessary studies, develop an emergency response plan, provide technical and planning and design assistance, and rehabilitate and construct the St. Mary Diversion and Conveyance Works project located within the exterior boundaries of the Blackfeet Reservation in the State of Montana, at a total cost of \$153,000,000.

(b) **FEDERAL SHARE.**—The Federal share of the total cost of the project under this section shall be 75 percent.

(c) **PARTICIPATION BY BLACKFEET TRIBE AND FORT BELKNAP INDIAN COMMUNITY.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), no construction shall be carried out under this section until the earlier of—

(A) the date on which Congress approves the reserved water rights settlements of the Blackfeet Tribe and the Fort Belknap Indian Community; and

(B) January 1, 2011.

(2) **EXCEPTION.**—Paragraph (1) shall not apply with respect to construction relating to—

(A) standard operation and maintenance; or

(B) emergency repairs to ensure water transportation or the protection of life and property.

(3) **REQUIREMENT.**—The Blackfeet Tribe shall be a participant in all phases of the project authorized by this section.

SEC. 5104. LOWER PLATTE RIVER WATERSHED RESTORATION, NEBRASKA.

(a) **IN GENERAL.**—The Secretary may cooperate with and provide assistance to the Lower Platte River natural resources districts in the State of Nebraska to serve as non-Federal interests with respect to—

(1) conducting comprehensive watershed planning in the natural resource districts;

(2) assessing water resources in the natural resource districts; and

(3) providing project feasibility planning, design, and construction assistance for water resource and watershed management in the natural resource districts, including projects for environmental restoration and flood damage reduction.

(b) **FUNDING.**—

(1) **FEDERAL SHARE.**—The Federal share of the cost of carrying out an activity described in subsection (a)(1) shall be 75 percent.

(2) **NON-FEDERAL SHARE.**—The non-Federal share of the cost of carrying out an activity described in subsection (a) may be provided in cash or in kind.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to carry out this section \$12,000,000.

SEC. 5105. HACKENSACK MEADOWLANDS AREA, NEW JERSEY.

Section 324 of the Water Resources Development Act of 1992 (106 Stat. 4849; 110 Stat. 3779) is amended—

(1) in subsection (a)—

(A) by striking “design” and inserting “planning, design,”; and

(B) by striking “Hackensack Meadowlands Development” and all that follows through “Plan for” and inserting “New Jersey Meadowlands Commission for the development of an environmental improvement program for”;

(2) in subsection (b)—

(A) in the subsection heading by striking “REQUIRED”;

(B) by striking “shall” and inserting “may”;

(C) by striking paragraph (1) and inserting the following:

“(1) Restoration and acquisitions of significant wetlands and aquatic habitat that contribute to the Meadowlands ecosystem.”;

(D) in paragraph (2) by inserting “and aquatic habitat” before the period at the end; and

(E) by striking paragraph (7) and inserting the following:

“(7) Research, development, and implementation for a water quality improvement program, including restoration of hydrology and tidal flows and remediation of hot spots and other sources of contaminants that degrade existing or planned sites.”;

(3) in subsection (c)—

(A) by striking “non-Federal sponsor” and inserting “non-Federal interest”; and

(B) by inserting before the last sentence the following: “The non-Federal interest may also provide in-kind services not to exceed the non-Federal share of the total project cost.”;

(4) by redesignating subsection (d) as subsection (e);

(5) by inserting after subsection (c) the following:

“(d) **CREDIT.**—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of a project to be carried out under the program developed under subsection (a) the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.”; and

(6) in subsection (e) (as redesignated by paragraph (4) of this subsection) by striking “\$5,000,000” and inserting “\$20,000,000”.

SEC. 5106. ATLANTIC COAST OF NEW YORK.

(a) **DEVELOPMENT OF PROGRAM.**—Section 404(a) of the Water Resources Development Act of 1992 (106 Stat. 4863) is amended—

(1) by striking “processes” and inserting “and related environmental processes”;

(2) by inserting after “Atlantic Coast” the following: “(and associated back bays)”;

(3) by inserting after “actions” the following: “, environmental restoration or conservation measures for coastal and back bays,”; and

(4) by adding at the end the following: “The plan for collecting data and monitoring information included in such annual report shall be coordinated with and agreed to by appropriate agencies of the State of New York.”.

(b) ANNUAL REPORTS.—Section 404(b) of such Act is amended—

(1) by striking “INITIAL PLAN.—Not later than 12 months after the date of the enactment of this Act, the” and inserting “ANNUAL REPORTS.—The”;

(2) by striking “initial plan for data collection and monitoring” and inserting “annual report of data collection and monitoring activities”; and

(3) by striking the last sentence.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 404(c) of such Act (113 Stat. 341) is amended by striking “and an additional total of \$2,500,000 for fiscal years thereafter” and inserting “\$2,500,000 for fiscal years 2000 through 2004, and \$7,500,000 for fiscal years beginning after September 30, 2004,”.

(d) TSUNAMI WARNING SYSTEM.—Section 404 of the Water Resources Development Act of 1992 (106 Stat. 4863) is amended by adding at the end the following:

“(d) TSUNAMI WARNING SYSTEM.—There is authorized to be appropriated \$800,000 for the Secretary to carry out a project for a tsunami warning system, Atlantic Coast of New York.”.

SEC. 5107. COLLEGE POINT, NEW YORK CITY, NEW YORK.

In carrying out section 312 of the Water Resources Development Act of 1990 (104 Stat. 4639), the Secretary shall give priority to work in College Point, New York City, New York.

SEC. 5108. FLUSHING BAY AND CREEK, NEW YORK CITY, NEW YORK.

The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project for ecosystem restoration, Flushing Bay and Creek, New York City, New York, the cost of design and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project.

SEC. 5109. HUDSON RIVER, NEW YORK.

The Secretary may participate with the State of New York, New York City, and the Hudson River Park Trust in carrying out activities to restore critical marine habitat, improve safety, and protect and rehabilitate critical infrastructure with respect to the Hudson River. There is authorized to be appropriated \$10,000,000 to carry out this section.

SEC. 5110. MOUNT MORRIS DAM, NEW YORK.

As part of the operation and maintenance of the Mount Morris Dam, New York, the Secretary may make improvements to the access road for the dam to provide safe access to a Federal visitor’s center.

Appropriation
authorization.

SEC. 5111. NORTH HEMPSTEAD AND GLEN COVE NORTH SHORE WATERSHED RESTORATION, NEW YORK.

(a) **IN GENERAL.**—The Secretary may participate in the ecosystem restoration, navigation, flood damage reduction, and recreation components of the North Hempstead and Glen Cove North Shore watershed restoration, New York.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$10,000,000 to carry out this section.

SEC. 5112. ROCHESTER, NEW YORK.

(a) **IN GENERAL.**—The Secretary may participate in the ecosystem restoration, navigation, flood damage reduction, and recreation components of the Port of Rochester waterfront revitalization project, Rochester, New York.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$10,000,000 to carry out this section.

SEC. 5113. NORTH CAROLINA.

(a) **ESTABLISHMENT OF PROGRAM.**—The Secretary shall establish a program to provide environmental assistance to non-Federal interests in the State of North Carolina.

(b) **FORM OF ASSISTANCE.**—Assistance provided under this section may be in the form of design and construction assistance for environmental infrastructure and resource protection and development projects in North Carolina, including projects for—

- (1) wastewater treatment and related facilities;
- (2) combined sewer overflow, water supply, storage, treatment, and related facilities;
- (3) drinking water infrastructure including treatment and related facilities;
- (4) environmental restoration;
- (5) stormwater infrastructure; and
- (6) surface water resource protection and development.

(c) **OWNERSHIP REQUIREMENT.**—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) **PARTNERSHIP AGREEMENTS.**—

(1) **IN GENERAL.**—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) **REQUIREMENTS.**—Each partnership agreement for a project entered into under this subsection shall provide for the following:

(A) **PLAN.**—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities development plan or resource protection plan, including appropriate plans and specifications.

(B) **LEGAL AND INSTITUTIONAL STRUCTURES.**—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) **COST SHARING.**—

(A) **IN GENERAL.**—The Federal share of the cost of a project under this section—

- (i) shall be 75 percent; and

(ii) may be provided in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project, in an amount not to exceed 6 percent of the total construction costs of the project, the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of the costs of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share.

(D) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land).

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$13,000,000.

SEC. 5114. STANLY COUNTY, NORTH CAROLINA.

106 Stat. 4835;
113 Stat. 335.

Section 219(f)(64) of the Water Resources Development Act of 1992 (114 Stat. 2763A-221) is amended by inserting “water and” before “wastewater”.

Contracts.

SEC. 5115. JOHN H. KERR DAM AND RESERVOIR, NORTH CAROLINA.

The Secretary shall expedite the completion of the calculations necessary to negotiate and execute a revised, permanent contract for water supply storage at John H. Kerr Dam and Reservoir, North Carolina, among the Secretary and the Kerr Lake Regional Water System and the city of Henderson, North Carolina.

SEC. 5116. CINCINNATI, OHIO.

(a) IN GENERAL.—The Secretary may undertake the ecosystem restoration and recreation components of the Central Riverfront Park Master Plan, dated December 1999, at a total cost of \$30,000,000.

(b) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

SEC. 5117. OHIO RIVER BASIN ENVIRONMENTAL MANAGEMENT.

(a) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **OHIO RIVER BASIN.**—The term “Ohio River Basin” means the Ohio River, its backwaters, its side channels, and all tributaries (including their watersheds) that drain into the Ohio River and encompassing areas of any of the States of Indiana, Ohio, Kentucky, Pennsylvania, West Virginia, Illinois, New York, and Virginia.

(2) **COMPACT.**—The term “Compact” means the Ohio River Watershed Sanitation Commission flood and pollution control compact between the States of Indiana, West Virginia, Ohio, Kentucky, Pennsylvania, New York, Illinois, and Virginia, to which consent was given by Congress pursuant to the Act of July 11, 1940 (54 Stat. 752) and that was chartered in 1948.

(b) **ASSISTANCE.**—The Secretary may provide planning, design, and construction assistance to the Compact for the improvement of the quality of the environment in and along the Ohio River Basin.

(c) **PRIORITIES.**—In providing assistance under this section, the Secretary shall give priority to reducing or eliminating the presence of organic pollutants in the Ohio River Basin through the renovation and technological improvement of the organic detection system monitoring stations along the Ohio River in the States of Indiana, Ohio, West Virginia, Kentucky, and Pennsylvania.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$2,500,000.

SEC. 5118. TOUSSAINT RIVER NAVIGATION PROJECT, CARROLL TOWNSHIP, OHIO.

(a) **IN GENERAL.**—The costs of operation and maintenance activities for the Toussaint River Federal navigation project, Carroll Township, Ohio, that are carried out in accordance with section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) and relate directly to the presence of unexploded ordnance, shall be carried out at Federal expense.

(b) **CALCULATION OF TOTAL COSTS.**—The Secretary shall not consider the additional costs of dredging due to the presence of unexploded ordnance when calculating the costs of the project referred to in subsection (a) for the purposes of section 107(b) of such Act (33 U.S.C. 577(b)).

SEC. 5119. STATEWIDE COMPREHENSIVE WATER PLANNING, OKLAHOMA.

(a) **IN GENERAL.**—The Secretary shall provide technical assistance for the development of updates of the Oklahoma comprehensive water plan.

(b) **TECHNICAL ASSISTANCE.**—Technical assistance provided under subsection (a) may include—

(1) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

(2) expansion of surface water and groundwater monitoring networks;

(3) assessment of existing water resources, surface water storage, and groundwater storage potential;

(4) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

(5) participation in State planning forums and planning groups;

(6) coordination of Federal water management planning efforts; and

(7) technical review of data, models, planning scenarios, and water plans developed by the State.

(c) **ALLOCATION.**—The Secretary shall allocate, subject to the availability of appropriations, \$6,500,000 to provide technical assistance and for the development of updates of the Oklahoma comprehensive water plan.

(d) **COST SHARING REQUIREMENT.**—The non-Federal share of the total cost of any activity carried out under this section—

(1) shall be 25 percent; and

(2) may be in the form of cash or any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the activity assisted.

SEC. 5120. FERN RIDGE DAM, OREGON.

The Secretary may treat all work carried out for emergency corrective actions to repair the embankment dam at the Fern Ridge Lake project, Oregon, as a dam safety project. The cost of work carried out may be recovered in accordance with section 1203 of the Water Resources Development Act of 1986 (33 U.S.C. 467n; 100 Stat. 4263).

SEC. 5121. ALLEGHENY COUNTY, PENNSYLVANIA.

Section 219(f)(66) of the Water Resources Development Act of 1992 (114 Stat. 2763A–221) is amended—

(1) by striking “\$20,000,000” and inserting the following:

“(A) IN GENERAL.—\$20,000,000”;

(2) by adding at the end the following:

“(B) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.”; and

(3) by aligning the remainder of the text of subparagraph (A) (as designated by paragraph (1) of this section) with subparagraph (B) (as added by paragraph (2) of this section).

SEC. 5122. CLINTON COUNTY, PENNSYLVANIA.

Section 219(f)(13) of the Water Resources Development Act of 1992 (113 Stat. 335) is amended by striking “\$1,000,000” and inserting “\$2,000,000”.

SEC. 5123. KEHLY RUN DAMS, PENNSYLVANIA.

Section 504(a)(2) of the Water Resources Development Act of 1999 (113 Stat. 338; 117 Stat. 1842) is amended by striking “Dams” and inserting “Dams No. 1–5”.

SEC. 5124. LEHIGH RIVER, LEHIGH COUNTY, PENNSYLVANIA.

The Secretary shall use existing water quality data to model the effects of the Francis E. Walter Dam, at different water levels, to determine its impact on water and related resources in and

106 Stat. 4835;
113 Stat. 335.

106 Stat. 4835.

along the Lehigh River in Lehigh County, Pennsylvania. There is authorized to be appropriated \$500,000 to carry out this section.

SEC. 5125. NORTHEAST PENNSYLVANIA.

Section 219(f)(11) of the Water Resources Development Act of 1992 (113 Stat. 335) is amended by striking “and Monroe” and inserting “Northumberland, Union, Snyder, Luzerne, and Monroe”.

106 Stat. 4835.

SEC. 5126. UPPER SUSQUEHANNA RIVER BASIN, PENNSYLVANIA AND NEW YORK.

(a) **STUDY AND STRATEGY DEVELOPMENT.**—Section 567(a) of the Water Resources Development Act of 1996 (110 Stat. 3787; 114 Stat. 2662) is amended—

(1) in the matter preceding paragraph (1) by inserting “and carry out” after “develop”; and

(2) in paragraph (2) by striking “\$10,000,000.” and inserting “\$20,000,000, of which the Secretary may utilize not more than \$5,000,000 to design and construct feasible pilot projects during the development of the strategy to demonstrate alternative approaches for the strategy. The total cost for any single pilot project may not exceed \$500,000. The Secretary shall evaluate the results of the pilot projects and consider the results in the development of the strategy.”.

(b) **PARTNERSHIP AGREEMENTS.**—Section 567(c) of such Act (114 Stat. 2662) is amended—

(1) in the subsection heading by striking “COOPERATION” and inserting “PARTNERSHIP”; and

(2) in the first sentence—

(A) by inserting “and carrying out” after “developing”; and

(B) by striking “cooperation” and inserting “cost-sharing and partnership”.

(c) **IMPLEMENTATION OF STRATEGY.**—Section 567(d) of such Act (114 Stat. 2663) is amended—

(1) by striking “The Secretary” and inserting the following: “(1) **IN GENERAL.**—The Secretary”;

(2) in the second sentence of paragraph (1) (as so designated)—

(A) by striking “implement” and inserting “carry out”; and

(B) by striking “implementing” and inserting “carrying out”;

(3) by adding at the end the following:

“(2) **PRIORITY PROJECT.**—In carrying out projects to implement the strategy, the Secretary shall give priority to the project for ecosystem restoration, Cooperstown, New York, described in the Upper Susquehanna River Basin—Cooperstown Area Ecosystem Restoration Feasibility Study, dated December 2004, prepared by the Corps of Engineers and the New York State department of environmental conservation.”; and

(4) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this subsection) with paragraph (2) (as added by paragraph (3) of this subsection).

(d) **CREDIT.**—Section 567 of such Act (110 Stat. 3787; 114 Stat. 2662) is amended by adding at the end the following:

“(e) **CREDIT.**—The Secretary shall credit toward the non-Federal share of the cost of a project under this section—

“(1) in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), the cost of design and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

“(2) the cost of in-kind services and materials provided for the project by the non-Federal interest.”.

Reports.

SEC. 5127. CANO MARTIN PENA, SAN JUAN, PUERTO RICO.

The Secretary shall review a report prepared by the non-Federal interest concerning flood protection and environmental restoration for Cano Martin Pena, San Juan, Puerto Rico, and, if the Secretary determines that the report meets the evaluation and design standards of the Corps of Engineers and that the project is feasible, the Secretary may carry out the project at a total cost of \$150,000,000.

SEC. 5128. LAKES MARION AND MOULTRIE, SOUTH CAROLINA.

106 Stat. 4835.

Section 219(f)(25) of the Water Resources Development Act of 1992 (113 Stat. 336; 114 Stat. 2763A–220; 117 Stat. 1838) is amended by striking “\$35,000,000” and inserting “\$60,000,000”.

SEC. 5129. CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND TERRESTRIAL WILDLIFE HABITAT RESTORATION, SOUTH DAKOTA.

(a) DISBURSEMENT PROVISIONS OF STATE OF SOUTH DAKOTA AND CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUNDS.—Section 602(a)(4) of the Water Resources Development Act of 1999 (113 Stat. 386) is amended—

(1) in subparagraph (A)—

(A) in clause (i) by inserting “and the Secretary of the Treasury” after “Secretary”; and

(B) by striking clause (ii) and inserting the following:

“(ii) AVAILABILITY OF FUNDS.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the State of South Dakota funds from the State of South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund established under section 603 to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the State of South Dakota after the State certifies to the Secretary of the Treasury that the funds to be disbursed will be used in accordance with section 603(d)(3) and only after the Trust Fund is fully capitalized.”; and

(2) in subparagraph (B) by striking clause (ii) and inserting the following:

“(ii) AVAILABILITY OF FUNDS.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe funds from the Cheyenne River Sioux Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Terrestrial Wildlife Habitat Restoration Trust Fund, respectively, established under section 604, to be used to carry out the plans for terrestrial wildlife habitat restoration submitted by the Cheyenne River

Sioux Tribe and the Lower Brule Sioux Tribe, respectively, to after the respective tribe certifies to the Secretary of the Treasury that the funds to be disbursed will be used in accordance with section 604(d)(3) and only after the Trust Fund is fully capitalized.”.

(b) INVESTMENT PROVISIONS OF THE STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE RESTORATION TRUST FUND.—Section 603 of the Water Resources Development Act of 1999 (113 Stat. 388; 114 Stat. 2664) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) INVESTMENTS.—

“(1) ELIGIBLE OBLIGATIONS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall invest the amounts deposited under subsection (b) and the interest earned on those amounts only in interest-bearing obligations of the United States issued directly to the Fund.

“(2) INVESTMENT REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary of the Treasury shall invest the amounts in the Fund in accordance with the requirements of this paragraph.

“(B) SEPARATE INVESTMENTS OF PRINCIPAL AND INTEREST.—

“(i) PRINCIPAL ACCOUNT.—The amounts deposited in the Fund under subsection (b) shall be credited to an account within the Fund (referred to in this paragraph as the ‘principal account’) and invested as provided in subparagraph (C).

“(ii) INTEREST ACCOUNT.—The interest earned from investing amounts in the principal account of the Fund shall be transferred to a separate account within the Fund (referred to in this paragraph as the ‘interest account’) and invested as provided in subparagraph (D).

“(iii) CREDITING.—The interest earned from investing amounts in the interest account of the Fund shall be credited to the interest account.

“(C) INVESTMENT OF PRINCIPAL ACCOUNT.—

“(i) INITIAL INVESTMENT.—Each amount deposited in the principal account of the Fund shall be invested initially in eligible obligations having the shortest maturity then available until the date on which the amount is divided into 3 substantially equal portions and those portions are invested in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having a 2-year maturity, a 5-year maturity, and a 10-year maturity, respectively.

“(ii) SUBSEQUENT INVESTMENT.—As each 2-year, 5-year, and 10-year eligible obligation matures, the principal of the maturing eligible obligation shall also be invested initially in the shortest-maturity eligible obligation then available until the principal is reinvested substantially equally in the eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having 2-year, 5-year, and 10-year maturities.

“(iii) DISCONTINUANCE OF ISSUANCE OF OBLIGATIONS.—If the Department of the Treasury discontinues issuing to the public obligations having 2-year, 5-year, or 10-year maturities, the principal of any maturing eligible obligation shall be reinvested substantially equally in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations of the maturities longer than 1 year then available.

“(D) INVESTMENT OF INTEREST ACCOUNT.—

“(i) BEFORE FULL CAPITALIZATION.—Until the date on which the Fund is fully capitalized, amounts in the interest account of the Fund shall be invested in eligible obligations that are identical (except for transferability) to publicly issued Treasury obligations that have maturities that coincide, to the maximum extent practicable, with the date on which the Fund is expected to be fully capitalized.

“(ii) AFTER FULL CAPITALIZATION.—On and after the date on which the Fund is fully capitalized, amounts in the interest account of the Fund shall be invested and reinvested in eligible obligations having the shortest maturity then available until the amounts are withdrawn and transferred to fund the activities authorized under subsection (d)(3).

“(E) PAR PURCHASE PRICE.—The price to be paid for eligible obligations purchased as investments of the principal account shall not exceed the par value of the obligations so that the amount of the principal account shall be preserved in perpetuity.

“(F) HIGHEST YIELD.—Among eligible obligations having the same maturity and purchase price, the obligation to be purchased shall be the obligation having the highest yield.

“(G) HOLDING TO MATURITY.—Eligible obligations purchased shall generally be held to their maturities.

“(3) ANNUAL REVIEW OF INVESTMENT ACTIVITIES.—Not less frequently than once each calendar year, the Secretary of the Treasury shall review with the State of South Dakota the results of the investment activities and financial status of the Fund during the preceding 12-month period.

“(4) AUDITS.—

“(A) IN GENERAL.—The activities of the State of South Dakota (referred to in this subsection as the ‘State’) in carrying out the plan of the State for terrestrial wildlife habitat restoration under section 602(a) shall be audited as part of the annual audit that the State is required to prepare under the Office of Management and Budget Circular A-133 (or a successor circulation).

“(B) DETERMINATION BY AUDITORS.—An auditor that conducts an audit under subparagraph (A) shall—

“(i) determine whether funds received by the State under this section during the period covered by the audit were used to carry out the plan of the State in accordance with this section; and

“(ii) include the determination under clause (i) in the written findings of the audit.

“(5) MODIFICATION OF INVESTMENT REQUIREMENTS.—

“(A) IN GENERAL.—If the Secretary of the Treasury determines that meeting the requirements under paragraph (2) with respect to the investment of a Fund is not practicable, or would result in adverse consequences for the Fund, the Secretary shall modify the requirements, as the Secretary determines to be necessary.

“(B) CONSULTATION.—Before modifying a requirement under subparagraph (A), the Secretary of the Treasury shall consult with the State regarding the proposed modification.”;

(2) in subsection (d)(2) by inserting “of the Treasury” after “Secretary”; and

(3) by striking subsection (f) and inserting the following:

“(f) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary of the Treasury to pay expenses associated with investing the Fund and auditing the uses of amounts withdrawn from the Fund—

Appropriation
authorization.

“(1) \$500,000 for each of fiscal years 2006 and 2007; and

“(2) such sums as are necessary for each subsequent fiscal year.”.

(c) INVESTMENT PROVISIONS FOR CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE TRUST FUNDS.—Section 604 of the Water Resources Development Act of 1999 (113 Stat. 389; 114 Stat. 2665) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) INVESTMENTS.—

“(1) ELIGIBLE OBLIGATIONS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall invest the amounts deposited under subsection (b) and the interest earned on those amounts only in interest-bearing obligations of the United States issued directly to the Funds.

“(2) INVESTMENT REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary of the Treasury shall invest the amounts in each of the Funds in accordance with the requirements of this paragraph.

“(B) SEPARATE INVESTMENTS OF PRINCIPAL AND INTEREST.—

“(i) PRINCIPAL ACCOUNT.—The amounts deposited in each Fund under subsection (b) shall be credited to an account within the Fund (referred to in this paragraph as the ‘principal account’) and invested as provided in subparagraph (C).

“(ii) INTEREST ACCOUNT.—The interest earned from investing amounts in the principal account of each Fund shall be transferred to a separate account within the Fund (referred to in this paragraph as the ‘interest account’) and invested as provided in subparagraph (D).

“(iii) CREDITING.—The interest earned from investing amounts in the interest account of each Fund shall be credited to the interest account.

“(C) INVESTMENT OF PRINCIPAL ACCOUNT.—

“(i) INITIAL INVESTMENT.—Each amount deposited in the principal account of each Fund shall be invested initially in eligible obligations having the shortest maturity then available until the date on which the

amount is divided into 3 substantially equal portions and those portions are invested in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having a 2-year maturity, a 5-year maturity, and a 10-year maturity, respectively.

“(ii) SUBSEQUENT INVESTMENT.—As each 2-year, 5-year, and 10-year eligible obligation matures, the principal of the maturing eligible obligation shall also be invested initially in the shortest-maturity eligible obligation then available until the principal is reinvested substantially equally in the eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having 2-year, 5-year, and 10-year maturities.

“(iii) DISCONTINUATION OF ISSUANCE OF OBLIGATIONS.—If the Department of the Treasury discontinues issuing to the public obligations having 2-year, 5-year, or 10-year maturities, the principal of any maturing eligible obligation shall be reinvested substantially equally in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations of the maturities longer than 1 year then available.

“(D) INVESTMENT OF INTEREST ACCOUNT.—

“(i) BEFORE FULL CAPITALIZATION.—Until the date on which each Fund is fully capitalized, amounts in the interest account of the Fund shall be invested in eligible obligations that are identical (except for transferability) to publicly issued Treasury obligations that have maturities that coincide, to the maximum extent practicable, with the date on which the Fund is expected to be fully capitalized.

“(ii) AFTER FULL CAPITALIZATION.—On and after the date on which each Fund is fully capitalized, amounts in the interest account of the Fund shall be invested and reinvested in eligible obligations having the shortest maturity then available until the amounts are withdrawn and transferred to fund the activities authorized under subsection (d)(3).

“(E) PAR PURCHASE PRICE.—The price to be paid for eligible obligations purchased as investments of the principal account shall not exceed the par value of the obligations so that the amount of the principal account shall be preserved in perpetuity.

“(F) HIGHEST YIELD.—Among eligible obligations having the same maturity and purchase price, the obligation to be purchased shall be the obligation having the highest yield.

“(G) HOLDING TO MATURITY.—Eligible obligations purchased shall generally be held to their maturities.

“(3) ANNUAL REVIEW OF INVESTMENT ACTIVITIES.—Not less frequently than once each calendar year, the Secretary of the Treasury shall review with the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe (referred to in this subsection as the ‘Tribes’) the results of the investment activities and

financial status of the Funds during the preceding 12-month period.

“(4) AUDITS.—

“(A) IN GENERAL.—The activities of the Tribes in carrying out the plans of the Tribes for terrestrial wildlife habitat restoration under section 602(a) shall be audited as part of the annual audit that the Tribes are required to prepare under the Office of Management and Budget Circular A–133 (or a successor circulation).

“(B) DETERMINATION BY AUDITORS.—An auditor that conducts an audit under subparagraph (A) shall—

“(i) determine whether funds received by the Tribes under this section during the period covered by the audit were used to carry out the plan of the appropriate Tribe in accordance with this section; and

“(ii) include the determination under clause (i) in the written findings of the audit.

“(5) MODIFICATION OF INVESTMENT REQUIREMENTS.—

“(A) IN GENERAL.—If the Secretary of the Treasury determines that meeting the requirements under paragraph (2) with respect to the investment of a Fund is not practicable, or would result in adverse consequences for the Fund, the Secretary shall modify the requirements, as the Secretary determines to be necessary.

“(B) CONSULTATION.—Before modifying a requirement under subparagraph (A), the Secretary of the Treasury shall consult with the Tribes regarding the proposed modification.”; and

(2) by striking subsection (f) and inserting the following:

“(f) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary of the Treasury to pay expenses associated with investing the Funds and auditing the uses of amounts withdrawn from the Funds—

“(1) \$500,000 for each of fiscal years 2006 and 2007; and

“(2) such sums as are necessary for each subsequent fiscal year.”.

SEC. 5130. EAST TENNESSEE.

(a) EAST TENNESSEE DEFINED.—In this section, the term “East Tennessee” means the counties of Blount, Knox, Loudon, McMinn, Monroe, and Sevier, Tennessee.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program to provide environmental assistance to non-Federal interests in East Tennessee.

(c) FORM OF ASSISTANCE.—Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in East Tennessee, including projects for wastewater treatment and related facilities, water supply and related facilities, environmental restoration, and surface water resource protection and development.

(d) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement

with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement for a project entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of a project under this section—

(i) shall be 75 percent; and

(ii) may be provided in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project cost.

(D) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project cost (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but the credit may not exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) NONPROFIT ENTITIES.—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) CORPS OF ENGINEERS EXPENSES.—Not more than 10 percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$40,000,000.

SEC. 5131. FRITZ LANDING, TENNESSEE.

Study.

The Secretary shall—

(1) conduct a study of the Fritz Landing Agricultural Spur Levee, Tennessee, to determine the extent of levee modifications that would be required to make the levee and associated drainage structures consistent with Federal standards;

(2) design and construct such modifications; and

(3) after completion of such modifications, incorporate the levee into the project for flood control, Mississippi River and Tributaries, authorized by the Act entitled “An Act for the control of floods on the Mississippi River and its tributaries, and for other purposes”, approved May 15, 1928 (45 Stat. 534–539).

SEC. 5132. J. PERCY PRIEST DAM AND RESERVOIR, TENNESSEE.

National Trail
System.

The Secretary shall plan, design, and construct a trail system at the J. Percy Priest Dam and Reservoir, Tennessee, authorized by section 4 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes”, approved June 28, 1938 (52 Stat. 1217), and adjacent public property, including design and construction of support facilities. In carrying out such improvements, the Secretary is authorized to use funds made available by the State of Tennessee from any Federal or State source, or both.

SEC. 5133. NASHVILLE, TENNESSEE.

(a) **IN GENERAL.**—The Secretary may participate in the ecosystem restoration, recreation, navigation, and flood damage reduction components of the Nashville Riverfront Concept Plan, dated February 2007.

(b) **COORDINATION.**—In carrying out this section, the Secretary shall coordinate with appropriate representatives in the vicinity of Nashville, Tennessee, including the Nashville Parks and Recreation Department, the city of Nashville, and Davidson County.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$10,000,000 to carry out this section.

SEC. 5134. NONCONNAH WEIR, MEMPHIS, TENNESSEE.

The project for flood control, Nonconnah Creek, Tennessee and Mississippi, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4124) and modified by the section 334 of the Water Resources Development Act of 2000 (114 Stat. 2611), is modified to authorize the Secretary—

(1) to reconstruct, at Federal expense, the weir originally constructed in the vicinity of the mouth of Nonconnah Creek; and

(2) to make repairs and maintain the weir in the future so that the weir functions properly.

SEC. 5135. TENNESSEE RIVER PARTNERSHIP.

(a) **IN GENERAL.**—As part of the operation and maintenance of the project for navigation, Tennessee River, Tennessee, Alabama, Mississippi, and Kentucky, authorized by the first section of the River and Harbor Act of July 3, 1930 (46 Stat. 927), the Secretary may enter into a partnership with a nonprofit entity to remove

debris from the Tennessee River in the vicinity of Knoxville, Tennessee, by providing a vessel to such entity, at Federal expense, for such debris removal purposes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$500,000.

SEC. 5136. TOWN CREEK, LENOIR CITY, TENNESSEE.

The Secretary shall design and construct the project for flood damage reduction designated as Alternative 4 in the Town Creek, Lenoir City, Loudon County, Tennessee, feasibility report of the Nashville district engineer, dated November 2000, under the authority of section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), notwithstanding section 1 of the Flood Control Act of June 22, 1936 (33 U.S.C. 701a; 49 Stat. 1570). The non-Federal share of the cost of the project shall be subject to section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)).

SEC. 5137. UPPER MISSISSIPPI EMBAYMENT, TENNESSEE, ARKANSAS, AND MISSISSIPPI.

The Secretary may participate with non-Federal and nonprofit entities to address issues concerning managing groundwater as a sustainable resource through the Upper Mississippi Embayment, Tennessee, Arkansas, and Mississippi, and to coordinate the protection of groundwater supply and groundwater quality of the Embayment with local surface water protection programs. There is authorized to be appropriated \$5,000,000 to carry out this section.

Appropriation
authorization.

SEC. 5138. TEXAS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide environmental assistance to non-Federal interests in the State of Texas.

(b) FORM OF ASSISTANCE.—Assistance provided under this section may be in the form of planning, design, and construction assistance for water-related environmental infrastructure and resource protection and development projects in Texas, including projects for water supply, storage, treatment, and related facilities, water quality protection, wastewater treatment, and related facilities, environmental restoration, and surface water resource protection, and development, as identified by the Texas Water Development Board.

(c) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) PARTNERSHIP AGREEMENTS.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest.

(e) COST SHARING.—

(1) IN GENERAL.—The Federal share of the cost of the project under this section—

(A) shall be 75 percent; and

(B) may be provided in the form of grants or reimbursements of project costs.

(2) IN-KIND SERVICES.—The non-Federal share may be provided in the form of materials and in-kind services, including planning, design, construction, and management services, as the Secretary determines to be compatible with, and necessary for, the project.

(3) CREDIT FOR WORK.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(4) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs.

(5) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$40,000,000.

SEC. 5139. BOSQUE RIVER WATERSHED, TEXAS.

(a) COMPREHENSIVE PLAN.—The Secretary, in consultation with appropriate Federal, State, and local entities, shall develop, as expeditiously as practicable, a comprehensive plan for development of new technologies and innovative approaches for restoring, preserving, and protecting the Bosque River watershed within Bosque, Hamilton, McLennan, and Erath Counties, Texas. The Secretary, in cooperation with the Secretary of Agriculture, may carry out activities identified in the comprehensive plan to demonstrate practicable alternatives for stabilization and enhancement of land and water resources in the basin.

(b) SERVICES OF NONPROFIT INSTITUTIONS AND OTHER ENTITIES.—In carrying out subsection (a), the Secretary may utilize, through contracts or other means, the services of nonprofit institutions and such other entities as the Secretary considers appropriate.

(c) NON-FEDERAL SHARE.—

(1) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(2) DEVELOPMENT OF COMPREHENSIVE PLAN.—The non-Federal share of the cost of development of the plan under subsection (a) shall be 25 percent.

(3) OPERATION AND MAINTENANCE.—The non-Federal share of the cost of operation and maintenance for measures constructed with assistance provided under this section shall be 100 percent.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000.

SEC. 5140. DALLAS COUNTY REGION, TEXAS.

(a) DALLAS COUNTY REGION DEFINED.—In this section, the term “Dallas County region” means the city of Dallas, and the municipalities of DeSoto, Duncanville, Lancaster, Wilmer, Hutchins, Balch Springs, Cedar Hill, Glenn Heights, and Ferris, Texas.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program to provide environmental assistance to non-Federal interests in the Dallas County region.

(c) FORM OF ASSISTANCE.—Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in the Dallas County region, including projects for wastewater treatment and related facilities, water supply and related facilities, environmental restoration, and surface water resource protection and development.

(d) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement for a project entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of a project under this section—

(i) shall be 75 percent; and

(ii) may be provided in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share.

(D) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but the credit may not exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) NONPROFIT ENTITIES.—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) CORPS OF ENGINEERS EXPENSES.—Not more than 10 percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$40,000,000.

SEC. 5141. DALLAS FLOODWAY, DALLAS, TEXAS.

(a) IN GENERAL.—The project for flood control, Trinity River and tributaries, Texas, authorized by section 2 of the Act entitled, “An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved March 2, 1945 (59 Stat. 18), is modified to—

(1) direct the Secretary to review the Balanced Vision Plan for the Trinity River Corridor, Dallas, Texas, dated December 2003 and amended in March 2004, prepared by the non-Federal interest for the project;

(2) direct the Secretary to review the Interior Levee Drainage Study Phase-I report, Dallas, Texas, dated September 2006, prepared by the non-Federal interest; and

(3) if the Secretary determines that the project is technically sound and environmentally acceptable, authorize the Secretary to construct the project at a total cost of \$459,000,000, with an estimated Federal cost of \$298,000,000 and an estimated non-Federal cost of \$161,000,000.

(b) CREDIT.—

(1) IN-KIND CONTRIBUTIONS.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(2) CASH CONTRIBUTIONS.—The Secretary shall accept funds provided by the non-Federal interest for use in carrying out planning, engineering, and design for the project. The Federal share of such planning, engineering, and design carried out with non-Federal contributions shall be credited against the non-Federal share of the cost of the project.

SEC. 5142. HARRIS COUNTY, TEXAS.

Section 575(b) of the Water Resources Development Act of 1996 (110 Stat. 3789; 113 Stat. 311) is amended—

(1) in paragraph (3) by striking “and” at the end;

(2) in paragraph (4) by striking the period at the end and inserting “; and”; and

(3) by adding the following:

“(5) the project for flood control, Upper White Oak Bayou, Texas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4125).”.

SEC. 5143. JOHNSON CREEK, ARLINGTON, TEXAS.

(a) **IN GENERAL.**—The project for flood damage reduction, environmental restoration, and recreation, Johnson Creek, Arlington, Texas, authorized by section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat 280), is modified to authorize the Secretary to construct the project substantially in accordance with the report entitled “Johnson Creek: A Vision of Conservation”, dated March 30, 2006, at a total cost of \$80,000,000, with an estimated Federal cost of \$52,000,000 and an estimated non-Federal cost of \$28,000,000, if the Secretary determines that the project is feasible.

(b) **NON-FEDERAL SHARE.**—

(1) **IN GENERAL.**—The non-Federal share of the cost of the project may be provided in cash or in the form of in-kind services or materials.

(2) **CREDIT.**—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(c) **SPECIAL RULE.**—In evaluating and implementing the project, the Secretary shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184).

(d) **CONFORMING AMENDMENT.**—Section 134 of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2263) is repealed.

SEC. 5144. ONION CREEK, TEXAS.

Study.

(a) **INCLUSION OF COSTS AND BENEFITS OF RELOCATION OF FLOOD-PRONE RESIDENCES.**—In carrying out the study for the project for flood damage reduction, recreation, and ecosystem restoration, Onion Creek, Texas, the Secretary shall include the costs and benefits associated with the relocation of flood-prone residences in the study area for the project in the period beginning 2 years before the date of initiation of the study and ending on the date of execution of the partnership agreement for construction of the project to the extent the Secretary determines such relocations are compatible with the project.

(b) **CREDIT.**—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project referred to in subsection (a) the cost of relocation of those flood-prone residences described in subsection (a) that are incurred by the non-Federal interest before the date of the partnership agreement for the project.

SEC. 5145. CONNECTICUT RIVER DAMS, VERMONT.

(a) **IN GENERAL.**—The Secretary shall evaluate, design, and carry out structural modifications at Federal cost to the Union

Village Dam (Ompompanoosuc River), North Hartland Dam (Ottawquechee River), North Springfield Dam (Black River), Ball Mountain Dam (West River), and Townshend Dam (West River), Vermont, to regulate flow and temperature to mitigate downstream impacts on aquatic habitat and fisheries.

(b) INCLUSION.—During the evaluation and design portion of the modifications authorized by this section, the Secretary shall ensure that a sustainable flow analysis is conducted for each dam.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$30,000,000.

SEC. 5146. LAKE CHAMPLAIN CANAL, VERMONT AND NEW YORK.

(a) DISPERSAL BARRIER PROJECT.—The Secretary shall determine, at Federal expense, the feasibility of a dispersal barrier project at the Lake Champlain Canal, Vermont and New York, to prevent the spread of aquatic nuisance species.

(b) CONSTRUCTION, MAINTENANCE, AND OPERATION.—If the Secretary determines that the project described in subsection (a) is feasible, the Secretary shall construct, maintain, and operate a dispersal barrier at the Lake Champlain Canal at Federal expense.

SEC. 5147. DYKE MARSH, FAIRFAX COUNTY, VIRGINIA.

The Secretary shall accept funds from the National Park Service to restore Dyke Marsh, Fairfax County, Virginia.

SEC. 5148. EASTERN SHORE AND SOUTHWEST VIRGINIA.

Section 219(f)(10) of the Water Resources Development Act of 1992 (106 Stat. 4835; 113 Stat. 335) is amended—

(1) by striking “\$20,000,000 for water supply and wastewater infrastructure” and inserting the following:

“(A) IN GENERAL.—\$20,000,000 for water supply, wastewater infrastructure, and environmental restoration”;

(2) by adding at the end the following:

“(B) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.”; and

(3) by aligning the remainder of the text of subparagraph (A) (as designated by paragraph (1) of this section) with subparagraph (B) (as added by paragraph (2) of this section).

SEC. 5149. JAMES RIVER, VIRGINIA.

The Secretary shall accept funds from the National Park Service to provide technical and project management assistance for the James River, Virginia, with a particular emphasis on locations along the shoreline adversely impacted by Hurricane Isabel.

SEC. 5150. BAKER BAY AND ILWACO HARBOR, WASHINGTON.

Study.

The Secretary shall conduct a study of increased siltation in Baker Bay and Ilwaco Harbor, Washington, to determine if the siltation is the result of a Federal navigation project (including diverted flows from the Columbia River) and, if the Secretary determines that the siltation is the result of a Federal navigation project, the Secretary shall carry out a project to mitigate the siltation as part of maintenance of the Federal navigation project.

SEC. 5151. HAMILTON ISLAND CAMPGROUND, WASHINGTON.

The Secretary is authorized to plan, design, and construct a campground for Bonneville Lock and Dam at Hamilton Island (also known as “Strawberry Island”) in Skamania County, Washington.

SEC. 5152. EROSION CONTROL, PUGET ISLAND, WAHIAKUM COUNTY, WASHINGTON.

(a) **IN GENERAL.**—The Lower Columbia River levees and bank protection works authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 178) is modified with regard to the Wahkiakum County diking districts No. 1 and 3, but without regard to any cost ceiling authorized before the date of enactment of this Act, to direct the Secretary to provide a one-time placement of dredged material along portions of the Columbia River shoreline of Puget Island, Washington, between river miles 38 to 47, and the shoreline of Westport Beach, Clatsop County, Oregon, between river miles 43 to 45, to protect economic and environmental resources in the area from further erosion.

(b) **COORDINATION AND COST-SHARING REQUIREMENTS.**—The Secretary shall carry out subsection (a)—

- (1) in coordination with appropriate resource agencies; and
- (2) at Federal expense.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$1,000,000.

SEC. 5153. WILLAPA BAY, WASHINGTON.

Section 545 of the Water Resources Development Act of 2000 (114 Stat. 2675) is amended—

- (1) in subsection (b)(1) by striking “may construct” and inserting “shall construct”; and
- (2) by inserting “and ecosystem restoration” after “erosion protection” each place it appears.

SEC. 5154. WEST VIRGINIA AND PENNSYLVANIA FLOOD CONTROL.

(a) **CHEAT AND TYGART RIVER BASINS, WEST VIRGINIA.**—Section 581(a)(1) of the Water Resources Development Act of 1996 (110 Stat. 3790; 113 Stat. 313) is amended—

- (1) by striking “flood control measures” and inserting “structural and nonstructural flood control, streambank protection, stormwater management, and channel clearing and modification measures”; and
- (2) by inserting “with respect to measures that incorporate levees or floodwalls” before the semicolon.

(b) **PRIORITY COMMUNITIES.**—Section 581(b) of the Water Resources Development Act of 1996 (110 Stat. 3791) is amended—

- (1) by striking “and” at the end of paragraph (5);
- (2) by striking the period at the end of paragraph (6) and inserting a semicolon; and
- (3) by adding at the end the following:
“(7) Etna, Pennsylvania, in the Pine Creek watershed; and
“(8) Millvale, Pennsylvania, in the Girty’s Run River basin.”.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—Section 581(c) of the Water Resources Development Act of 1996 (110 Stat. 3791) is amended by striking “\$12,000,000” and inserting “\$90,000,000”.

SEC. 5155. CENTRAL WEST VIRGINIA.

Section 571 of the Water Resources Development Act of 1999 (113 Stat. 371) is amended—

(1) in subsection (a)—

(A) by striking “Nicholas,”; and

(B) by striking “Gilmer,”;

(2) in subsection (h) by striking “\$10,000,000” and inserting “\$20,000,000”; and

(3) by adding at the end the following:

“(i) NONPROFIT ENTITIES.—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

“(j) CORPS OF ENGINEERS EXPENSES.—Not more than 10 percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.”.

SEC. 5156. SOUTHERN WEST VIRGINIA.

(a) CORPS OF ENGINEERS.—Section 340 of the Water Resources Development Act of 1992 (106 Stat. 4856; 113 Stat. 320) is amended by adding at the end the following:

“(h) CORPS OF ENGINEERS.—Not more than 10 percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.”.

(b) SOUTHERN WEST VIRGINIA DEFINED.—Section 340(f) of such Act is amended by inserting “Nicholas,” after “Greenbrier,”.

(c) NONPROFIT ENTITIES.—Section 340 of the Water Resources Development Act of 1992 (106 Stat. 4856) is further amended by adding at the end the following:

“(i) NONPROFIT ENTITIES.—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.”.

SEC. 5157. CONSTRUCTION OF FLOOD CONTROL PROJECTS BY NON-FEDERAL INTERESTS.

Section 211(f) of the Water Resources Development Act of 1996 (33 U.S.C. 701b–13) is amended by adding at the end the following:

“(12) PERRIS, CALIFORNIA.—The project for flood control, Perris, California.

“(13) THORNTON RESERVOIR, COOK COUNTY, ILLINOIS.—An element of the project for flood control, Chicagoland Underflow Plan, Illinois.

“(14) LAROSE TO GOLDEN MEADOW, LOUISIANA.—The project for flood control, Larose to Golden Meadow, Louisiana.

“(15) BUFFALO BAYOU, TEXAS.—A project for flood control, Buffalo Bayou, Texas, to provide an alternative to the project authorized by the first section of the River and Harbor Act of June 20, 1938 (52 Stat. 804) and modified by section 3a of the Flood Control Act of August 11, 1939 (53 Stat. 1414).

“(16) HALLS BAYOU, TEXAS.—A project for flood control, Halls Bayou, Texas, to provide an alternative to the project

for flood control, Buffalo Bayou and tributaries, Texas, authorized by section 101(a)(21) of the Water Resources Development Act of 1990 (104 Stat. 4610).

“(17) MENOMONEE RIVER WATERSHED, WISCONSIN.—The project for the Menomonee River Watershed, Wisconsin, including—

“(A) the Underwood Creek diversion facility project (Milwaukee County Grounds); and

“(B) the Greater Milwaukee Rivers watershed project.”.

SEC. 5158. ADDITIONAL ASSISTANCE FOR CRITICAL PROJECTS.

Section 219 of the Water Resources Development Act of 1992 (106 Stat. 4835; 110 Stat. 3757; 113 Stat. 334; 113 Stat. 1494; 114 Stat. 2763A–219; 119 Stat. 2255) is amended—

(1) in subsection (c)(5) by striking “a project for the elimination or control of combined sewer overflows” and inserting “projects for the design, installation, enhancement, or repair of sewer systems”;

(2) in subsection (e)(1) by striking “\$20,000,000” and inserting “\$32,500,000”; and

(3) in subsection (f)—

(A) by striking the undesignated paragraph relating to Charleston, South Carolina, and inserting the following:

“(72) CHARLESTON, SOUTH CAROLINA.—\$10,000,000 for wastewater infrastructure, including wastewater collection systems, and stormwater system improvements, Charleston, South Carolina.”;

(B) by redesignating the paragraph (71) relating to Placer and El Dorado Counties, California, as paragraph (73);

(C) by redesignating the paragraph (72) relating to Lassen, Plumas, Butte, Sierra, and Nevada Counties, California, as paragraph (74);

(D) by striking the paragraph (71) relating to Indianapolis, Indiana, and inserting the following:

“(75) INDIANAPOLIS, INDIANA.—\$6,430,000 for environmental infrastructure for Indianapolis, Indiana.”;

(E) by redesignating the paragraph (73) relating to St. Croix Falls, Wisconsin, as paragraph (76);

(F) by redesignating paragraph (72), relating to Alpine, California, as paragraph (77); and

(G) by adding at the end the following:

“(78) ST. CLAIR COUNTY, ALABAMA.—\$5,000,000 for water related infrastructure, St. Clair County, Alabama.

“(79) CRAWFORD COUNTY, ARKANSAS.—\$35,000,000 for water supply infrastructure, Crawford County, Arkansas.

“(80) ALAMEDA AND CONTRA COSTA COUNTIES, CALIFORNIA.—\$25,000,000 for recycled water treatment facilities within the East Bay Municipal Utility District service area, Alameda and Contra Costa Counties, California.

“(81) ALISO CREEK, ORANGE COUNTY, CALIFORNIA.—\$5,000,000 for water related infrastructure, Aliso Creek, Orange County, California.

“(82) AMADOR COUNTY, CALIFORNIA.—\$3,000,000 for wastewater collection and treatment infrastructure, Amador County, California.

“(83) ARCADIA, SIERRA MADRE, AND UPLAND, CALIFORNIA.—\$33,000,000 for water and wastewater infrastructure, Arcadia, Sierra Madre, and Upland, California, including \$13,000,000 for stormwater infrastructure for Upland, California.

“(84) BIG BEAR AREA REGIONAL WASTEWATER AGENCY, CALIFORNIA.—\$15,000,000 for water reclamation and distribution infrastructure, Big Bear Area Regional Wastewater Agency, California.

“(85) BRAWLEY COLONIA, IMPERIAL COUNTY, CALIFORNIA.—\$1,400,000 for water infrastructure to improve water quality in the Brawley Colonia Water District, Imperial County, California.

“(86) CALAVERAS COUNTY, CALIFORNIA.—\$3,000,000 for water supply and wastewater infrastructure improvement projects in Calaveras County, California, including wastewater reclamation, recycling, and conjunctive use projects.

“(87) CONTRA COSTA WATER DISTRICT, CALIFORNIA.—\$23,000,000 for water and wastewater infrastructure for the Contra Costa Water District, California.

“(88) EAST BAY, SAN FRANCISCO, AND SANTA CLARA AREAS, CALIFORNIA.—\$4,000,000 for a desalination project to serve the East Bay, San Francisco, and Santa Clara areas, California.

“(89) EAST PALO ALTO, CALIFORNIA.—\$4,000,000 for a new pump station and stormwater management and drainage system, East Palo Alto, California.

“(90) IMPERIAL COUNTY, CALIFORNIA.—\$10,000,000 for wastewater infrastructure, including a wastewater disinfection facility and polishing system, to improve water quality in the vicinity of Calexico, California, on the southern New River, Imperial County, California.

“(91) LA HABRA, CALIFORNIA.—\$5,000,000 for wastewater and water related infrastructure, city of La Habra, California.

“(92) LA MIRADA, CALIFORNIA.—\$4,000,000 for the planning, design, and construction of a stormwater program in La Mirada, California.

“(93) LOS ANGELES COUNTY, CALIFORNIA.—\$3,000,000 for wastewater and water related infrastructure, Diamond Bar, La Habra Heights, and Rowland Heights, Los Angeles County, California.

“(94) LOS ANGELES COUNTY, CALIFORNIA.—\$20,000,000 for the planning, design, and construction of water related infrastructure for Santa Monica Bay and the coastal zone of Los Angeles County, California.

“(95) MALIBU, CALIFORNIA.—\$3,000,000 for municipal wastewater and recycled water infrastructure, Malibu Creek Watershed Protection Project, Malibu, California.

“(96) MONTEBELLO, CALIFORNIA.—\$4,000,000 for water infrastructure improvements in south Montebello, California.

“(97) NEW RIVER, CALIFORNIA.—\$10,000,000 for wastewater infrastructure to improve water quality in the New River, California.

“(98) ORANGE COUNTY, CALIFORNIA.—\$10,000,000 for wastewater and water related infrastructure, Anaheim, Brea, Mission Viejo, Rancho Santa Margarita, and Yorba Linda, Orange County, California.

“(99) PORT OF STOCKTON, STOCKTON, CALIFORNIA.—\$3,000,000 for water and wastewater infrastructure projects for Rough and Ready Island and vicinity, Stockton, California.

“(100) PERRIS, CALIFORNIA.—\$3,000,000 for recycled water transmission infrastructure, Eastern Municipal Water District, Perris, California.

“(101) SAN BERNARDINO COUNTY, CALIFORNIA.—\$9,000,000 for wastewater and water related infrastructure, Chino and Chino Hills, San Bernardino County, California.

“(102) SANTA CLARA COUNTY, CALIFORNIA.—\$5,500,000 for an advanced recycling water treatment plant in Santa Clara County, California.

“(103) SANTA MONICA, CALIFORNIA.—\$3,000,000 for improving water system reliability, Santa Monica, California.

“(104) SOUTHERN LOS ANGELES COUNTY, CALIFORNIA.—\$15,000,000 for environmental infrastructure for the ground-water basin optimization pipeline, Southern Los Angeles County, California.

“(105) STOCKTON, CALIFORNIA.—\$33,000,000 for water treatment and distribution infrastructure, Stockton, California.

“(106) SWEETWATER RESERVOIR, SAN DIEGO COUNTY, CALIFORNIA.—\$375,000 to improve water quality and remove non-native aquatic nuisance species from the Sweetwater Reservoir, San Diego County, California.

“(107) WHITTIER, CALIFORNIA.—\$8,000,000 for water, wastewater, and water related infrastructure, Whittier, California.

“(108) ARKANSAS VALLEY CONDUIT, COLORADO.—\$10,000,000 for the Arkansas Valley Conduit, Colorado.

“(109) BOULDER COUNTY, COLORADO.—\$10,000,000 for water supply infrastructure, Boulder County, Colorado.

“(110) MONTEZUMA AND LA PLATA COUNTIES, COLORADO.—\$1,000,000 for water and wastewater related infrastructure for the Ute Mountain project, Montezuma and La Plata Counties, Colorado.

“(111) OTERO, BENT, CROWLEY, KIOWA, AND PROWERS COUNTIES, COLORADO.—\$35,000,000 for water transmission infrastructure, Otero, Bent, Crowley, Kiowa, and Prowers Counties, Colorado.

“(112) PUEBLO AND OTERO COUNTIES, COLORADO.—\$34,000,000 for water transmission infrastructure, Pueblo and Otero Counties, Colorado.

“(113) ENFIELD, CONNECTICUT.—\$1,000,000 for infiltration and inflow correction, Enfield, Connecticut.

“(114) LEDYARD AND MONTVILLE, CONNECTICUT.—\$7,113,000 for water infrastructure, Ledyard and Montville, Connecticut.

“(115) NEW HAVEN, CONNECTICUT.—\$300,000 for stormwater system improvements, New Haven, Connecticut.

“(116) NORWALK, CONNECTICUT.—\$3,000,000 for the Keeler Brook Storm Water Improvement Project, Norwalk, Connecticut.

“(117) PLAINVILLE, CONNECTICUT.—\$6,280,000 for wastewater treatment, Plainville, Connecticut.

“(118) SOUTHTON, CONNECTICUT.—\$9,420,000 for water supply infrastructure, Southington, Connecticut.

“(119) ANACOSTIA RIVER, DISTRICT OF COLUMBIA AND MARYLAND.—\$20,000,000 for environmental infrastructure and

resource protection and development to enhance water quality and living resources in the Anacostia River watershed, District of Columbia and Maryland.

“(120) DISTRICT OF COLUMBIA.—\$35,000,000 for implementation of a combined sewer overflow long-term control plan in the District of Columbia.

“(121) CHARLOTTE COUNTY, FLORIDA.—\$3,000,000 for water supply infrastructure, Charlotte County, Florida.

“(122) CHARLOTTE, LEE, AND COLLIER COUNTIES, FLORIDA.—\$20,000,000 for water supply interconnectivity infrastructure, Charlotte, Lee, and Collier Counties, Florida.

“(123) COLLIER COUNTY, FLORIDA.—\$5,000,000 for water infrastructure to improve water quality in the vicinity of the Gordon River, Collier County, Florida.

“(124) HILLSBOROUGH COUNTY, FLORIDA.—\$6,250,000 for water infrastructure and supply enhancement, Hillsborough County, Florida.

“(125) JACKSONVILLE, FLORIDA.—\$25,000,000 for wastewater related infrastructure, including septic tank replacements, Jacksonville, Florida.

“(126) SARASOTA COUNTY, FLORIDA.—\$10,000,000 for water and wastewater infrastructure in Sarasota County, Florida.

“(127) SOUTH SEMINOLE AND NORTH ORANGE COUNTY, FLORIDA.—\$30,000,000 for wastewater infrastructure for the South Seminole and North Orange Wastewater Transmission Authority, Florida.

“(128) MIAMI-DADE COUNTY, FLORIDA.—\$6,250,000 for water reuse supply and a water transmission pipeline, Miami-Dade County, Florida.

“(129) PALM BEACH COUNTY, FLORIDA.—\$7,500,000 for water infrastructure, Palm Beach County, Florida.

“(130) ALBANY, GEORGIA.—\$4,000,000 for a storm drainage system, Albany, Georgia.

“(131) BANKS COUNTY, GEORGIA.—\$5,000,000 for water infrastructure improvements, Banks County, Georgia.

“(132) BERRIEN COUNTY, GEORGIA.—\$5,000,000 for water infrastructure improvements, Berrien County, Georgia.

“(133) CHATTOOGA COUNTY, GEORGIA.—\$8,000,000 for wastewater and drinking water infrastructure improvement, Chattooga County, Georgia.

“(134) CHATTOOGA, FLOYD, GORDON, WALKER, AND WHITFIELD COUNTIES, GEORGIA.—\$10,000,000 for water infrastructure improvements, Armuchee Valley, Chattooga, Floyd, Gordon, Walker, and Whitfield Counties, Georgia.

“(135) DAHLONEGA, GEORGIA.—\$5,000,000 for water infrastructure improvements, Dahlonega, Georgia.

“(136) EAST POINT, GEORGIA.—\$5,000,000 for water infrastructure improvements, city of East Point, Georgia.

“(137) FAYETTEVILLE, GRANTVILLE, LAGRANGE, PINE MOUNTAIN (HARRIS COUNTY), DOUGLASVILLE, AND CARROLLTON, GEORGIA.—\$24,500,000 for water and wastewater infrastructure, Fayetteville, Grantville, LaGrange, Pine Mountain (Harris County), Douglasville, and Carrollton, Georgia.

“(138) MERIWETHER AND SPALDING COUNTIES, GEORGIA.—\$7,000,000 for water and wastewater infrastructure, Meriwether and Spalding Counties, Georgia.

“(139) MOULTRIE, GEORGIA.—\$5,000,000 for water supply infrastructure, Moultrie, Georgia.

“(140) STEPHENS COUNTY/CITY OF TOCCOA, GEORGIA.—\$8,000,000 water infrastructure improvements, Stephens County/city of Toccoa, Georgia.

“(141) NORTH VERNON AND BUTLERVILLE, INDIANA.—\$1,700,000 for wastewater infrastructure, North Vernon and Butlerville, Indiana.

“(142) SALEM, WASHINGTON COUNTY, INDIANA.—\$3,200,000 for water supply infrastructure, Salem, Washington County, Indiana.

“(143) ATCHISON, KANSAS.—\$20,000,000 to address combined sewer overflows, Atchison, Kansas.

“(144) CENTRAL KENTUCKY.—\$10,000,000 for water related infrastructure and resource protection and development, Scott, Franklin, Woodford, Anderson, Fayette, Mercer, Jessamine, Boyle, Lincoln, Garrard, Madison, Estill, Powell, Clark, Montgomery, and Bourbon Counties, Kentucky.

“(145) LAFAYETTE, LOUISIANA.—\$1,200,000 for water and wastewater improvements, Lafayette, Louisiana.

“(146) LAFOURCHE PARISH, LOUISIANA.—\$2,300,000 for measures to prevent the intrusion of saltwater into the freshwater system, Lafourche Parish, Louisiana.

“(147) LAKE CHARLES, LOUISIANA.—\$1,000,000 for water and wastewater improvements, Lake Charles, Louisiana.

“(148) NORTHWEST LOUISIANA COUNCIL OF GOVERNMENTS, LOUISIANA.—\$2,000,000 for water and wastewater improvements, Northwest Louisiana Council of Governments, Louisiana.

“(149) OUACHITA PARISH, LOUISIANA.—\$1,000,000 for water and wastewater improvements, Ouachita Parish, Louisiana.

“(150) PLAQUEMINE, LOUISIANA.—\$7,000,000 for sanitary sewer and wastewater infrastructure, Plaquemine, Louisiana.

“(151) RAPIDES AREA PLANNING COMMISSION, LOUISIANA.—\$1,000,000 for water and wastewater improvements, Rapides, Louisiana.

“(152) SHREVEPORT, LOUISIANA.—\$20,000,000 for water supply infrastructure in Shreveport, Louisiana.

“(153) SOUTH CENTRAL PLANNING AND DEVELOPMENT COMMISSION, LOUISIANA.—\$2,500,000 for water and wastewater improvements, South Central Planning and Development Commission, Louisiana.

“(154) UNION-LINCOLN REGIONAL WATER SUPPLY PROJECT, LOUISIANA.—\$2,000,000 for the Union-Lincoln Regional Water Supply project, Louisiana.

“(155) CHESAPEAKE BAY IMPROVEMENTS, MARYLAND, VIRGINIA, AND DISTRICT OF COLUMBIA.—\$30,000,000 for environmental infrastructure projects to benefit the Chesapeake Bay, including the nutrient removal project at the Blue Plains Wastewater Treatment facility in the District of Columbia.

“(156) CHESAPEAKE BAY REGION, MARYLAND AND VIRGINIA.—\$40,000,000 for water pollution control, Chesapeake Bay Region, Maryland and Virginia.

“(157) MICHIGAN COMBINED SEWER OVERFLOWS.—\$35,000,000 for correction of combined sewer overflows, Michigan.

“(158) CENTRAL IRON RANGE SANITARY SEWER DISTRICT, MINNESOTA.—\$12,000,000 for wastewater infrastructure for the Central Iron Range Sanitary Sewer District to serve the cities of Hibbing, Chisholm, Buhl, and Kinney, and Balkan and Great Scott Townships, Minnesota.

“(159) CENTRAL LAKE REGION SANITARY DISTRICT, MINNESOTA.—\$2,000,000 for sanitary sewer and wastewater infrastructure for the Central Lake Region Sanitary District, Minnesota, to serve Le Grande and Moe Townships, Minnesota.

“(160) GOODVIEW, MINNESOTA.—\$3,000,000 for water quality infrastructure, Goodview, Minnesota.

“(161) GRAND RAPIDS, MINNESOTA.—\$5,000,000 for wastewater infrastructure, Grand Rapids, Minnesota.

“(162) WILLMAR, MINNESOTA.—\$15,000,000 for wastewater infrastructure, Willmar, Minnesota.

“(163) BILOXI, MISSISSIPPI.—\$5,000,000 for water and wastewater related infrastructure, city of Biloxi, Mississippi.

“(164) CORINTH, MISSISSIPPI.—\$7,500,000 for a surface water program, city of Corinth, Mississippi.

“(165) GULFPORT, MISSISSIPPI.—\$5,000,000 for water and wastewater related infrastructure, city of Gulfport, Mississippi.

“(166) HARRISON COUNTY, MISSISSIPPI.—\$5,000,000 for water and wastewater related infrastructure, Harrison County, Mississippi.

“(167) JACKSON, MISSISSIPPI.—\$25,000,000 for water and wastewater infrastructure, Jackson, Mississippi.

“(168) CLARK COUNTY, NEVADA.—\$30,000,000 for wastewater infrastructure, Clark County, Nevada.

“(169) CLEAN WATER COALITION, NEVADA.—\$50,000,000 for the Systems Conveyance and Operations Program, Clark County, Henderson, Las Vegas, and North Las Vegas, Nevada.

“(170) GLENDALE DAM DIVERSION STRUCTURE, NEVADA.—\$10,000,000 for water system improvements to the Glendale Dam Diversion Structure for the Truckee Meadows Water Authority, Nevada.

“(171) HENDERSON, NEVADA.—\$13,000,000 for wastewater infrastructure, Henderson, Nevada.

“(172) INDIAN SPRINGS, NEVADA.—\$12,000,000 for construction of wastewater system improvements for the Indian Springs community, Nevada.

“(173) RENO, NEVADA.—\$13,000,000 for construction of a water conservation project for the Highland Canal, Mogul Bypass in Reno, Nevada.

“(174) WASHOE COUNTY, NEVADA.—\$14,000,000 for construction of water infrastructure improvements to the Huffaker Hills Reservoir Conservation Project, Washoe County, Nevada.

“(175) CRANFORD TOWNSHIP, NEW JERSEY.—\$6,000,000 for storm sewer improvements, Cranford Township, New Jersey.

“(176) MIDDLETOWN TOWNSHIP, NEW JERSEY.—\$1,100,000 for storm sewer improvements, Middletown Township, New Jersey.

“(177) PATERSON, NEW JERSEY.—\$35,000,000 for wastewater infrastructure, Paterson, New Jersey.

“(178) RAHWAY VALLEY, NEW JERSEY.—\$25,000,000 for sanitary sewer and storm sewer improvements in the service area of the Rahway Valley Sewerage Authority, New Jersey.

“(179) BABYLON, NEW YORK.—\$5,000,000 for wastewater infrastructure, Town of Babylon, New York.

“(180) ELLICOTTVILLE, NEW YORK.—\$2,000,000 for water supply, water, and wastewater infrastructure in Ellicottville, New York.

“(181) ELMIRA, NEW YORK.—\$5,000,000 for wastewater infrastructure, Elmira, New York.

“(182) ESSEX HAMLET, NEW YORK.—\$5,000,000 for wastewater infrastructure, Essex Hamlet, New York.

“(183) FLEMING, NEW YORK.—\$5,000,000 for drinking water infrastructure, Fleming, New York.

“(184) KIRYAS JOEL, NEW YORK.—\$5,000,000 for drinking water infrastructure, village of Kiryas Joel, New York.

“(185) NIAGARA FALLS, NEW YORK.—\$5,000,000 for wastewater infrastructure, Niagara Falls Water Board, New York.

“(186) PATCHOGUE, NEW YORK.—\$5,000,000 for wastewater infrastructure, village of Patchogue, New York.

“(187) SENNETT, NEW YORK.—\$1,500,000 for water infrastructure, town of Sennett, New York.

“(188) SPRINGPORT AND FLEMING, NEW YORK.—\$10,000,000 for water related infrastructure, including water mains, pump stations, and water storage tanks, Springport and Fleming, New York.

“(189) WELLSVILLE, NEW YORK.—\$2,000,000 for water supply, water, and wastewater infrastructure in Wellsville, New York.

“(190) YATES COUNTY, NEW YORK.—\$5,000,000 for drinking water infrastructure, Yates County, New York.

“(191) CABARRUS COUNTY, NORTH CAROLINA.—\$4,500,000 for water related infrastructure, Cabarrus County, North Carolina.

“(192) CARY, WAKE COUNTY, NORTH CAROLINA.—\$4,000,000 for a water reclamation facility, Cary, Wake County, North Carolina.

“(193) CHARLOTTE, NORTH CAROLINA.—\$14,000,000 for the Briar Creek Relief Sewer project, city of Charlotte, North Carolina.

“(194) FAYETTEVILLE, CUMBERLAND COUNTY, NORTH CAROLINA.—\$6,000,000 for water and sewer upgrades, city of Fayetteville, Cumberland County, North Carolina.

“(195) MOORESVILLE, NORTH CAROLINA.—\$4,000,000 for water and wastewater infrastructure improvements, town of Mooresville, North Carolina.

“(196) NEUSE REGIONAL WATER AND SEWER AUTHORITY, NORTH CAROLINA.—\$4,000,000 for the Neuse regional drinking water facility, Kinston, North Carolina.

“(197) RICHMOND COUNTY, NORTH CAROLINA.—\$13,500,000 for water related infrastructure, Richmond County, North Carolina.

“(198) UNION COUNTY, NORTH CAROLINA.—\$6,000,000 for water related infrastructure, Union County, North Carolina.

“(199) WASHINGTON COUNTY, NORTH CAROLINA.—\$1,000,000 for water and wastewater infrastructure, Washington County, North Carolina.

“(200) WINSTON-SALEM, NORTH CAROLINA.—\$3,000,000 for stormwater upgrades, city of Winston-Salem, North Carolina.

“(201) NORTH DAKOTA.—\$15,000,000 for water-related infrastructure, North Dakota.

“(202) DEVILS LAKE, NORTH DAKOTA.—\$15,000,000 for water supply infrastructure, Devils Lake, North Dakota.

“(203) SAIPAN, NORTHERN MARIANA ISLANDS.—\$20,000,000 for water related infrastructure, Saipan, Northern Mariana Islands.

“(204) AKRON, OHIO.—\$5,000,000 for wastewater infrastructure, Akron, Ohio.

“(205) BURR OAK REGIONAL WATER DISTRICT, OHIO.—\$4,000,000 for construction of a water line to extend from a well field near Chauncey, Ohio, to a water treatment plant near Millfield, Ohio.

“(206) CINCINNATI, OHIO.—\$1,000,000 for wastewater infrastructure, Cincinnati, Ohio.

“(207) CLEVELAND, OHIO.—\$2,500,000 for Flats East Bank water and wastewater infrastructure, city of Cleveland, Ohio.

“(208) COLUMBUS, OHIO.—\$4,500,000 for wastewater infrastructure, Columbus, Ohio.

“(209) DAYTON, OHIO.—\$1,000,000 for water and wastewater infrastructure, Dayton, Ohio.

“(210) DEFIANCE COUNTY, OHIO.—\$1,000,000 for wastewater infrastructure, Defiance County, Ohio.

“(211) FOSTORIA, OHIO.—\$2,000,000 for wastewater infrastructure, Fostoria, Ohio.

“(212) FREMONT, OHIO.—\$2,000,000 for construction of off-stream water supply reservoir, Fremont, Ohio.

“(213) LAKE COUNTY, OHIO.—\$1,500,000 for wastewater infrastructure, Lake County, Ohio.

“(214) LAWRENCE COUNTY, OHIO.—\$5,000,000 for Union Rome wastewater infrastructure, Lawrence County, Ohio.

“(215) MEIGS COUNTY, OHIO.—\$1,000,000 to extend the Tupper Plains Regional Water District water line to Meigs County, Ohio.

“(216) MENTOR-ON-LAKE, OHIO.—\$625,000 for water and wastewater infrastructure, Mentor-on-Lake, Ohio.

“(217) VINTON COUNTY, OHIO.—\$1,000,000 to construct water lines in Vinton and Brown Townships, Ohio.

“(218) WILLOWICK, OHIO.—\$665,000 for water and wastewater infrastructure, Willowick, Ohio.

“(219) ADA, OKLAHOMA.—\$1,700,000 for sewer improvements and other water infrastructure, city of Ada, Oklahoma.

“(220) ALVA, OKLAHOMA.—\$250,000 for wastewater infrastructure improvements, city of Alva, Oklahoma.

“(221) ARDMORE, OKLAHOMA.—\$1,900,000 for water and sewer infrastructure improvements, city of Ardmore, Oklahoma.

“(222) BARTLESVILLE, OKLAHOMA.—\$2,500,000 for water supply infrastructure, city of Bartlesville, Oklahoma.

“(223) BETHANY, OKLAHOMA.—\$1,500,000 for water improvements and water related infrastructure, city of Bethany, Oklahoma.

“(224) CHICKASHA, OKLAHOMA.—\$650,000 for industrial park sewer infrastructure, city of Chickasha, Oklahoma.

“(225) DISNEY AND LANGLEY, OKLAHOMA.—\$2,500,000 for water and sewer improvements and water related infrastructure, cities of Disney and Langley, Oklahoma.

“(226) DURANT, OKLAHOMA.—\$3,300,000 for bayou restoration and water related infrastructure, city of Durant, Oklahoma.

“(227) EASTERN OKLAHOMA STATE UNIVERSITY, WILBERTON, OKLAHOMA.—\$1,000,000 for sewer and utility upgrades and water related infrastructure, Eastern Oklahoma State University, Wilberton, Oklahoma.

“(228) GUYMON, OKLAHOMA.—\$16,000,000 for water and wastewater related infrastructure, city of Guymon, Oklahoma.

“(229) KONAWA, OKLAHOMA.—\$500,000 for water treatment infrastructure improvements, city of Konawa, Oklahoma.

“(230) LUGERT-ALTUS IRRIGATION DISTRICT, ALTUS, OKLAHOMA.—\$5,000,000 for water related infrastructure improvements, Lugert-Altus Irrigation District, Altus, Oklahoma.

“(231) MIDWEST CITY, OKLAHOMA.—\$2,000,000 for improvements to water related infrastructure, the City of Midwest City, Oklahoma.

“(232) MUSTANG, OKLAHOMA.—\$3,325,000 for water improvements and water related infrastructure, city of Mustang, Oklahoma.

“(233) NORMAN, OKLAHOMA.—\$10,000,000 for water related infrastructure, Norman, Oklahoma.

“(234) OKLAHOMA PANHANDLE STATE UNIVERSITY, GUYMON, OKLAHOMA.—\$275,000 for water testing facility and water related infrastructure development, Oklahoma Panhandle State University, Guymon, Oklahoma.

“(235) WEATHERFORD, OKLAHOMA.—\$500,000 for arsenic program and water related infrastructure, city of Weatherford, Oklahoma.

“(236) WOODWARD, OKLAHOMA.—\$1,500,000 for water improvements and water related infrastructure, Woodward, Oklahoma.

“(237) ALBANY, OREGON.—\$35,000,000 for wastewater infrastructure to improve habitat restoration, Albany, Oregon.

“(238) BEAVER CREEK RESERVOIR, PENNSYLVANIA.—\$3,000,000 for projects for water supply and related activities, Beaver Creek Reservoir, Clarion County, Beaver and Salem Townships, Pennsylvania.

“(239) HATFIELD BOROUGH, PENNSYLVANIA.—\$310,000 for wastewater related infrastructure for Hatfield Borough, Pennsylvania.

“(240) LEHIGH COUNTY, PENNSYLVANIA.—\$5,000,000 for stormwater control measures and storm sewer improvements, Lehigh County, Pennsylvania.

“(241) NORTH WALES BOROUGH, PENNSYLVANIA.—\$1,516,584 for wastewater related infrastructure for North Wales Borough, Pennsylvania.

“(242) PEN ARGYL, PENNSYLVANIA.—\$5,250,000 for wastewater infrastructure, Pen Argyl, Pennsylvania.

“(243) PHILADELPHIA, PENNSYLVANIA.—\$1,600,000 for wastewater related infrastructure for Philadelphia, Pennsylvania.

“(244) STOCKERTON BOROUGH, TATAMY BOROUGH, AND PALMER TOWNSHIP, PENNSYLVANIA.—\$10,000,000 for stormwater control measures, particularly to address sinkholes, in the vicinity of Stockerton Borough, Tatamy Borough, and Palmer Township, Pennsylvania.

“(245) VERA CRUZ, PENNSYLVANIA.—\$5,500,000 for wastewater infrastructure, Vera Cruz, Pennsylvania.

“(246) COMMONWEALTH OF PUERTO RICO.—\$35,000,000 for water and wastewater infrastructure in the Commonwealth of Puerto Rico.

“(247) CHARLESTON, SOUTH CAROLINA.—\$4,000,000 for stormwater control measures and storm sewer improvements, Spring Street/Fishburne Street drainage project, Charleston, South Carolina.

“(248) CHARLESTON AND WEST ASHLEY, SOUTH CAROLINA.—\$6,000,000 for wastewater tunnel replacement, Charleston and West Ashley, South Carolina.

“(249) CROOKED CREEK, MARLBORO COUNTY, SOUTH CAROLINA.—\$25,000,000 for a project for water storage and water supply infrastructure on Crooked Creek, Marlboro County, South Carolina.

“(250) MYRTLE BEACH, SOUTH CAROLINA.—\$18,000,000 for environmental infrastructure, including ocean outfalls, Myrtle Beach, South Carolina.

“(251) NORTH MYRTLE BEACH, SOUTH CAROLINA.—\$11,000,000 for environmental infrastructure, including ocean outfalls, North Myrtle Beach, South Carolina.

“(252) SURFSIDE, SOUTH CAROLINA.—\$11,000,000 for environmental infrastructure, including stormwater system improvements and ocean outfalls, Surfside, South Carolina.

“(253) CHEYENNE RIVER SIOUX RESERVATION (DEWEY AND ZIEBACH COUNTIES) AND PERKINS AND MEADE COUNTIES, SOUTH DAKOTA.—\$65,000,000 for water related infrastructure, Cheyenne River Sioux Reservation (Dewey and Ziebach counties) and Perkins and Meade Counties, South Dakota.

“(254) ATHENS, TENNESSEE.—\$16,000,000 for wastewater infrastructure, Athens, Tennessee.

“(255) BLAINE, TENNESSEE.—\$500,000 for water supply and wastewater infrastructure, Blaine, Tennessee.

“(256) CLAIBORNE COUNTY, TENNESSEE.—\$1,250,000 for water supply and wastewater infrastructure, Claiborne County, Tennessee.

“(257) GILES COUNTY, TENNESSEE.—\$2,000,000 for water supply and wastewater infrastructure, county of Giles, Tennessee.

“(258) GRAINGER COUNTY, TENNESSEE.—\$1,250,000 for water supply and wastewater infrastructure, Grainger County, Tennessee.

“(259) HAMILTON COUNTY, TENNESSEE.—\$500,000 for water supply and wastewater infrastructure, Hamilton County, Tennessee.

“(260) HARROGATE, TENNESSEE.—\$2,000,000 for water supply and wastewater infrastructure, city of Harrogate, Tennessee.

“(261) JOHNSON COUNTY, TENNESSEE.—\$600,000 for water supply and wastewater infrastructure, Johnson County, Tennessee.

“(262) KNOXVILLE, TENNESSEE.—\$5,000,000 for water supply and wastewater infrastructure, city of Knoxville, Tennessee.

“(263) NASHVILLE, TENNESSEE.—\$5,000,000 for water supply and wastewater infrastructure, Nashville, Tennessee.

“(264) LEWIS, LAWRENCE, AND WAYNE COUNTIES, TENNESSEE.—\$2,000,000 for water supply and wastewater infrastructure, counties of Lewis, Lawrence, and Wayne, Tennessee.

“(265) OAK RIDGE, TENNESSEE.—\$4,000,000 for water supply and wastewater infrastructure, city of Oak Ridge, Tennessee.

“(266) PLATEAU UTILITY DISTRICT, MORGAN COUNTY, TENNESSEE.—\$1,000,000 for water supply and wastewater infrastructure, Morgan County, Tennessee.

“(267) SHELBY COUNTY, TENNESSEE.—\$4,000,000 for water related environmental infrastructure, county of Shelby, Tennessee.

“(268) CENTRAL TEXAS.—\$20,000,000 for water and wastewater infrastructure in Bosque, Brazos, Burleson, Grimes, Hill, Hood, Johnson, Madison, McLennan, Limestone, Robertson, and Somervell Counties, Texas.

“(269) EL PASO COUNTY, TEXAS.—\$25,000,000 for water related infrastructure and resource protection, including stormwater management, and development, El Paso County, Texas.

“(270) FT. BEND COUNTY, TEXAS.—\$20,000,000 for water and wastewater infrastructure, Ft. Bend County, Texas.

“(271) DUCHESNE, IRON, AND UINTAH COUNTIES, UTAH.—\$10,800,000 for water related infrastructure, Duchesne, Iron, and Uintah Counties, Utah.

“(272) NORTHERN WEST VIRGINIA.—\$20,000,000 for water and wastewater infrastructure in Hancock, Ohio, Marshall, Wetzel, Tyler, Pleasants, Wood, Doddridge, Monongalia, Marion, Harrison, Taylor, Barbour, Preston, Tucker, Mineral, Grant, Gilmer, Brooke, and Ritchie Counties, West Virginia.

“(273) UNITED STATES VIRGIN ISLANDS.—\$25,000,000 for wastewater infrastructure for the St. Croix Anguilla wastewater treatment plant and the St. Thomas Charlotte Amalie wastewater treatment plant, United States Virgin Islands.”.

TITLE VI—FLORIDA EVERGLADES

SEC. 6001. HILLSBORO AND OKEECHOBEE AQUIFER, FLORIDA.

(a) MODIFICATION.—The project for Hillsboro and Okeechobee Aquifer, Florida, authorized by section 101(a)(16) of the Water Resources Development Act of 1999 (113 Stat. 276), is modified to authorize the Secretary to carry out the project at a total cost of \$42,500,000.

(b) TREATMENT.—Section 601(b)(2)(A) of the Water Resources Development Act of 2000 (114 Stat. 2681) is amended—

(1) in clause (i) by adding at the end the following: “The project for aquifer storage and recovery, Hillsboro and Okeechobee Aquifer, Florida, authorized by section 101(a)(16) of the Water Resources Development Act of 1999 (113 Stat. 276), shall be treated for purposes of this section as being in the Plan, except that operation and maintenance costs of the project shall remain a non-Federal responsibility.”; and

(2) in clause (iii) by inserting after “subparagraph (B)” the following: “and the project for aquifer storage and recovery, Hillsboro and Okeechobee Aquifer”.

SEC. 6002. PILOT PROJECTS.

Section 601(b)(2)(B) of the Water Resources Development Act of 2000 (114 Stat. 2681) is amended—

(1) in the matter preceding clause (i)—

(A) by striking “\$69,000,000” and inserting “\$71,200,000”; and

(B) by striking “\$34,500,000” each place it appears and inserting “\$35,600,000”; and

(2) in clause (i)—

(A) by striking “\$6,000,000” and inserting “\$8,200,000”; and

(B) by striking “\$3,000,000” each place it appears and inserting “\$4,100,000”.

SEC. 6003. MAXIMUM COSTS.

(a) **MAXIMUM COST OF PROJECTS.**—Section 601(b)(2)(E) of the Water Resources Development Act of 2000 (114 Stat. 2683) is amended by inserting “and section (d)” before the period at the end.

(b) **MAXIMUM COST OF PROGRAM AUTHORITY.**—Section 601(c)(3) of such Act (114 Stat. 2684) is amended by adding at the end the following:

“(C) **MAXIMUM COST OF PROGRAM AUTHORITY.**—Section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280) shall apply to the individual project funding limits in subparagraph (A) and the aggregate cost limits in subparagraph (B).”.

Applicability.

SEC. 6004. CREDIT.

Section 601(e)(5)(B) of the Water Resources Development Act of 2000 (114 Stat. 2685) is amended—

(1) in clause (i)—

(A) by striking “or” at the end of subclause (I);

(B) by adding “or” at the end of subclause (II); and

(C) by adding at the end the following:

“(III) the credit is provided for work carried out before the date of the partnership agreement between the Secretary and the non-Federal sponsor, as defined in an agreement between the Secretary and the non-Federal sponsor providing for such credit;” and

(2) in clause (ii)—

(A) by striking “design agreement or the project cooperation”; and

(B) by inserting before the semicolon the following:

“, including in the case of credit provided under clause

(i)(III) conditions relating to design and construction”.

SEC. 6005. OUTREACH AND ASSISTANCE.

Section 601(k) of the Water Resources Development Act of 2000 (114 Stat. 2691) is amended by adding at the end the following:

“(3) **MAXIMUM EXPENDITURES.**—The Secretary may expend up to \$3,000,000 per fiscal year for fiscal years beginning after September 30, 2004, to carry out this subsection.”.

SEC. 6006. CRITICAL RESTORATION PROJECTS.

Section 528(b)(3)(C) of the Water Resources Development Act of 1996 (110 Stat. 3769) is amended—

(1) in clause (i) by striking “\$75,000,000” and all that follows and inserting “\$95,000,000”; and

(2) by striking clause (ii) and inserting the following:

“(ii) FEDERAL SHARE.—

“(I) IN GENERAL.—Except as provided in subclause (II), the Federal share of the cost of carrying out a project under subparagraph (A) shall not exceed \$25,000,000.

“(II) SEMINOLE WATER CONSERVATION PLAN.—The Federal share of the cost of carrying out the Seminole water conservation plan shall not exceed \$30,000,000.”.

SEC. 6007. REGIONAL ENGINEERING MODEL FOR ENVIRONMENTAL RESTORATION.

(a) IN GENERAL.—The Secretary shall complete the development and testing of the regional engineering model for environmental restoration as expeditiously as practicable.

(b) USAGE.—The Secretary shall consider using, as appropriate, the regional engineering model for environmental restoration in the development of future water resource projects, including projects developed pursuant to section 601 of the Water Resources Development Act of 2000 (114 Stat. 2680).

TITLE VII—LOUISIANA COASTAL AREA

SEC. 7001. DEFINITIONS.

In this title, the following definitions apply:

(1) COASTAL LOUISIANA ECOSYSTEM.—The term “coastal Louisiana ecosystem” means the coastal area of Louisiana from the Sabine River on the west to the Pearl River on the east, including those parts of the Atchafalaya River Basin and the Mississippi River Deltaic Plain below the Old River Control Structure and the Chenier Plain included within the study area of the restoration plan.

(2) GOVERNOR.—The term “Governor” means the Governor of the State of Louisiana.

(3) RESTORATION PLAN.—The term “restoration plan” means the report of the Chief of Engineers for ecosystem restoration for the Louisiana Coastal Area dated January 31, 2005.

(4) TASK FORCE.—The term “Task Force” means the Coastal Louisiana Ecosystem Protection and Restoration Task Force established by section 7003.

(5) COMPREHENSIVE PLAN.—The term “comprehensive plan” means the plan developed under section 7002 and any revisions thereto.

SEC. 7002. COMPREHENSIVE PLAN.

(a) IN GENERAL.—The Secretary, in coordination with the Governor, shall develop a comprehensive plan for protecting, preserving, and restoring the coastal Louisiana ecosystem.

(b) INTEGRATION OF PLAN INTO COMPREHENSIVE HURRICANE PROTECTION STUDY.—In developing the comprehensive plan, the Secretary shall integrate the restoration plan into the analysis and design of the comprehensive hurricane protection study authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247).

(c) **CONSISTENCY WITH COMPREHENSIVE COASTAL PROTECTION MASTER PLAN.**—In developing the comprehensive plan, the Secretary shall ensure that the plan is not inconsistent with the goals, analysis, and design of the comprehensive coastal protection master plan authorized and defined pursuant to Act 8 of the First Extraordinary Session of the Louisiana State Legislature, 2005.

(d) **INCLUSIONS.**—The comprehensive plan shall include a description of—

(1) the framework of a long-term program integrated with hurricane and storm damage reduction, flood damage reduction, and navigation activities that provide for the comprehensive protection, conservation, and restoration of the wetlands, estuaries, barrier islands, shorelines, and related land and features of the coastal Louisiana ecosystem, including protection of critical resources, habitat, and infrastructure from the effects of a coastal storm, a hurricane, erosion, or subsidence;

(2) the means by which a new technology, or an improved technique, can be integrated into the program referred to in paragraph (1);

(3) the role of other Federal and State agencies and programs in carrying out such program;

(4) specific, measurable success criteria (including ecological criteria) by which success of the plan will be measured;

(5) proposed projects in order of priority as determined by their respective potential to contribute to—

(A) creation of coastal wetlands; and

(B) flood protection of communities ranked by population density and level of protection; and

(6) efforts by Federal, State, and local interests to address sociological, economic, and related fields of law.

(e) **CONSIDERATIONS.**—In developing the comprehensive plan, the Secretary shall consider the advisability of integrating into the program referred to in subsection (d)(1)—

(1) an investigation and study of the maximum effective use of the water and sediment of the Mississippi and Atchafalaya Rivers for coastal restoration purposes consistent with flood control and navigation;

(2) a schedule for the design and implementation of large-scale water and sediment reintroduction projects and an assessment of funding needs from any source;

(3) an investigation and assessment of alterations in the operation of the Old River Control Structure, consistent with flood control and navigation purposes;

(4) any related Federal or State project being carried out on the date on which the plan is developed;

(5) any activity in the restoration plan; and

(6) any other project or activity identified in one or more of—

(A) the Mississippi River and Tributaries program;

(B) the Louisiana Coastal Wetlands Conservation Plan;

(C) the Louisiana Coastal Zone Management Plan;

(D) the plan of the State of Louisiana entitled “Integrated Ecosystem Restoration and Hurricane Protection—Louisiana’s Comprehensive Master Plan for a Sustainable Coast”; and

(E) other relevant reports as determined by the Secretary.

(f) REPORTS TO CONGRESS.—

(1) INITIAL REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the comprehensive plan.

(2) UPDATES.—Not later than 5 years after the date of submission of a report under paragraph (1), and at least once every 5 years thereafter until implementation of the comprehensive plan is complete, the Secretary shall submit to Congress a report containing an update of the plan and an assessment of the progress made in implementing the plan.

SEC. 7003. LOUISIANA COASTAL AREA.

(a) IN GENERAL.—The Secretary may carry out a program for ecosystem restoration, Louisiana Coastal Area, Louisiana, substantially in accordance with the report of the Chief of Engineers, dated January 31, 2005.

(b) PRIORITIES.—

(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary shall give priority to—

(A) any portion of the program identified in the report described in subsection (a) as a critical restoration feature;

(B) any Mississippi River diversion project that—

(i) will protect a major population area of the Pontchartrain, Pearl, Breton Sound, Barataria, or Terrebonne basins; and

(ii) will produce an environmental benefit to the coastal Louisiana ecosystem;

(C) any barrier island, or barrier shoreline, project that—

(i) will be carried out in conjunction with a Mississippi River diversion project; and

(ii) will protect a major population area;

(D) any project that will reduce storm surge and prevent or reduce the risk of loss of human life and the risk to public safety; and

(E) a project to physically modify the Mississippi River-Gulf Outlet and to restore the areas affected by the Mississippi River-Gulf Outlet in accordance with the comprehensive plan to be developed under section 7002(a) and consistent with sections 7006(c)(1)(A) and 7013.

SEC. 7004. COASTAL LOUISIANA ECOSYSTEM PROTECTION AND RESTORATION TASK FORCE.

(a) ESTABLISHMENT.—There is established a task force to be known as the Coastal Louisiana Ecosystem Protection and Restoration Task Force (in this section referred to as the “Task Force”).

(b) MEMBERSHIP.—The Task Force shall consist of the following members (or, in the case of the head of a Federal agency, a designee of the head of the agency at the level of Assistant Secretary or an equivalent level):

(1) The Secretary.

(2) The Secretary of the Interior.

(3) The Secretary of Commerce.

(4) The Administrator of the Environmental Protection Agency.

(5) The Secretary of Agriculture.

(6) The Secretary of Transportation.

(7) The Secretary of Energy.

(8) The Administrator of the Federal Emergency Management Agency.

(9) The Commandant of the Coast Guard.

(10) The Chair of the Coastal Protection and Restoration Authority of Louisiana.

(11) Two representatives of the State of Louisiana selected by the Governor.

(c) DUTIES.—The Task Force shall make recommendations to the Secretary regarding—

(1) policies, strategies, plans, programs, projects, and activities for addressing conservation, protection, restoration, and maintenance of the coastal Louisiana ecosystem;

(2) financial participation by each agency represented on the Task Force in conserving, protecting, restoring, and maintaining the coastal Louisiana ecosystem, including recommendations—

(A) that identify funds from current agency missions and budgets; and

(B) for coordinating individual agency budget requests; and

(3) the comprehensive plan to be developed under section 7002(a).

(d) REPORT.—The Task Force shall submit to Congress a biennial report that summarizes the activities and recommendations of the Task Force.

(e) WORKING GROUPS.—

(1) GENERAL AUTHORITY.—The Task Force may establish such working groups as the Task Force determines to be necessary to assist the Task Force in carrying out this section.

(2) HURRICANES KATRINA AND RITA.—

(A) INTEGRATION TEAM.—The Task Force shall establish a working group for the purpose of advising the Task Force of opportunities to integrate the planning, engineering, design, implementation, and performance of Corps of Engineers projects for hurricane and storm damage reduction, flood damage reduction, ecosystem restoration, and navigation in those areas in Louisiana for which a major disaster has been declared by the President as a result of Hurricane Katrina or Rita.

Establishment.

(B) EXPERTISE; REPRESENTATION.—In establishing the working group under subparagraph (A), the Task Force shall ensure that the group—

(i) has expertise in coastal estuaries, diversions, coastal restoration and wetlands protection, ecosystem restoration, hurricane protection, storm damage reduction systems, navigation, and ports; and

(ii) represents the State of Louisiana and local governments in southern Louisiana.

(C) DUTIES.—In developing its recommendations under this subsection, the working group shall—

(i) review reports relating to the performance of, and recommendations relating to the future performance of, the hurricane, coastal, and flood protection systems in southern Louisiana, including the reports issued by the Interagency Performance Evaluation

Team, the National Academy of Sciences, the National Science Foundation, the American Society of Civil Engineers, and Team Louisiana for the purpose of advising the Task Force and the Secretary on opportunities to improve the performance of the protection systems;

(ii) assist in providing reviews under section 2035; and

(iii) carry out such other duties as the Task Force or the Secretary determines to be appropriate.

(f) **COMPENSATION.**—Members of the Task Force and members of a working group established by the Task Force may not receive compensation for their services as members of the Task Force or working group, as the case may be.

(g) **TRAVEL EXPENSES.**—Travel expenses incurred by members of the Task Force and members of a working group established by the Task Force, in the performance of their service on the Task Force or working group, as the case may be, shall be paid by the agency or entity that the member represents.

(h) **NONAPPLICABILITY OF FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force or any working group established by the Task Force.

SEC. 7005. PROJECT MODIFICATIONS.

(a) **REVIEW.**—The Secretary, in cooperation with the non-Federal interest of the project involved, shall review each Federally-authorized water resources project in the coastal Louisiana ecosystem being carried out or completed as of the date of enactment of this Act to determine whether the project needs to be modified—

(1) to take into account the program authorized by section 7003 and the projects authorized by sections 7006(e) and 7013; or

(2) to contribute to ecosystem restoration under section 7003, 7006(e), or 7013.

(b) **MODIFICATIONS.**—Subject to subsections (c) and (d), the Secretary may carry out the modifications described in subsection (a).

(c) **PUBLIC NOTICE AND COMMENT.**—Before completing the report required under subsection (d), the Secretary shall provide an opportunity for public notice and comment.

(d) **REPORT.**—

(1) **IN GENERAL.**—Before modifying an operation or feature of a project under subsection (b), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the modification.

(2) **INCLUSION.**—A report describing a modification under paragraph (1) shall include such information relating to the timeline for and cost of the modification, as the Secretary determines to be relevant.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$10,000,000.

SEC. 7006. CONSTRUCTION.

(a) **SCIENCE AND TECHNOLOGY.**—

(1) IN GENERAL.—The Secretary shall carry out a coastal Louisiana ecosystem science and technology program substantially in accordance with the restoration plan at a total cost of \$100,000,000.

(2) PURPOSES.—The purposes of the program shall be—

(A) to identify any uncertainty relating to the physical, chemical, geological, biological, and cultural baseline conditions in the coastal Louisiana ecosystem;

(B) to improve knowledge of the physical, chemical, geological, biological, and cultural baseline conditions in the coastal Louisiana ecosystem;

(C) to identify and develop technologies, models, and methods to carry out this subsection; and

(D) to advance and expedite the implementation of the comprehensive plan.

(3) WORKING GROUPS.—The Secretary may establish such working groups as the Secretary determines to be necessary to assist the Secretary in carrying out this subsection.

(4) CONTRACTS AND COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into a contract or cooperative agreement with a consortium of academic institutions in Louisiana with scientific or engineering expertise in the restoration of aquatic and marine ecosystems for coastal restoration and enhancement through science and technology.

(5) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a working group established under this subsection.

(b) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may carry out demonstration projects substantially in accordance with the restoration plan and within the coastal Louisiana ecosystem for the purpose of resolving critical areas of scientific or technological uncertainty related to the implementation of the comprehensive plan.

(2) MAXIMUM COST.—

(A) TOTAL COST.—The total cost for planning, design, and construction of all projects under this subsection shall not exceed \$100,000,000.

(B) INDIVIDUAL PROJECT.—The total cost of any single project under this subsection shall not exceed \$25,000,000.

(c) INITIAL PROJECTS.—

(1) IN GENERAL.—The Secretary is authorized to carry out the following projects substantially in accordance with the restoration plan:

(A) Mississippi River-Gulf Outlet environmental restoration at a total cost of \$105,300,000, but not including those elements of the project that produce navigation benefits.

(B) Small diversion at Hope Canal at a total cost of \$68,600,000.

(C) Barataria basin barrier shoreline restoration at a total cost of \$242,600,000.

(D) Small Bayou Lafourche reintroduction at a total cost of \$133,500,000.

(E) Medium diversion at Myrtle Grove with dedicated dredging at a total cost of \$278,300,000.

(2) MODIFICATIONS.—

(A) IN GENERAL.—In carrying out each project under paragraph (1), the Secretary shall carry out such modifications as may be necessary to the ecosystem restoration features identified in the restoration plan—

(i) to address the impacts of Hurricanes Katrina and Rita on the areas of the project; and

(ii) to ensure consistency with the project authorized by section 7013 (including work in and around the vicinity of the Mississippi River-Gulf Outlet).

(B) INTEGRATION.—The Secretary shall ensure that each modification under subparagraph (A) is taken into account in conducting the study of comprehensive hurricane protection authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247).

(C) MISSISSIPPI RIVER-GULF OUTLET.—In carrying out the project under paragraph (1)(A), the Secretary shall carry out such modifications as may be necessary to make the project consistent with and complementary to the closure and restoration of the Mississippi River-Gulf Outlet authorized by section 7013.

(3) CONSTRUCTION REPORTS.—Before the Secretary may begin construction of any project under this subsection, the Secretary shall submit a report documenting any modifications to the project, including cost changes, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(4) APPLICABILITY OF OTHER PROVISIONS.—Notwithstanding section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280), the cost of a project under this subsection, including any modifications to the project, shall not exceed 150 percent of the cost of such project set forth in paragraph (1).

(d) BENEFICIAL USE OF DREDGED MATERIAL.—

(1) IN GENERAL.—The Secretary, substantially in accordance with the restoration plan, shall implement in the coastal Louisiana ecosystem a program for the beneficial use of material dredged from federally maintained waterways at a total cost of \$100,000,000.

(2) CONSIDERATION.—In carrying out the program under paragraph (1), the Secretary shall consider the beneficial use of sediment from the Illinois River System for wetlands restoration in wetlands-depleted watersheds of the coastal Louisiana ecosystem.

(e) ADDITIONAL PROJECTS.—

(1) IN GENERAL.—The Secretary is authorized to carry out the following projects referred to in the restoration plan if the Secretary determines such projects are feasible:

(A) Land Bridge between Caillou Lake and the Gulf of Mexico at a total cost of \$56,300,000.

(B) Gulf Shoreline at Point Au Fer Island at a total cost of \$43,400,000.

(C) Modification of Caernarvon Diversion at a total cost of \$20,700,000.

(D) Modification of Davis Pond Diversion at a total cost of \$64,200,000.

(2) **REPORTS.**—Not later than December 31, 2009, the Secretary shall submit feasibility reports on the projects described in paragraph (1) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(3) **PROJECTS SUBJECT TO REPORTS.**—

(A) **FEASIBILITY REPORTS.**—Not later than December 31, 2008, the Secretary shall submit to Congress feasibility reports on the following projects referred to in the restoration plan:

(i) Multipurpose Operation of Houma Navigation Lock at a total cost of \$18,100,000.

(ii) Terrebonne Basin Barrier Shoreline Restoration at a total cost of \$124,600,000.

(iii) Small Diversion at Convent/Blind River at a total cost of \$88,000,000.

(iv) Amite River Diversion Canal Modification at a total cost of \$5,600,000.

(v) Medium Diversion at White's Ditch at a total cost of \$86,100,000.

(vi) Convey Atchafalaya River Water to Northern Terrebonne Marshes at a total cost of \$221,200,000.

(B) **CONSTRUCTION.**—The Secretary may carry out the projects under subparagraph (A) substantially in accordance with the plans and subject to the conditions, recommended in a final report of the Chief of Engineers if a favorable report of the Chief is completed by not later than December 31, 2010.

(4) **CONSTRUCTION.**—No appropriations shall be made to construct any project under this subsection if the report under paragraph (2) or paragraph (3), as the case may be, has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 7007. NON-FEDERAL COST SHARE.

(a) **CREDIT.**—The Secretary shall credit, in accordance with section 221 of the Flood Control Act 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of a study or project under this title the cost of work carried out in the coastal Louisiana ecosystem by the non-Federal interest for the project before the date of the execution of the partnership agreement for the study or project.

(b) **SOURCES OF FUNDS.**—The non-Federal interest may use, and the Secretary shall accept, funds provided by a Federal agency under any other Federal program, to satisfy, in whole or in part, the non-Federal share of the cost of the study or project if the Federal agency that provides the funds determines that the funds are authorized to be used to carry out the study or project.

(c) **NONGOVERNMENTAL ORGANIZATIONS.**—A nongovernmental organization shall be eligible to contribute all or a portion of the non-Federal share of the cost of a project under this title.

(d) **TREATMENT OF CREDIT BETWEEN PROJECTS.**—Any credit provided under this section toward the non-Federal share of the cost of a study or project under this title may be applied toward

the non-Federal share of the cost of any other study or project under this title.

(e) PERIODIC MONITORING.—

(1) IN GENERAL.—To ensure that the contributions of the non-Federal interest equal the non-Federal share of the cost of a study or project under this title during each 5-year period beginning after the date of commencement of the first study or project under this title, the Secretary shall—

(A) monitor for each study or project under this title the non-Federal provision of cash, in-kind services and materials, and land, easements, rights-of-way, relocations, and disposal areas; and

(B) manage the requirement of the non-Federal interest to provide for each such study or project cash, in-kind services and materials, and land, easements, rights-of-way, relocations, and disposal areas.

(2) OTHER MONITORING.—The Secretary shall conduct monitoring separately for the study phase, construction phase, preconstruction engineering and design phase, and planning phase for each project authorized on or after the date of enactment of this Act for all or any portion of the coastal Louisiana ecosystem.

(f) AUDITS.—Credit for land, easements, rights-of-way, relocations, and disposal areas (including land value and incidental costs) provided under this section, and the cost of work provided under this section, shall be subject to audit by the Secretary.

SEC. 7008. PROJECT JUSTIFICATION.

(a) IN GENERAL.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) or any other provision of law, in carrying out any project or activity under this title or any other provision of law to protect, conserve, and restore the coastal Louisiana ecosystem, the Secretary may determine that—

(1) the project or activity is justified by the environmental benefits derived by the coastal Louisiana ecosystem; and

(2) no further economic justification for the project or activity shall be required if the Secretary determines that the project or activity is cost effective.

(b) LIMITATION ON APPLICABILITY.—Subsection (a) shall not apply to any separable element of a project intended to produce benefits that are predominantly unrelated to the protection, preservation, and restoration of the coastal Louisiana ecosystem.

SEC. 7009. INDEPENDENT REVIEW.

Establishment.

The Secretary shall establish a council, to be known as the “Louisiana Water Resources Council”, which shall serve as the exclusive peer review panel for activities conducted by the Corps of Engineers in the areas in the State of Louisiana declared as major disaster areas in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) in response to Hurricane Katrina or Rita of 2005, in accordance with the requirements of section 2034.

SEC. 7010. EXPEDITED REPORTS.

(a) **IN GENERAL.**—The Secretary shall expedite completion of the reports for the following projects and, if the Secretary determines that a project is feasible, proceed directly to project preconstruction engineering and design:

(1) The projects identified in the study of comprehensive hurricane protection authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2447).

(2) The projects identified in the Southwest Coastal Louisiana hurricane and storm damage reduction study authorized by the Committee on Transportation and Infrastructure of the House of Representatives on December 7, 2005.

(b) **SUBMISSION OF REPORTS.**—Upon completion of the reports identified in subsection (a), the Secretary shall submit the reports to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 7011. REPORTING.

Not later than 6 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report, including a description of—

- (1) the projects authorized and undertaken under this title;
- (2) the construction status of the projects;
- (3) the cost to date and the expected final cost of each project undertaken under this title; and
- (4) the benefits and environmental impacts of the projects.

SEC. 7012. NEW ORLEANS AND VICINITY.

(a) **IN GENERAL.**—The Secretary is authorized to—

(1) raise levee heights where necessary and otherwise enhance the Lake Pontchartrain and Vicinity project and the West Bank and Vicinity project to provide the level of protection necessary to achieve the certification required for a 100-year level of flood protection in accordance with the national flood insurance program under the base flood elevations current at the time of construction of the levee;

(2) modify the 17th Street, Orleans Avenue, and London Avenue drainage canals in the city of New Orleans and install pumps and closure structures at or near the lakefront at Lake Pontchartrain;

(3) armor critical elements of the New Orleans hurricane and storm damage reduction system;

(4) modify the Inner Harbor Navigation Canal to increase the reliability of the flood protection system for the city of New Orleans;

(5) replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the New Orleans to Venice Hurricane Protection project;

(6) reinforce or replace flood walls in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve performance of the flood and storm damage reduction systems;

(7) perform one time stormproofing of interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events;

(8) repair, replace, modify and improve non-Federal levees and associated protection measures in Terrebonne Parish; and

(9) reduce the risk of storm damage to the greater New Orleans metropolitan area by restoring the surrounding wetlands through measures to begin to reverse wetland losses in areas affected by navigation, oil and gas, and other channels and through modification of the Caernarvon Freshwater Diversion structure or its operations.

(b) **COST SHARING.**—Activities authorized by subsection (a) and section 7013 shall be carried out in a manner that is consistent with the cost-sharing requirements specified in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234).

Notification.

(c) **CONDITIONS.**—The Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate if estimates for the expenditure of funds on any single project or activity identified in subsection (a) exceeds the amount specified for that project or activity in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006. No appropriation in excess of 25 percent above the amount specified for a project or activity in such Act may be made until an increase in the level of expenditure has been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 7013. MISSISSIPPI RIVER-GULF OUTLET.

(a) **DEAUTHORIZATION.**—

Effective date.

(1) **IN GENERAL.**—Effective beginning on the date of submission of the plan required under paragraph (3), the navigation channel portion of the Mississippi River-Gulf Outlet element of the project for navigation, Mississippi River, Baton Rouge to the Gulf of Mexico, authorized by the Act entitled “An Act to authorize construction of the Mississippi River-Gulf outlet”, approved March 29, 1956 (70 Stat. 65) and modified by section 844 of the Water Resources Development Act of 1986 (100 Stat. 4177) and section 326 of the Water Resources Development Act of 1996 (110 Stat. 3717), which extends from the Gulf of Mexico to Mile 60 at the southern bank of the Gulf Intracoastal Waterway, is not authorized.

(2) **SCOPE.**—Nothing in this paragraph modifies or deauthorizes the Inner Harbor navigation canal replacement project authorized by that Act of March 29, 1956.

(3) **CLOSURE AND RESTORATION PLAN.**—

Deadline.
Reports.

(A) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a final report on the deauthorization of the Mississippi River-Gulf outlet, as described under the heading “INVESTIGATIONS” under

chapter 3 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (120 Stat. 453).

(B) INCLUSIONS.—At a minimum, the report under subparagraph (A) shall include—

(i) a plan to physically modify the Mississippi River-Gulf Outlet and restore the areas affected by the navigation channel;

(ii) a plan to restore natural features of the ecosystem that will reduce or prevent damage from storm surge;

(iii) a plan to prevent the intrusion of saltwater into the waterway;

(iv) efforts to integrate the recommendations of the report with the program authorized under section 7003 and the analysis and design authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247); and

(v) consideration of—

(I) use of native vegetation; and

(II) diversions of fresh water to restore the Lake Borgne ecosystem.

(4) CONSTRUCTION.—The Secretary shall carry out a plan to close the Mississippi River-Gulf Outlet and restore and protect the ecosystem substantially in accordance with the plan required under paragraph (3), if the Secretary determines that the project is cost-effective, environmentally acceptable, and technically feasible.

SEC. 7014. HURRICANE AND STORM DAMAGE REDUCTION.

(a) REPORTS.—With respect to the projects identified in the analysis and design of comprehensive hurricane protection authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247), the Secretary shall submit, to the maximum extent practicable, specific project recommendations in a report developed under that title.

(b) EMERGENCY PROCEDURES.—

(1) IN GENERAL.—If the President determines that a project recommended in the analysis and design of comprehensive hurricane protection under title I of the Energy and Water Development Appropriations Act, 2006 could—

(A) address an imminent threat to life and property;

(B) prevent a dangerous storm surge from reaching a populated area;

(C) prevent the loss of coastal areas that reduce the impact of storm surge;

(D) benefit national energy security;

(E) protect emergency hurricane evacuation routes or shelters; or

(F) address inconsistencies in hurricane protection standards,

the President may submit to the President pro tempore of the Senate for authorization a legislative proposal relating to the project, as the President determines to be appropriate.

(2) PRIORITIZATION.—In submitting legislative proposals under paragraph (1), the President shall give priority to any project that, as determined by the President, would—

President.

- (A) to the maximum extent practicable, reduce the risk—
- (i) of loss of human life;
 - (ii) to public safety; and
 - (iii) of damage to property; and
- (B) minimize costs and environmental impacts.
- (3) EXPEDITED CONSIDERATION.—
- Effective date. (A) IN GENERAL.—Beginning after December 31, 2008, any legislative proposal submitted by the President under paragraph (1) shall be eligible for expedited consideration in accordance with this paragraph.
- (B) INTRODUCTION.—As soon as practicable after the date of receipt of a legislative proposal under paragraph (1), the Chairman of the Committee on Environment and Public Works of the Senate shall introduce the proposal as a bill, by request, in the Senate.
- (C) REFERRAL.—A bill introduced under subparagraph (B) shall be referred to the Committee on Environment and Public Works of the Senate.
- (D) COMMITTEE CONSIDERATION.—
- Deadline. (i) IN GENERAL.—Not later than 45 legislative days after a bill under subparagraph (B) is referred to the committee in accordance with subparagraph (C), the committee shall act on the bill.
- (ii) FAILURE TO ACT.—If the committee fails to act on a bill by the date specified in clause (i), the bill shall be discharged from the committee and placed on the calendar of the Senate.
- (4) EFFECTIVE DATE.—The requirements of, and authorities under, this subsection shall expire on December 31, 2010.

SEC. 7015. LAROSE TO GOLDEN MEADOW.

(a) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing any modification required to the project for flood damage reduction, Larose to Golden Meadow, Louisiana, to provide the level of protection necessary to achieve the certification required for a 100-year level of flood protection in accordance with the national flood insurance program.

(b) MODIFICATIONS.—The Secretary is authorized to carry out a modification described in subsection (a) if—

(1) the Secretary determines that the modification in the report under subsection (a) is feasible; and

(2) the total cost of the modification does not exceed \$90,000,000.

(c) REQUIREMENT.—No appropriation shall be made to construct any modification under this section if the report under subsection (a) has not been approved by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 7016. LOWER JEFFERSON PARISH, LOUISIANA.

(a) IN GENERAL.—The Secretary may carry out a project for flood damage reduction in Lower Jefferson Parish, Louisiana.

(b) **EXISTING STUDIES.**—In carrying out the project, the Secretary shall use, to the maximum extent practicable, existing studies for projects for flood damage reduction in the vicinity of Lower Jefferson Parish, Louisiana, prepared under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(c) **CONSTRUCTION.**—The Secretary may proceed to construction or complete the construction of projects in Lower Jefferson Parish if the projects are being developed or carried out under section 205 of the Flood Control Act of 1948 as of the date of enactment of this Act.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$100,000,000 to carry out this section.

TITLE VIII—UPPER MISSISSIPPI RIVER AND ILLINOIS WATER-WAY SYSTEM

SEC. 8001. DEFINITIONS.

33 USC 652 note.

In this title, the following definitions apply:

(1) **PLAN.**—The term “Plan” means the project for navigation and ecosystem improvements for the Upper Mississippi River and Illinois Waterway System: Report of the Chief of Engineers, dated December 15, 2004.

(2) **UPPER MISSISSIPPI RIVER AND ILLINOIS WATERWAY SYSTEM.**—The term “Upper Mississippi River and Illinois Waterway System” means the projects for navigation and ecosystem restoration authorized by Congress for—

(A) the segment of the Mississippi River from the confluence with the Ohio River, River Mile 0.0, to Upper St. Anthony Falls Lock in Minneapolis-St. Paul, Minnesota, River Mile 854.0; and

(B) the Illinois Waterway from its confluence with the Mississippi River at Grafton, Illinois, River Mile 0.0, to T.J. O’Brien Lock in Chicago, Illinois, River Mile 327.0.

SEC. 8002. NAVIGATION IMPROVEMENTS AND RESTORATION.

33 USC 652 note.

Except as modified by this title, the Secretary shall undertake navigation improvements and restoration of the ecosystem for the Upper Mississippi River and Illinois Waterway System substantially in accordance with the Plan and subject to the conditions described therein.

SEC. 8003. AUTHORIZATION OF CONSTRUCTION OF NAVIGATION IMPROVEMENTS.

33 USC 652 note.

(a) **SMALL SCALE AND NONSTRUCTURAL MEASURES.**—

(1) **IN GENERAL.**—The Secretary shall—

(A) construct mooring facilities at Locks 12, 14, 18, 20, 22, 24, and LaGrange Lock or other alternative locations that are economically and environmentally feasible;

(B) provide switchboats at Locks 20 through 25; and

(C) conduct development and testing of an appointment scheduling system.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—The total cost of projects authorized under this subsection shall be \$256,000,000. Such costs are to be paid half from amounts appropriated from the general fund of the Treasury and half from amounts

appropriated from the Inland Waterways Trust Fund. Such sums shall remain available until expended.

(b) NEW LOCKS.—

(1) IN GENERAL.—The Secretary shall construct new 1,200-foot locks at Locks 20, 21, 22, 24, and 25 on the Upper Mississippi River and at LaGrange Lock and Peoria Lock on the Illinois Waterway.

(2) AUTHORIZATION OF APPROPRIATIONS.—The total cost of projects authorized under this subsection shall be \$1,948,000,000. Such costs are to be paid half from amounts appropriated from the general fund of the Treasury and half from amounts appropriated from the Inland Waterways Trust Fund. Such sums shall remain available until expended.

(c) CONCURRENCE.—The mitigation required for the projects authorized under subsections (a) and (b), including any acquisition of lands or interests in lands, shall be undertaken or acquired concurrently with lands and interests in lands for the projects authorized under subsections (a) and (b), and physical construction required for the purposes of mitigation shall be undertaken concurrently with the physical construction of such projects.

33 USC 652 note.

SEC. 8004. ECOSYSTEM RESTORATION AUTHORIZATION.

(a) OPERATION.—To ensure the environmental sustainability of the existing Upper Mississippi River and Illinois Waterway System, the Secretary shall modify, consistent with requirements to avoid adverse effects on navigation, the operation of the Upper Mississippi River and Illinois Waterway System to address the cumulative environmental impacts of operation of the system and improve the ecological integrity of the Upper Mississippi River and Illinois River.

(b) ECOSYSTEM RESTORATION PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out, consistent with requirements to avoid adverse effects on navigation, ecosystem restoration projects to attain and maintain the sustainability of the ecosystem of the Upper Mississippi River and Illinois River in accordance with the general framework outlined in the Plan.

(2) PROJECTS INCLUDED.—Ecosystem restoration projects may include—

- (A) island building;
 - (B) construction of fish passages;
 - (C) floodplain restoration;
 - (D) water level management (including water draw-down);
 - (E) backwater restoration;
 - (F) side channel restoration;
 - (G) wing dam and dike restoration and modification;
 - (H) island and shoreline protection;
 - (I) topographical diversity;
 - (J) dam point control;
 - (K) use of dredged material for environmental purposes;
 - (L) tributary confluence restoration;
 - (M) spillway, dam, and levee modification to benefit the environment; and
 - (N) land and easement acquisition.
- (3) COST SHARING.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the Federal share of the cost of carrying out an ecosystem restoration project under this subsection shall be 65 percent.

(B) EXCEPTION FOR CERTAIN RESTORATION PROJECTS.—In the case of a project under this section for ecosystem restoration, the Federal share of the cost of carrying out the project shall be 100 percent if the project—

(i) is located below the ordinary high water mark or in a connected backwater;

(ii) modifies the operation of structures for navigation; or

(iii) is located on federally owned land.

(C) SAVINGS CLAUSE.—Nothing in this subsection affects the applicability of section 906(e) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(e)).

(D) NONGOVERNMENTAL ORGANIZATIONS.—In accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), for any project carried out under this title, a non-Federal sponsor may include a nonprofit entity, with the consent of the affected local government.

(4) LAND ACQUISITION.—The Secretary may acquire land or an interest in land for an ecosystem restoration project from a willing seller through conveyance of—

(A) fee title to the land; or

(B) a flood plain conservation easement.

(c) MONITORING.—The Secretary shall carry out a long term resource monitoring, computerized data inventory and analysis, and applied research program for the Upper Mississippi River and Illinois River to determine trends in ecosystem health, to understand systemic changes, and to help identify restoration needs. The program shall consider and adopt the monitoring program established under section 1103(e)(1)(A)(ii) of the Water Resources Development Act of 1986 (33 U.S.C. 652(e)(1)(A)(ii)).

(d) ECOSYSTEM RESTORATION PRECONSTRUCTION ENGINEERING AND DESIGN.—

(1) RESTORATION DESIGN.—Before initiating the construction of any individual ecosystem restoration project, the Secretary shall—

(A) establish ecosystem restoration goals and identify specific performance measures designed to demonstrate ecosystem restoration;

(B) establish the without-project condition or baseline for each performance indicator; and

(C) for each separable element of the ecosystem restoration, identify specific target goals for each performance indicator.

(2) OUTCOMES.—Performance measures identified under paragraph (1)(A) shall include specific measurable environmental outcomes, such as changes in water quality, hydrology, or the well-being of indicator species the population and distribution of which are representative of the abundance and diversity of ecosystem-dependent aquatic and terrestrial species.

(3) RESTORATION DESIGN.—Restoration design carried out as part of ecosystem restoration shall include a monitoring

plan for the performance measures identified under paragraph (1)(A), including—

- (A) a timeline to achieve the identified target goals; and
- (B) a timeline for the demonstration of project completion.

(e) CONSULTATION AND FUNDING AGREEMENTS.—

(1) IN GENERAL.—In carrying out the environmental sustainability, ecosystem restoration, and monitoring activities authorized in this section, the Secretary shall consult with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin.

(2) FUNDING AGREEMENTS.—The Secretary is authorized to enter into agreements with the Secretary of the Interior, the Upper Mississippi River Basin Association, and natural resource and conservation agencies of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin to provide for the direct participation of and transfer of funds to such entities for the planning, implementation, and evaluation of projects and programs established by this section.

(f) SPECIFIC PROJECTS AUTHORIZATION.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this subsection \$1,717,000,000, of which not more than \$245,000,000 shall be available for projects described in subsection (b)(2)(B) and not more than \$48,000,000 shall be available for projects described in subsection (b)(2)(J). Such sums shall remain available until expended.

(2) LIMITATION ON AVAILABLE FUNDS.—Of the amounts made available under paragraph (1), not more than \$35,000,000 in any fiscal year may be used for land acquisition under subsection (b)(4).

(3) INDIVIDUAL PROJECT LIMIT.—Other than for projects described in subparagraphs (B) and (J) of subsection (b)(2), the total cost of any single project carried out under this subsection shall not exceed \$25,000,000.

(4) MONITORING.—In addition to amounts authorized under paragraph (1), there are authorized \$10,420,000 per fiscal year to carry out the monitoring program under subsection (c) if such sums are not appropriated pursuant to section 1103(e)(4) the Water Resources Development Act of 1986 (33 U.S.C. 652(e)(4)).

(g) IMPLEMENTATION REPORTS.—

(1) IN GENERAL.—Not later than June 30, 2009, and every 4 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an implementation report that—

- (A) includes baselines, milestones, goals, and priorities for ecosystem restoration projects; and
- (B) measures the progress in meeting the goals.

(2) ADVISORY PANEL.—

(A) IN GENERAL.—The Secretary shall appoint and convene an advisory panel to provide independent guidance in the development of each implementation report under paragraph (1).

(B) PANEL MEMBERS.—Panel members shall include—

Establishment.

(i) one representative of each of the State resource agencies (or a designee of the Governor of the State) from each of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin;

(ii) one representative of the Department of Agriculture;

(iii) one representative of the Department of Transportation;

(iv) one representative of the United States Geological Survey;

(v) one representative of the United States Fish and Wildlife Service;

(vi) one representative of the Environmental Protection Agency;

(vii) one representative of affected landowners;

(viii) two representatives of conservation and environmental advocacy groups; and

(ix) two representatives of agriculture and industry advocacy groups.

(C) CHAIRPERSON.—The Secretary shall serve as chairperson of the advisory panel.

(D) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Panel and any working group established by the Advisory Panel shall not be considered an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).

(h) RANKING SYSTEM.—

(1) IN GENERAL.—The Secretary, in consultation with the Advisory Panel, shall develop a system to rank proposed projects.

(2) PRIORITY.—The ranking system shall give greater weight to projects that restore natural river processes, including those projects listed in subsection (b)(2).

SEC. 8005. COMPARABLE PROGRESS.

33 USC 652 note.

(a) IN GENERAL.—As the Secretary conducts pre-engineering, design, and construction for projects authorized under this title, the Secretary shall—

(1) select appropriate milestones;

(2) determine, at the time of such selection, whether the projects are being carried out at comparable rates; and

(3) make an annual report to Congress, beginning in fiscal year 2009, regarding whether the projects are being carried out at a comparable rate.

Reports.

(b) NO COMPARABLE RATE.—If the Secretary or Congress determines under subsection (a)(2) that projects authorized under this title are not moving toward completion at a comparable rate, annual funding requests for the projects shall be adjusted to ensure that the projects move toward completion at a comparable rate in the future.

National Levee
Safety Act
of 2007.

TITLE IX—NATIONAL LEVEE SAFETY PROGRAM

33 USC 3301
note.

SEC. 9001. SHORT TITLE.

This title may be cited as the “National Levee Safety Act of 2007”.

33 USC 3301.

SEC. 9002. DEFINITIONS.

In this title, the following definitions apply:

(1) COMMITTEE.—The term “committee” means the Committee on Levee Safety established by section 9003(a).

(2) INSPECTION.—The term “inspection” means an actual inspection of a levee—

(A) to establish the global information system location of the levee;

(B) to determine the general condition of the levee; and

(C) to estimate the number of structures and population at risk and protected by the levee that would be adversely impacted if the levee fails or water levels exceed the height of the levee.

(3) LEVEE.—

(A) IN GENERAL.—The term “levee” means an embankment, including floodwalls—

(i) the primary purpose of which is to provide hurricane, storm, and flood protection relating to seasonal high water, storm surges, precipitation, and other weather events; and

(ii) that normally is subject to water loading for only a few days or weeks during a year.

(B) INCLUSION.—The term includes structures along canals that constrain water flows and are subject to more frequent water loadings but that do not constitute a barrier across a watercourse.

(4) STATE.—The term “State” means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(5) STATE LEVEE SAFETY AGENCY.—The term “State levee safety agency” means the agency of a State that has regulatory authority over the safety of any non-Federal levee in the State.

(6) UNITED STATES.—The term “United States”, when used in a geographical sense, means all of the States.

33 USC 3302.

SEC. 9003. COMMITTEE ON LEVEE SAFETY.

(a) ESTABLISHMENT.—There is established a committee to be known as the “Committee on Levee Safety”.

(b) MEMBERSHIP.—The committee shall be composed of 16 members as follows:

(1) The Secretary (or the Secretary’s designee), who shall serve as the chairperson of the Committee.

(2) The Administrator of the Federal Emergency Management Agency (or the Administrator’s designee).

(3) The following 14 members appointed by the Secretary:

(A) Eight representatives of State levee safety agencies, one from each of the eight civil works divisions of the Corps of Engineers.

(B) Two representatives of the private sector who have expertise in levee safety.

(C) Two representatives of local and regional governmental agencies who have expertise in levee safety.

(D) Two representatives of Indian tribes who have expertise in levee safety.

(c) DUTIES.—

(1) DEVELOPMENT OF RECOMMENDATIONS FOR NATIONAL LEVEE SAFETY PROGRAM.—The committee shall develop recommendations for a national levee safety program, including a strategic plan for implementation of the program.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the committee shall submit to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report containing the recommendations developed under paragraph (1).

(d) PURPOSES.—In developing recommendations under subsection (c)(1), the committee shall ensure that the national levee safety program meets the following goals:

(1) Ensuring the protection of human life and property by levees through the development of technologically, economically, socially, and environmentally feasible programs and procedures for hazard reduction and mitigation relating to levees.

(2) Encouraging use of the best available engineering policies and procedures for levee site investigation, design, construction, operation and maintenance, and emergency preparedness.

(3) Encouraging the establishment and implementation of an effective national levee safety program that may be delegated to qualified States for implementation, including identification of incentives and disincentives for State levee safety programs.

(4) Ensuring that levees are operated and maintained in accordance with appropriate and protective standards by conducting an inventory and inspection of levees.

(5) Developing and supporting public education and awareness projects to increase public acceptance and support of State and national levee safety programs.

(6) Building public awareness of the residual risks associated with living in levee protected areas.

(7) Developing technical assistance materials for State and national levee safety programs.

(8) Developing methods to provide technical assistance relating to levee safety to non-Federal entities.

(9) Developing technical assistance materials, seminars, and guidelines relating to the physical integrity of levees in the United States.

(e) COMPENSATION OF MEMBERS.—A member of the committee shall serve without compensation.

(f) TRAVEL EXPENSES.—To the extent amounts are made available in advance in appropriations Acts, the Secretary shall reimburse a member of the committee for travel expenses, including

per diem in lieu of subsistence, at rates authorized for an employee of a Federal agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in performance of services for the committee.

(g) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the committee.

33 USC 3303.

SEC. 9004. INVENTORY AND INSPECTION OF LEVEES.

Deadline.

(a) LEVEE DATABASE.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary shall establish and maintain a database with an inventory of the Nation's levees.

(2) CONTENTS.—The database shall include—

(A) location information of all Federal levees in the Nation (including global information system information) and, for non-Federal levees, such information on levee location as is provided to the Secretary by State and local governmental agencies;

(B) utilizing such information as is available, the general condition of each levee; and

(C) an estimate of the number of structures and population at risk and protected by each levee that would be adversely impacted if the levee fails or water levels exceed the height of the levee.

(3) AVAILABILITY OF INFORMATION.—

(A) AVAILABILITY TO FEDERAL, STATE, AND LOCAL GOVERNMENTAL AGENCIES.—The Secretary shall make all of the information in the database available to appropriate Federal, State, and local governmental agencies.

(B) AVAILABILITY TO THE PUBLIC.—The Secretary shall make the information in the database described in paragraph (2)(A), and such other information in the database as the Secretary determines appropriate, available to the public.

(b) INVENTORY AND INSPECTION OF LEVEES.—

(1) FEDERAL LEVEES.—The Secretary, at Federal expense, shall establish an inventory and conduct an inspection of all federally owned and operated levees.

(2) FEDERALLY CONSTRUCTED, NONFEDERALLY OPERATED AND MAINTAINED LEVEES.—The Secretary shall establish an inventory and conduct an inspection of all federally constructed, non-federally operated and maintained levees, at the original cost share for the project.

(3) PARTICIPATING LEVEES.—For non-Federal levees the owners of which are participating in the emergency response to natural disasters program established under section 5 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes”, approved August 18, 1941 (33 U.S.C. 701n), the Secretary shall establish an inventory and conduct an inspection of each such levee if the owner of the levee requests such inspection. The Federal share of the cost of an inspection under this paragraph shall be 65 percent.

33 USC 3304.

SEC. 9005. LIMITATIONS ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed as—

(1) creating any liability of the United States or its officers or employees for the recovery of damages caused by an action or failure to act; or

(2) relieving an owner or operator of a levee of a legal duty, obligation, or liability incident to the ownership or operation of a levee.

SEC. 9006. AUTHORIZATION OF APPROPRIATIONS.

33 USC 3305.

There is authorized to be appropriated to the Secretary to carry out this title \$20,000,000 for each of fiscal years 2008 through 2013.

Nancy Pelosi

Speaker of the House of Representatives.

Robert C. Byrd

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.

November 6, 2007.

The House of Representatives having proceeded to reconsider the bill (H.R. 1495) entitled “An Act to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes”, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Lorraine C. Miller

Clerk.

I certify that this Act originated in the House of Representatives.

Lorraine C. Miller

Clerk.

IN THE SENATE OF THE UNITED STATES,

November 8, 2007.

The Senate having proceeded to reconsider the bill (H.R. 1495) entitled “An Act to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes”, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Nancy Erickson

Secretary.

LEGISLATIVE HISTORY—H.R. 1495 (S. 1248):

HOUSE REPORTS: Nos. 110–80 (Comm. on Transportation and Infrastructure) and 110–280 (Comm. of Conference).

SENATE REPORTS: No. 110–58 accompanying S. 1248 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Apr. 19, considered and passed House.

May 14–16, considered and passed Senate, amended.

Aug. 1, House agreed to conference report.

Sept. 24, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Nov. 2, Presidential veto message.

CONGRESSIONAL RECORD, Vol. 153 (2007):

Nov. 6, House overrode veto.

Nov. 8, Senate overrode veto.



Public Law 110–115
110th Congress

An Act

To recognize the Navy UDT–SEAL Museum in Fort Pierce, Florida, as the official national museum of Navy SEALs and their predecessors.

Nov. 13, 2007
[H.R. 2779]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECOGNITION OF NAVY UDT–SEAL MUSEUM IN FORT PIERCE, FLORIDA, AS OFFICIAL NATIONAL MUSEUM OF NAVY SEALs AND THEIR PREDECESSORS.

(a) FINDINGS.—Congress finds the following:

(1) The United States Navy SEALs are the most elite fighting force in the world and bravely serve in combat operations around the World.

(2) The Navy SEALs trace their roots from the Navy Frogmen of World War II.

(3) The location recognized as the birthplace of the Navy Frogmen, where thousands of brave volunteers were trained as members of Naval Combat Demolition Units and Underwater Demolition Teams during World War II, is now home to the Navy UDT–SEAL Museum.

(4) The Navy UDT–SEAL Museum is the only museum dedicated solely to preserving the history of the Navy SEALs and its predecessors, including the Underwater Demolition Teams, Naval Combat Demolition Units, Office of Strategic Services Maritime Units, and Amphibious Scouts and Raiders.

(5) The Navy UDT–SEAL Museum preserves the legacy of the honor, courage, patriotism, and sacrifices of those Navy SEALs and their predecessors who offered their services and who gave their lives in defense of liberty.

(6) The Navy UDT–SEAL Museum finances, operations, and collections are managed by UDT–SEAL Museum Association, Inc., a nonprofit organization governed by current and former SEALs and UDTs.

(7) The Navy UDT–SEAL Museum seeks to educate a diverse group of audiences through its comprehensive collection of historical materials, emphasizing eyewitness accounts of the participants on the battlefield and the home front and the impact of Navy SEALs and their predecessors, then and now.

(8) Since 1985, when the Navy UDT–SEAL Museum first opened, it has become home to artifacts and photos telling the history of Naval Special Warfare from the beginnings of Underwater Demolition training in Ft. Pierce, Florida, through the exploits of Navy Frogmen in the Atlantic and Pacific war theaters of World War II, through the role of Navy SEALs in fighting in the War on Terror and in Iraq.

(9) The State of Florida, St. Lucie County, Florida, thousands of private donors, and philanthropic organizations have contributed millions of dollars to build, restore, and expand the Navy UDT–SEAL Museum.

(10) The United States Navy and the United States Special Operations Command have provided many of the historical materials and artifacts on display at the Navy UDT–SEAL Museum.

(b) RECOGNITION OF NATIONAL MUSEUM.—The Navy UDT–SEAL Museum, located at 3300 North A1A, North Hutchinson Island, in Fort Pierce, Florida, is recognized as the official national museum of Navy SEALs and their predecessors.

Approved November 13, 2007.

LEGISLATIVE HISTORY—H.R. 2779:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 1, considered and passed House.

Oct. 31, considered and passed Senate.



Public Law 110–116
110th Congress

An Act

Making appropriations for the Department of Defense for the fiscal year ending
September 30, 2008, and for other purposes.

Nov. 13, 2007
[H.R. 3222]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.
Sec. 2. References.

DIVISION A—DEPARTMENT OF DEFENSE, 2008

Title I—Military Personnel
Title II—Operation and Maintenance
Title III—Procurement
Title IV—Research, Development, Test and Evaluation
Title V—Revolving and Management Funds
Title VI—Other Department of Defense Programs
Title VII—Related Agencies
Title VIII—General Provisions

DIVISION B—FURTHER CONTINUING APPROPRIATIONS, 2008

SEC. 2. REFERENCES.

1 USC 1 note.

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referencing only to the provisions of that division.

DIVISION A—DEPARTMENT OF DEFENSE

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, for military functions administered by the Department of Defense and for other purposes, namely:

Department of
Defense
Appropriations
Act, 2008.

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers’ Training Corps; and

for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$31,535,016,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$23,318,476,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$10,280,180,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$24,194,914,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$3,684,610,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,790,136,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$583,108,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,363,779,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$5,924,699,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,617,319,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$11,478,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, \$27,361,574,000: *Provided*, That, notwithstanding any other provision of law, up to \$12,500,000 may be transferred to “U.S. Army Corps of Engineers, Operation and Maintenance” for expenses related to the dredging of the Hudson River Channel and its adjacent areas, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further*, That the transfer authority provided in this paragraph shall be in addition to any other transfer authority elsewhere provided in this Act.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$6,257,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, \$33,087,650,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, \$4,792,211,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$7,699,000 can be used for emergencies and

extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, \$32,176,162,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, \$22,693,617,000: *Provided*, That not more than \$25,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code: *Provided further*, That not to exceed \$36,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That of the funds provided under this heading, not less than \$27,380,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than \$3,600,000 shall be available for centers defined in 10 U.S.C. 2411(1)(D): *Provided further*, That of the funds provided under this heading, not less than \$582,643,000 shall be available only for the Combatant Commander's Exercise Engagement and Training Transformation program: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: *Provided further*, That, notwithstanding section 130(a) of title 10, United States Code, not less than \$41,293,000 shall be available for the Office of the Undersecretary of Defense, Comptroller and Chief Financial Officer: *Provided further*, That \$4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further*, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: *Provided further*, That of the funds provided under this heading, \$247,000,000 shall be available for National Guard support to the Department of Homeland Security, including operating surveillance systems, analyzing intelligence, installing fences and vehicle barriers, building patrol roads, and providing training: *Provided further*, That the Secretary of Defense may transfer the funds described in the preceding proviso to appropriations for military personnel, operation and maintenance, and procurement to be available for the same purposes as the appropriation or fund to which transferred, and that upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation,

Deadline.
Notification.

to be merged with and made available for the same purposes and for the time period provided under this heading: *Provided further*, That the Secretary of Defense shall, not more than five days after making transfers from this appropriation for the purpose of support to the Department of Homeland Security, notify the congressional defense committees in writing of any such transfer: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$2,510,022,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,148,083,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$208,637,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$2,815,417,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying

and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), \$5,764,858,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, \$5,468,710,000.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, \$11,971,000, of which not to exceed \$5,000 may be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$439,879,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, \$300,591,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to

the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, \$458,428,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, \$12,751,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$280,249,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for

environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 407, 2557, and 2561 of title 10, United States Code), \$103,300,000, of which \$63,300,000 shall remain available until September 30, 2009, and of which \$40,000,000 shall be available solely for foreign disaster relief and response activities and shall remain available until September 30, 2010.

FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, \$428,048,000, to remain available until September 30, 2010: *Provided*, That of the amounts provided under this heading, \$12,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and

Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$4,185,778,000, to remain available for obligation until September 30, 2010.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,911,979,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$3,021,889,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,223,176,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security

of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$255,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$11,428,027,000, to remain available for obligation until September 30, 2010.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$12,464,284,000, to remain available for obligation until September 30, 2010.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$3,113,987,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,064,432,000, to remain available for obligation until September 30, 2010.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program, \$2,703,953,000;
Carrier Replacement Program (AP), \$124,401,000;

NSSN, \$1,796,191,000;

NSSN (AP), \$1,290,710,000;

CVN Refuelings (AP), \$297,344,000;

SSBN Submarine Refuelings, \$187,652,000;

SSBN Submarine Refuelings (AP), \$42,744,000;

DDG–1000 Program, \$2,776,477,000;

DDG–1000 Program (AP), \$150,886,000;

DDG–51 Destroyer, \$48,078,000;

Littoral Combat Ship, \$339,482,000;

LPD–17, \$1,391,922,000;

LPD–17 (AP), \$50,000,000;

LHA–R, \$1,375,414,000;

LCAC Service Life Extension Program, \$98,518,000;

Prior year shipbuilding costs, \$511,474,000;

Service Craft, \$32,903,000; and

For outfitting, post delivery, conversions, and first destination transportation, \$379,811,000.

In all: \$13,597,960,000, to remain available for obligation until September 30, 2012: *Provided*, That additional obligations may be incurred after September 30, 2012, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of 10 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$255,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway,

\$5,317,570,000, to remain available for obligation until September 30, 2010.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, \$2,326,619,000, to remain available for obligation until September 30, 2010.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$12,021,900,000, to remain available for obligation until September 30, 2010.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$4,985,459,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and

machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$754,117,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$255,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$15,440,594,000, to remain available for obligation until September 30, 2010.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 5 vehicles required for physical security of personnel, notwithstanding prior limitations applicable to passenger vehicles but not to exceed \$255,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$3,269,035,000, to remain available for obligation until September 30, 2010.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, \$980,000,000, to remain available for obligation until September 30, 2010: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

Deadline.
Assessment.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of

1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), \$94,792,000, to remain available until expended.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$12,126,591,000, to remain available for obligation until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$17,918,522,000, to remain available for obligation until September 30, 2009: *Provided*, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique operational requirements of the Special Operations Forces: *Provided further*, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$26,255,471,000, to remain available for obligation until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, \$20,790,634,000, to remain available for obligation until September 30, 2009.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, \$180,264,000, to remain available for obligation until September 30, 2009.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, \$1,352,746,000.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$1,349,094,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, \$23,458,692,000, of which \$22,559,501,000 shall be for operation and maintenance, of which not to exceed one percent shall remain available until September 30, 2009, and of which up to \$11,424,799,000 may be available for contracts entered into under the TRICARE program; of which \$362,861,000, to remain available for obligation until September 30, 2010, shall be for procurement; and of which \$536,330,000, to remain available for obligation until September 30, 2009, shall be for research, development, test and evaluation: *Provided*, That, notwithstanding any other provision of law, of the amount made available under this heading for research, development, test and evaluation, not less than \$8,000,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions, to include construction of facilities, in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, \$1,512,724,000, of which \$1,181,500,000 shall be for operation and maintenance; \$18,424,000 shall be for procurement, to remain available until September 30, 2010; \$312,800,000 shall be for research, development, test and evaluation, of which \$302,900,000 shall only be for the Assembled Chemical Weapons Alternatives (ACWA) program, to remain available until September 30, 2009; and no less than \$124,618,000 shall be for the Chemical Stockpile Emergency Preparedness Program, of which \$36,373,000 shall be for activities on military installations and of which \$88,245,000, to remain available until September 30, 2009, shall be to assist State and local governments.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for operation and maintenance; for procurement; and for research, development, test and evaluation, \$984,779,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

(INCLUDING TRANSFER OF FUNDS)

For the “Joint Improvised Explosive Device Defeat Fund”, \$120,000,000: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Director of the Joint Improvised Explosive Device Defeat Organization to investigate, develop and provide equipment, supplies, services, training, facilities, personnel and funds to assist United States forces in the defeat of improvised explosive devices: *Provided further*, That within 60 days of the enactment of this Act, a plan for the intended management and use of the amounts provided under this heading shall be submitted to the congressional defense committees: *Provided further*, That the Secretary of Defense shall submit a report not later than 30 days after the end of each fiscal quarter to the congressional defense committees providing assessments of the evolving threats,

Deadline.
Plan.

Reports.
Deadline.

Deadline.
Notification.

individual service requirements to counter the threats, the current strategy for predeployment training of members of the Armed Forces on improvised explosive devices, and details on the execution of this Fund: *Provided further*, That the Secretary of Defense may transfer funds provided herein to appropriations for operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: *Provided further*, That amounts transferred shall be merged with and available for the same purposes and time period as the appropriations to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$239,995,000, of which \$238,995,000 shall be for operation and maintenance, of which not to exceed \$700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which \$1,000,000, to remain available until September 30, 2010, shall be for procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, \$262,500,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, \$725,526,000: *Provided*, That of the funds appropriated under this heading, \$39,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, \$1,500,000 for procurement shall remain available until September 30, 2010 and \$1,000,000 for research, development, test and evaluation shall remain available until September 30, 2009: *Provided further*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local

law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

10 USC 1584
note.

Wages.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$3,700,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees

Notification.

Deadline.	on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: <i>Provided further</i> , That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2008: <i>Provided further</i> , That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section: <i>Provided further</i> , That no obligation of funds may be made pursuant to section 1206 of Public Law 109–163 (or any successor provision) unless the Secretary of Defense has notified the congressional defense committees prior to any such obligation.
Notification.	
Deadline. Reports.	SEC. 8006. (a) Not later than 60 days after enactment of this Act, the Department of Defense shall submit a report to the congressional defense committees to establish the baseline for application of reprogramming and transfer authorities for fiscal year 2008: <i>Provided</i> , That the report shall include— (1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level; (2) a delineation in the table for each appropriation both by budget activity and program, project, and activity as detailed in the Budget Appendix; and (3) an identification of items of special congressional interest.
Certification.	(b) Notwithstanding section 8005 of this Act, none of the funds provided in this Act shall be available for reprogramming or transfer until the report identified in subsection (a) is submitted to the congressional defense committees, unless the Secretary of Defense certifies in writing to the congressional defense committees that such reprogramming or transfer is necessary as an emergency requirement. SEC. 8007. The Secretaries of the Air Force and the Army are authorized, using funds available under the headings "Operation and Maintenance, Air Force" and "Operation and Maintenance, Army", to complete facility conversions and phased repair projects in support of Red Flag Alaska exercises, which may include upgrades and additions to Alaskan range infrastructure and training areas, and improved access to these ranges.
	(TRANSFER OF FUNDS)
Notification.	SEC. 8008. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: <i>Provided</i> , That transfers may be made between such funds: <i>Provided further</i> , That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in
Notification.	

amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8009. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in advance to the congressional defense committees.

SEC. 8010. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of \$20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed \$500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: *Provided further*, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract and, in the case of a contract for procurement of aircraft, that includes, for any aircraft unit to be procured through the contract for which procurement funds are requested in that budget request for production beyond advance procurement activities in the fiscal year covered by the budget, full funding of procurement of such unit in that fiscal year;

(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

Army CH–47 Chinook Helicopter; M1A2 Abrams System Enhancement Package upgrades; M2A3/M3A3 Bradley upgrades; and SSN Virginia Class Submarine.

Notification.
Deadline.

Contracts.
Notification.
Deadline.
10 USC 2306b
note.

Humanitarian
assistance.

SEC. 8011. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8012. (a) During fiscal year 2008, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2009 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2009 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2009.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8013. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

Applicability.

SEC. 8014. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this section shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this section applies only to active components of the Army.

Contracts.
Outsourcing.

SEC. 8015. (a) None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) \$10,000,000; and

(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(b)(1) The Department of Defense, without regard to subsection (a) of this section or subsection (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(c) The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

(TRANSFER OF FUNDS)

SEC. 8016. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

Vessels.

SEC. 8017. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

Certification.

Ammunition.

SEC. 8018. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

Waiver authority.
Certification.

SEC. 8019. No more than \$500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

Contracts.

SEC. 8020. In addition to the funds provided elsewhere in this Act, \$15,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code, shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over \$500,000 and involves the expenditure of funds appropriated by an Act making

Appropriations for the Department of Defense with respect to any fiscal year: *Provided further*, That notwithstanding section 430 of title 41, United States Code, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code.

Applicability.

SEC. 8021. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

SEC. 8022. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8023. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed \$350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

Kuwait.

SEC. 8024. (a) Of the funds made available in this Act, not less than \$33,705,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) \$26,553,000 shall be available from “Operation and Maintenance, Air Force” to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) \$6,277,000 shall be available from “Aircraft Procurement, Air Force”; and

(3) \$875,000 shall be available from “Other Procurement, Air Force” for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

SEC. 8025. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel

Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2008 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2008, not more than 5,517 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,060 staff years may be funded for the defense studies and analysis FFRDCs: *Provided further*, That this subsection shall not apply to staff years funded in the National Intelligence Program (NIP) and the Military Intelligence Program (MIP).

Reports.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2009 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year and the associated budget estimates.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by \$57,725,000.

Applicability.

Waiver authority.
Certification.

SEC. 8026. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

10 USC 101 note.

SEC. 8027. For the purposes of this Act, the term “congressional defense committees” means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8028. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive

of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8029. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

41 USC 10b–2
note.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2008. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

Reports.

(c) For purposes of this section, the term “Buy American Act” means title III of the Act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes”, approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8030. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for “Drug Interdiction and Counter-Drug Activities, Defense” may be obligated for the Young Marines program.

10 USC 374 note.

SEC. 8031. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8032. (a) Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

Housing.
Native
Americans.
State listing.

(b) The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) In this section, the term “Indian tribe” means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8033. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than \$250,000.

SEC. 8034. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

Budget.

(b) The fiscal year 2009 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2009 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2009 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

50 USC 503u
note.

SEC. 8035. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2009: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: *Provided further*, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2009.

SEC. 8036. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8037. Of the funds made available in this Act under the heading “Defense Production Act Purchases”, not less than \$18,400,000 shall be made available for the competitive, domestic

expansion of essential vacuum induction melting furnace capacity and vacuum arc remelting furnace capacity for military aerospace and other defense applications: *Provided*, That the facility must be owned and operated by an approved supplier to the military departments and to defense industry original equipment manufacturers.

SEC. 8038. Of the funds appropriated to the Department of Defense under the heading “Operation and Maintenance, Defense-Wide”, not less than \$10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8039. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term “Buy American Act” means title III of the Act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes”, approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a “Made in America” inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

Labeling.
Fraud.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8040. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

Contracts.

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been

confirmed by the Senate, determines that the award of such contract is in the interest of the national defense. KLG

SEC. 8041. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

Waiver authority.
Certification.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to—

(1) field operating agencies funded within the National Intelligence Program; or

(2) an Army field operating agency established to eliminate, mitigate, or counter the effects of improvised explosive devices, and, as determined by the Secretary of the Army, other similar threats.

SEC. 8042. The Secretary of Defense, notwithstanding any other provision of law, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading “Operation and Maintenance, Defense-Wide” to make grants and supplement other Federal funds in accordance with the guidance provided in the Joint Explanatory Statement of the Committee of Conference to accompany the conference report accompanying this Act.

(RESCISSIONS)

SEC. 8043. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

Procurement, Marine Corps, 2006/2008, \$15,000,000;

Aircraft Procurement, Air Force, 2006/2008, \$25,786,000;

Procurement of Weapons and Tracked Combat Vehicles, Army, 2007/2009, \$2,600,000;

Shipbuilding and Conversion, Navy, 2007/2011, \$81,000,000;

Aircraft Procurement, Air Force, 2007/2009, \$51,000,000;

Procurement, Defense-Wide, 2007/2009, \$15,913,000;

Research, Development, Test and Evaluation, Army, 2007/2008, \$13,300,000;

Research, Development, Test and Evaluation, Navy, 2007/2008, \$24,000,000;

Research, Development, Test and Evaluation, Air Force, 2007/2008, \$167,000,000;

Research, Development, Test and Evaluation, Defense-Wide, 2007/2008, \$144,000,000.

SEC. 8044. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any

administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8045. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of Korea unless specifically appropriated for that purpose.

North Korea.

SEC. 8046. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program and the Military Intelligence Program: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8047. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003, level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

Waiver authority.
Certification.

SEC. 8048. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

10 USC 374 note.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations

50 USC 403f
note.

SEC. 8049. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

Waiver authority.
Certification.

Applicability.

SEC. 8050. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must

Certification.

be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8051. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided*, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

Notification.
Deadline.

SEC. 8052. (a) Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

Applicability.

(b) This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8053. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8054. During the current fiscal year, no more than \$30,000,000 of appropriations made in this Act under the heading “Operation and Maintenance, Defense-Wide” may be transferred

to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8055. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to one percent of the total appropriation for that account.

SEC. 8056. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8057. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

Germany.

Waiver authority. Certification.	<p>SEC. 8058. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: <i>Provided</i>, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: <i>Provided further</i>, That this restriction does not apply to programs funded within the National Intelligence Program: <i>Provided further</i>, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.</p>
American Samoa. Native Americans.	<p>SEC. 8059. Notwithstanding any other provision of law, funds available to the Department of Defense in this Act shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.</p>
Waiver authority.	<p>SEC. 8060. None of the funds made available in this Act may be used to approve or license the sale of the F–22A advanced tactical fighter to any foreign government.</p>
Applicability.	<p>SEC. 8061. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.</p> <p>(b) Subsection (a) applies with respect to—</p> <p>(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and</p> <p>(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).</p> <p>(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.</p>
Human rights.	<p>SEC. 8062. (a) None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.</p> <p>(b) The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training</p>

program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

Waiver authority.

(d) Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

Deadline.
Reports.

SEC. 8063. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

Waiver authority.
Certification.

SEC. 8064. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8065. Notwithstanding any other provision of law, funds appropriated in this Act under the heading “Research, Development, Test and Evaluation, Defense-Wide” for any new start advanced concept technology demonstration project or joint capability demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

Reports.

Waiver authority.
Certification.

SEC. 8066. The Secretary of Defense shall provide a classified quarterly report beginning 30 days after enactment of this Act, to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

Reports.
Confidential
information.
Deadline.

SEC. 8067. Beginning in the current fiscal year and hereafter, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

Effective date.
10 USC 2784
note.

SEC. 8068. (a) None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

Certification.

(b)(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than \$1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

Notification.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

(c)(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

Notification.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include a statement confirming that the following steps have been taken with respect to the system:

- (A) Business process reengineering.
- (B) An analysis of alternatives.
- (C) An economic analysis that includes a calculation of the return on investment.
- (D) Performance measures.
- (E) An information assurance strategy consistent with the Department's Global Information Grid.

(d) For purposes of this section:

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

SEC. 8069. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide

support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

Waiver authority.
Certification.

SEC. 8070. Notwithstanding section 12310(b) of title 10, United States Code, a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32, United States Code, may perform duties in support of the ground-based elements of the National Ballistic Missile Defense System.

SEC. 8071. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of “armor penetrator”, “armor piercing (AP)”, “armor piercing incendiary (API)”, or “armor-piercing incendiary-tracer (API-T)”, except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

Ammunition.

SEC. 8072. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under section 2667 of title 10, United States Code, in the case of a lease of personal property for a period not in excess of one year to any organization specified in section 508(d) of title 32, United States Code, or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8073. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with

Alcohol and
alcoholic
beverages.

Applicability.

another State and Guam: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8074. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8075. Of the amounts appropriated in this Act under the heading "Operation and Maintenance, Army", \$34,500,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: *Provided further*, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects carrying out the purposes of this section: *Provided further*, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: *Provided further*, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

Contracts.

Applicability.
10 USC 113 note.

SEC. 8076. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2008.

Grants.

SEC. 8077. In addition to amounts provided elsewhere in this Act, \$10,000,000 is hereby appropriated to the Department of Defense, to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

SEC. 8078. The Secretary of the Air Force is authorized, using funds available under the heading "Operation and Maintenance, Air Force", to complete phased electrical infrastructure upgrades at Hickam Air Force Base.

SEC. 8079. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

Government
property.
Native
Americans.

(b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8080. Of the amounts appropriated in this Act under the heading “Research, Development, Test and Evaluation, Defense-Wide”, \$155,572,000 shall be made available for the Arrow missile defense program: *Provided*, That of this amount, \$37,383,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel’s defense requirements, consistent with each nation’s laws, regulations and procedures, \$20,000,000 shall be available for risk mitigation and preliminary design activities for an upper-tier component to the Israeli Missile Defense Architecture, and \$37,000,000 shall be available for the Short Range Ballistic Missile Defense (SRBMD) program: *Provided further*, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8081. Of the amounts appropriated in this Act under the heading “Shipbuilding and Conversion, Navy”, \$511,474,000 shall be available until September 30, 2008, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: *Provided further*, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading “Shipbuilding and Conversion, Navy, 2001/2008”:

Carrier Replacement Program, \$336,475,000;

Under the heading “Shipbuilding and Conversion, Navy, 2002/2008”:

New SSN, \$45,000,000;

Under the heading “Shipbuilding and Conversion, Navy, 2003/2008”:

New SSN, \$40,000,000;

Under the heading “Shipbuilding and Conversion, Navy, 2004/2008”:

New SSN, \$24,000,000; and

Under the heading “Shipbuilding and Conversion, Navy, 2005/2009”:

LPD–17 Amphibious Transport Dock Ship Program, \$65,999,000.

SEC. 8082. None of the funds available to the Department of Defense may be obligated to modify command and control relationships to give Fleet Forces Command administrative and operational control of U.S. Navy forces assigned to the Pacific fleet: *Provided*, That the command and control relationships which existed on October 1, 2004, shall remain in force unless changes are specifically authorized in a subsequent Act.

SEC. 8083. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of section 7403(g) of title 38, United States Code, for occupations listed in section 7403(a)(2) of title 38, United States Code, as well as the following:

Pharmacists, Audiologists, Psychologists, Social Workers, Othotists/Prosthetists, Occupational Therapists, Physical Therapists, Rehabilitation Therapists, Respiratory Therapists, Speech Pathologists, Dietitian/Nutritionists, Industrial Hygienists, Psychology Technicians, Social Service Assistants, Practical Nurses, Nursing Assistants, and Dental Hygienists:

Applicability. (A) The requirements of section 7403(g)(1)(A) of title 38, United States Code, shall apply.

(B) The limitations of section 7403(g)(1)(B) of title 38, United States Code, shall not apply.

SEC. 8084. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2008 until the enactment of the Intelligence Authorization Act for fiscal year 2008.

Notification. SEC. 8085. None of the funds provided in this Act shall be available for obligation or expenditure through a reprogramming of funds that creates or initiates a new program, project, or activity unless such program, project, or activity must be undertaken immediately in the interest of national security and only after written prior notification to the congressional defense committees.

Grants. SEC. 8086. (a) In addition to the amounts provided elsewhere in this Act, the amount of \$990,000 is hereby appropriated to the Department of Defense for “Operation and Maintenance, Army National Guard”. Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of \$990,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

SEC. 8087. In addition to funds made available elsewhere in this Act, \$5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: *Provided*, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: *Provided further*, That up to 2 percent of the total appropriated funds under this section shall be available to support the administration and execution of the funds or program and/

or events that promote the purpose of this appropriation (e.g. payment of travel and per diem of school teachers attending conferences or a meeting that promotes the purpose of this appropriation and/or consultant fees for on-site training of teachers, staff, or Joint Venture Education Forum (JVEF) Committee members): *Provided further*, That up to \$2,000,000 shall be available for the Department of Defense to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: *Provided further*, That to the extent a Federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-Federal funds in combination with these Federal funds to provide assistance for the authorized purpose, if the non-Federal entity requests such assistance and the non-Federal funds are provided on a reimbursable basis.

SEC. 8088. The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon (NLOS-C) and a compatible large caliber ammunition resupply capability for this system supported by the Future Combat Systems (FCS) Brigade Combat Team (BCT) in order to field this system in fiscal year 2010: *Provided*, That the Army shall develop the NLOS-C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight combat operational pre-production NLOS-C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: *Provided further*, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven Stryker Brigade Combat Teams.

SEC. 8089. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, \$62,700,000 is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make grants in the amounts specified as follows: \$20,000,000 to the United Service Organizations; \$20,000,000 to the Red Cross; \$5,000,000 for the SOAR Virtual School District; \$3,500,000 for Harnett County/Fort Bragg, North Carolina infrastructure improvements; \$2,000,000 to The Presidio Trust; \$1,200,000 to the National Bureau of Asian Research; \$4,800,000 to the Jamaica Bay Unit of Gateway National Recreation Area; \$5,000,000 to the Paralympics Military Program; and, \$1,200,000 to the Red Cross Consolidated Blood Services Facility.

Grants.

SEC. 8090. Up to \$3,000,000 of the funds appropriated under the heading “Operation and Maintenance, Navy” in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

SEC. 8091. The budget of the President for fiscal year 2009 submitted to the Congress pursuant to section 1105 of title 31,

Federal budget.
10 USC 221 note.

United States Code, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP-5 and OP-32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

SEC. 8092. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 18093. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC-130 Weather Reconnaissance mission below the levels funded in this Act: *Provided*, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8094. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: *Provided*, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

Notification.
Deployment.

SEC. 8095. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under section 12302(a) of title 10, United States Code, each member shall be notified in writing of the expected period during which the member will be mobilized.

Waiver authority.

(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet dire operational requirements of the Armed Forces.

(INCLUDING TRANSFER OF FUNDS)

Effective date.

SEC. 8096. The Secretary of Defense may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated in law: *Provided*, That the Secretary may transfer not to exceed \$100,000,000 under the authority provided by this section: *Provided further*, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to

the Committees on Appropriations of the House of Representatives and the Senate, unless a response from the Committees is received sooner: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

SEC. 8097. (a) The total amount appropriated or otherwise made available in titles II, III and IV of this Act is hereby reduced by \$506,900,000 for contractor efficiencies.

(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

SEC. 8098. For purposes of section 612 of title 41, United States Code, any subdivision of appropriations made under the heading “Shipbuilding and Conversion, Navy” that is not closed at the time reimbursement is made shall be available to reimburse the Judgment Fund and shall be considered for the same purposes as any subdivision under the heading “Shipbuilding and Conversion, Navy” appropriations in the current fiscal year or any prior fiscal year.

SEC. 8099. Hereafter, the Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary’s jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom, along with other recognition items in conjunction with any week-long national observation and day of national celebration, if established by Presidential proclamation, for any such members returning from such operations.

10 USC note
prec. 1121.

SEC. 8100. (a) None of the funds appropriated by this Act may be used to transfer research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army.

(b) The Army shall retain responsibility for and operational control of the Extended Range Multi-Purpose (ERMP) Unmanned Aerial Vehicle (UAV) in order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles.

SEC. 8101. Of the funds provided in this Act, \$10,000,000 shall be available for the operations and development of training and technology for the Joint Interagency Training and Education Center and the affiliated Center for National Response at the Memorial Tunnel and for providing homeland defense/security and traditional warfighting training to the Department of Defense, other Federal agency, and State and local first responder personnel at the Joint Interagency Training and Education Center.

SEC. 8102. The authority to conduct a continuing cooperative program in the proviso in title II of Public Law 102–368 under the heading “Research, Development, Test and Evaluation, Defense Agencies” (106 Stat. 1121) shall be extended through September 30, 2009, in cooperation with NELHA.

Extension date.

SEC. 8103. Up to \$12,000,000 of the funds appropriated under the heading, “Operation and Maintenance, Navy” may be made available for the Asia Pacific Regional Initiative Program for the purpose of enabling the Pacific Command to execute Theater Security Cooperation activities such as humanitarian assistance, and

payment of incremental and personnel costs of training and exercising with foreign security forces: *Provided*, That funds made available for this purpose may be used, notwithstanding any other funding authorities for humanitarian assistance, security assistance or combined exercise expenses: *Provided further*, That funds may not be obligated to provide assistance to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

SEC. 8104. Notwithstanding any other provision of this Act, to reflect savings from revised economic assumptions, the total amount appropriated in title II of this Act is hereby reduced by \$470,000,000, the total amount appropriated in title III of this Act is hereby reduced by \$506,000,000, the total amount appropriated in title IV of this Act is hereby reduced by \$367,000,000, and the total amount appropriated in title V of this Act is hereby reduced by \$10,000,000: *Provided*, That the Secretary of Defense shall allocate this reduction proportionally to each budget activity, activity group, subactivity group, and each program, project, and activity, within each appropriation account.

SEC. 8105. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8106. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8107. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance, Afghanistan Security Forces Fund, or Iraq Security Forces Fund, and executed in direct support of the Global War on Terrorism only in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: *Provided*, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 8108. None of the funds appropriated by this Act for programs of the Office of the Director of National Intelligence shall remain available for obligation beyond the current fiscal year, except for funds appropriated for research and technology, which shall remain available until September 30, 2009.

SEC. 8109. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading “Shipbuilding and Conversion, Navy” shall be considered to be for the same purpose as any subdivision under the heading “Shipbuilding and Conversion, Navy” appropriations in any prior fiscal year, and the one percent limitation shall apply to the total amount of the appropriation.

Applicability.

SEC. 8110. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of \$130,000,000 or higher.

SEC. 8111. The Secretary of Defense shall create a major force program category for space for the Future Years Defense Program of the Department of Defense. The Secretary of Defense shall designate an official in the Office of the Secretary of Defense to provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

10 USC 221 note.

Designation.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8112. In addition to funds made available elsewhere in this Act, there is hereby appropriated \$150,000,000, to remain available until transferred: *Provided*, That these funds are appropriated to the “Tanker Replacement Transfer Fund” (referred to as “the Fund” elsewhere in this section): *Provided further*, That the Secretary of the Air Force may transfer amounts in the Fund to “Operation and Maintenance, Air Force”, “Aircraft Procurement, Air Force”, and “Research, Development, Test and Evaluation, Air Force”, only for the purposes of proceeding with a tanker acquisition program: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the Secretary of the Air Force shall, not fewer than 15 days prior to making transfers using funds provided in this section, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Deadline.
Notification.

Reports.
Deadline.

SEC. 8113. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control over any oil resource of Iraq.

SEC. 8114. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

(1) Section 2340A of title 18, United States Code.

(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231 note) and regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations.

(3) Sections 1002 and 1003 of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148).

SEC. 8115. Notwithstanding any other provision of law, none of the funds made available in this Act may be used to pay negotiated indirect cost rates on a contract, grant, or cooperative agreement (or similar arrangement) entered into by the Department of Defense and an entity in excess of 35 percent of the total cost of the contract, grant, or agreement (or similar arrangement): *Provided*, That this limitation shall apply only to contracts, grants, or cooperative agreements entered into after the date of the enactment of this Act using funds made available in this Act for fiscal year 2008 for basic research.

SEC. 8116. Any request for funds for a fiscal year after fiscal year 2008 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, shall be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code.

SEC. 8117. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364).

SEC. 8118. From amounts appropriated in this or previous Acts making appropriations for the Department of Defense which remain available for obligation, up to \$20,000,000 may be transferred by the Secretary of the Navy to the Secretary of the Department of the Interior for any expenses associated with the construction of the USS ARIZONA Memorial Museum and Visitors Center.

SEC. 8119. (a) Notwithstanding any other provision of law, the Department of Defense shall complete work on the destruction of the United States stockpile of lethal chemical agents and munitions, including those stored at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, by the deadline established by the Chemical Weapons Convention, and in no circumstances later than December 31, 2017.

(b) REPORT.—

(1) Not later than December 31, 2007, and every 180 days thereafter, the Secretary of Defense shall submit to the parties described in paragraph (2) a report on the progress of the Department of Defense toward compliance with this section.

(2) The parties referred to in paragraph (1) are the Speaker of the House of Representatives, the Majority and Minority Leaders of the House of Representatives, the Majority and Minority Leaders of the Senate, and the congressional defense committees.

(3) Each report submitted under paragraph (1) shall include the updated and projected annual funding levels necessary to achieve full compliance with this section. The projected funding levels for each report shall include a detailed

Applicability.

Afghanistan.
Iraq.
10 USC 221 note.

Chemical
weapons.
Deadline.
50 USC 1521
note.

accounting of the complete life-cycle costs for each of the chemical disposal projects.

(c) In this section, the term “Chemical Weapons Convention” means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103–21).

SEC. 8120. Paragraph 1(b) of Rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following: “It is not a gift for a Member (or a Senate employee making a reservation for that Member) to make more than one reservation on scheduled flights with participating airlines when such action assists the Member in conducting official business.”.

SEC. 8121. Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish and maintain on the homepage of the Internet website of the Department of Defense a direct link to the Internet website of the Office of Inspector General of the Department of Defense.

Deadline.
Website.
5 USC app. 6
note.

SEC. 8122. (a) Notwithstanding any other provision of law, and in addition to amounts otherwise made available by this Act, there is appropriated \$11,630,000,000 for the “Mine Resistant Ambush Protected Vehicle Fund”, to remain available until September 30, 2008.

(b) The funds provided by subsection (a) shall be available to the Secretary of Defense to continue technological research and development and upgrades, to procure Mine Resistant Ambush Protected vehicles and associated support equipment, and to sustain, transport, and field Mine Resistant Ambush Protected vehicles.

Research and
development.

(c)(1) The Secretary of Defense shall transfer funds provided by subsection (a) to appropriations for operation and maintenance; procurement; and research, development, test and evaluation to accomplish the purposes specified in subsection (b). Such transferred funds shall be merged with and be available for the same purposes and for the same time period as the appropriation to which they are transferred.

(2) The transfer authority provided by this subsection shall be in addition to any other transfer authority available to the Department of Defense.

(3) The Secretary of Defense shall, not less than 5 days prior to making any transfer under this subsection, notify the congressional defense committees in writing of the details of the transfer.

Deadline.
Notification.

(d) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

This division may be cited as the “Department of Defense Appropriations Act, 2008”.

DIVISION B—FURTHER CONTINUING APPROPRIATIONS, 2008

SEC. 101. Public Law 110–92 is amended by striking the date specified in section 106(3) and inserting “December 14, 2007”.

Ante, p. 990.

SEC. 102. Public Law 110–92 is amended by adding at the end the following new sections:

Extension.

“SEC. 151. The authority provided by section 113(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)) shall continue in effect through the date specified in section 106(3) of this joint resolution.

“SEC. 152. Notwithstanding section 101, amounts are provided for ‘Department of Commerce—Bureau of the Census—Periodic Censuses and Programs’ at a rate for operations of \$1,025,398,000.

“SEC. 153. Any obligation made pursuant to this joint resolution prior to the enactment of the Department of Defense Appropriations Act, 2008 that relates to an amount provided in title IX of division A of Public Law 109–289, but is not chargeable under section 107 of this joint resolution to an appropriation, fund, or authorization contained in such 2008 Act, is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

Charles Davis.

“SEC. 154. Notwithstanding any other provision of this joint resolution, there is appropriated for payment to Charles Davis, widower of Jo Ann Davis, late a Representative from the State of Virginia, \$165,200.

“SEC. 155. Notwithstanding section 101, amounts are provided for the following accounts of the Department of Veterans Affairs at the following rates for operations: ‘Veterans Health Administration—Medical Services’, \$27,167,671,000; ‘Veterans Health Administration—Medical Administration’, \$3,442,000,000; ‘Veterans Health Administration—Medical Facilities’, \$3,592,000,000; ‘Veterans Health Administration—Medical and Prosthetic Research’, \$411,000,000; ‘Departmental Administration—General Operating Expenses’, \$1,471,837,000; ‘Departmental Administration—National Cemetery Administration’, \$166,809,000; ‘Departmental Administration—Office of Inspector General’, \$72,599,000; ‘Departmental Administration—Information Technology Systems’, \$1,859,217,000; ‘Departmental Administration—Construction, Major Projects’, \$727,400,000; ‘Departmental Administration—Construction, Minor Projects’, \$233,396,000; ‘Departmental Administration—Grants for Construction of State Extended Care Facilities’, \$85,000,000; and ‘Departmental Administration—Grants for Construction of State Veterans Cemeteries’, \$32,000,000.

Applicability.

“SEC. 156. Section 44303(b) of title 49, United States Code, shall be applied by substituting the date specified in section 106(3) of this joint resolution for ‘December 31, 2006’.

“SEC. 157. (a) Notwithstanding any other provision of this joint resolution, and in addition to amounts otherwise available by this joint resolution, there is appropriated \$329,000,000 for ‘Department of Agriculture—Forest Service—Wildland Fire Management’, to remain available until expended. Of such funds—

“(1) \$110,000,000 shall be available for emergency wildfire suppression;

Deadline.

“(2) \$100,000,000 shall be used within 15 days of the enactment of this section for repayment to other accounts from which such funds were transferred in fiscal year 2007 for wildfire suppression so that all such transfers for fiscal year 2007 are fully repaid;

“(3) \$80,000,000 shall be available for hazardous fuels reduction and hazard mitigation activities, of which \$30,000,000

is available for work on State and private lands using all the authorities available to the Forest Service;

“(4) \$25,000,000 shall be available for rehabilitation and restoration of Federal lands; and

“(5) \$14,000,000 shall be available for reconstruction and construction of Federal facilities and may be transferred to and merged with ‘Forest Service—Capital Improvement and Maintenance’.

“(b) Notwithstanding any other provision of this joint resolution, and in addition to amounts otherwise available by this joint resolution, there is appropriated \$171,000,000 for ‘Department of the Interior—Bureau of Land Management—Wildland Fire Management’, to remain available until expended. Of such funds—

“(1) \$40,000,000 shall be available for emergency wildfire suppression;

“(2) \$115,000,000 shall be used within 30 days of enactment of this section for repayment to other accounts from which such funds were transferred in fiscal year 2007 for wildfire suppression so that all such transfers for fiscal year 2007 are fully repaid;

“(3) \$10,000,000 shall be available for hazardous fuels reduction activities; and

“(4) \$6,000,000 shall be available for rehabilitation and restoration of Federal lands.

“(c) Each amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

“SEC. 158. (a) Notwithstanding any other provision of this joint resolution, and in addition to amounts otherwise made available by this joint resolution, there is appropriated \$2,900,000,000 for ‘Department of Homeland Security—Federal Emergency Management Agency—Disaster Relief’, to remain available until expended.

“(b) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

“SEC. 159. (a) Notwithstanding any other provision of this joint resolution, and in addition to amounts otherwise made available by this joint resolution, there is appropriated \$3,000,000,000 for ‘Department of Housing and Urban Development—Community Planning and Development—Community Development Fund’, to remain available until expended, to enable the Secretary of Housing and Urban Development to make a grant or grants to the State of Louisiana solely for the purpose of covering costs associated with otherwise uncompensated but eligible claims that were filed on or before July 31, 2007, under the Road Home program administered by the State in accordance with plans approved by the Secretary.

“(b) In allocating funds under this section, the Secretary of Housing and Urban Development shall ensure that such funds serve only to supplement and not supplant any other State or Federal resources committed to the Road Home program. No funds shall be drawn from the Treasury under this section beyond those necessary to fulfill the exclusive purpose of this section.

Deadline.

Grants.
Louisiana.

“(c) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.”.

Approved November 13, 2007.

LEGISLATIVE HISTORY—H.R. 3222:

HOUSE REPORTS: Nos. 110–279 (Comm. on Appropriations) and 110–434 (Comm. of Conference).

SENATE REPORTS: No. 110–155 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Aug. 4, considered and passed House.

Oct. 2, 3, considered and passed Senate, amended.

Nov. 8, House and Senate agreed to conference report.



Public Law 110–117
110th Congress

An Act

To designate the Department of Veterans Affairs Medical Center in Asheville, North Carolina, as the “Charles George Department of Veterans Affairs Medical Center”.

Nov. 15, 2007
[H.R. 2546]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF CHARLES GEORGE DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

(a) DESIGNATION.—The Department of Veterans Affairs Medical Center located at 1100 Tunnel Road, Asheville, North Carolina, shall after the date of the enactment of this Act be known and designated as the “Charles George Department of Veterans Affairs Medical Center”.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Charles George Department of Veterans Affairs Medical Center.

Approved November 15, 2007.

LEGISLATIVE HISTORY—H.R. 2546:

CONGRESSIONAL RECORD, Vol. 153 (2007):
June 25, considered and passed House.
Nov. 1, considered and passed Senate.



Public Law 110–118
110th Congress

An Act

Nov. 16, 2007
[H.R. 2602]

To name the Department of Veterans Affairs medical facility in Iron Mountain, Michigan, as the “Oscar G. Johnson Department of Veterans Affairs Medical Facility”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITY, IRON MOUNTAIN, MICHIGAN.

The Department of Veterans Affairs medical facility in Iron Mountain, Michigan, shall after the date of the enactment of this Act be known and designated as the “Oscar G. Johnson Department of Veterans Affairs Medical Facility”. Any reference to that medical facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Oscar G. Johnson Department of Veterans Affairs Medical Facility.

Approved November 16, 2007.

LEGISLATIVE HISTORY—H.R. 2602:

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 25, considered and passed House.

Nov. 7, considered and passed Senate.



Public Law 110–119
110th Congress

Joint Resolution

Providing for the reappointment of Roger W. Sant as a citizen regent of the Board
of Regents of the Smithsonian Institution.

Nov. 16, 2007
[S.J. Res. 7]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring because of the expiration of the term of Roger W. Sant of Washington, D.C., is filled by the reappointment of Roger W. Sant, for a term of 6 years, effective October 25, 2007.

Approved November 16, 2007.

LEGISLATIVE HISTORY—S.J. Res. 7:

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 31, considered and passed Senate.

Nov. 5, considered and passed House.



Public Law 110–120
110th Congress

An Act

Nov. 19, 2007
[S. 2206]

To provide technical corrections to Public Law 109–116 (2 U.S.C. 2131a note) to extend the time period for the Joint Committee on the Library to enter into an agreement to obtain a statue of Rosa Parks, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROSA PARKS STATUE.

(a) IN GENERAL.—Section 1(a) of Public Law 109–116 (2 U.S.C. 2131a note) is amended by—

(1) striking “2 years” and inserting “4 years”; and

(2) adding at the end the following: “The Joint Committee may authorize the Architect of the Capitol to enter into the agreement and related contracts required under this subsection on its behalf, under such terms and conditions as the Joint Committee may require.”.

2 USC 2131a
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of Public Law 109–116.

Approved November 19, 2007.

LEGISLATIVE HISTORY—S. 2206:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 18, considered and passed Senate.

Nov. 5, considered and passed House.



Public Law 110–121
110th Congress

An Act

To designate the facility of the United States Postal Service located at 701 Loyola Avenue in New Orleans, Louisiana, as the “Louisiana Armed Services Veterans Post Office”.

Nov. 30, 2007
[H.R. 2089]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOUISIANA ARMED SERVICES VETERANS POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 701 Loyola Avenue in New Orleans, Louisiana, shall be known and designated as the “Louisiana Armed Services Veterans Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Louisiana Armed Services Veterans Post Office”.

Approved November 30, 2007.

LEGISLATIVE HISTORY—H.R. 2089:

CONGRESSIONAL RECORD, Vol. 153 (2007):
Oct. 15, considered and passed House.
Nov. 16, considered and passed Senate.



Public Law 110–122
110th Congress

An Act

Nov. 30, 2007
[H.R. 2276]

To designate the facility of the United States Postal Service located at 203 North Main Street in Vassar, Michigan, as the “Corporal Christopher E. Eskelson Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORPORAL CHRISTOPHER E. ESKELSON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 203 North Main Street in Vassar, Michigan, shall be known and designated as the “Corporal Christopher E. Eskelson Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Corporal Christopher E. Eskelson Post Office Building”.

Approved November 30, 2007.

LEGISLATIVE HISTORY—H.R. 2276:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 1, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 110–123
110th Congress

An Act

To designate the facility of the United States Postal Service located at 950 West Trenton Avenue in Morrisville, Pennsylvania, as the “Nate DeTample Post Office Building”.

Nov. 30, 2007
[H.R. 3297]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATE DETAMPLE POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 950 West Trenton Avenue in Morrisville, Pennsylvania, shall be known and designated as the “Nate DeTample Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Nate DeTample Post Office Building”.

Approved November 30, 2007.

LEGISLATIVE HISTORY—H.R. 3297:

CONGRESSIONAL RECORD, Vol. 153 (2007):
Oct. 15, considered and passed House.
Nov. 16, considered and passed Senate.



Public Law 110–124
110th Congress

An Act

Nov. 30, 2007
[H.R. 3307]

To designate the facility of the United States Postal Service located at 570 Broadway in Bayonne, New Jersey, as the “Dennis P. Collins Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DENNIS P. COLLINS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 570 Broadway in Bayonne, New Jersey, shall be known and designated as the “Dennis P. Collins Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Dennis P. Collins Post Office Building”.

Approved November 30, 2007.

LEGISLATIVE HISTORY—H.R. 3307 (S. 2107):

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 30, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 110–125
110th Congress

An Act

To designate the facility of the United States Postal Service located at 216 East Main Street in Atwood, Indiana, as the “Lance Corporal David K. Fribley Post Office”.

Nov. 30, 2007
[H.R. 3308]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LANCE CORPORAL DAVID K. FRIBLEY POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 216 East Main Street in Atwood, Indiana, shall be known and designated as the “Lance Corporal David K. Fribley Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lance Corporal David K. Fribley Post Office”.

Approved November 30, 2007.

LEGISLATIVE HISTORY—H.R. 3308:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 9, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 110–126
110th Congress

An Act

Nov. 30, 2007
[H.R. 3325]

To designate the facility of the United States Postal Service located at 235 Mountain Road in Suffield, Connecticut, as the “Corporal Stephen R. Bixler Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORPORAL STEPHEN R. BIXLER POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 235 Mountain Road in Suffield, Connecticut, shall be known and designated as the “Corporal Stephen R. Bixler Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Corporal Stephen R. Bixler Post Office”.

Approved November 30, 2007.

LEGISLATIVE HISTORY—H.R. 3325:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 1, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 110–127
110th Congress

An Act

To designate the facility of the United States Postal Service located at 200 North William Street in Goldsboro, North Carolina, as the “Philip A. Baddour, Sr. Post Office”.

Nov. 30, 2007
[H.R. 3382]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PHILIP A. BADDOUR, SR. POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 200 North William Street in Goldsboro, North Carolina, shall be known and designated as the “Philip A. Baddour, Sr. Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Philip A. Baddour, Sr. Post Office”.

Approved November 30, 2007.

LEGISLATIVE HISTORY—H.R. 3382:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 1, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 110–128
110th Congress

An Act

Nov. 30, 2007
[H.R. 3446]

To designate the facility of the United States Postal Service located at 202 East Michigan Avenue in Marshall, Michigan, as the “Michael W. Schragg Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MICHAEL W. SCHRAGG POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 202 East Michigan Avenue in Marshall, Michigan, shall be known and designated as the “Michael W. Schragg Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Michael W. Schragg Post Office Building”.

Approved November 30, 2007.

LEGISLATIVE HISTORY—H.R. 3446:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 30, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 110–129
110th Congress

An Act

To designate the facility of the United States Postal Service located at 1430 South Highway 29 in Cantonment, Florida, as the “Charles H. Hendrix Post Office Building”.

Nov. 30, 2007
[H.R. 3518]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARLES H. HENDRIX POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1430 South Highway 29 in Cantonment, Florida, shall be known and designated as the “Charles H. Hendrix Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Charles H. Hendrix Post Office Building”.

Approved November 30, 2007.

LEGISLATIVE HISTORY—H.R. 3518:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 9, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 110–130
110th Congress

An Act

Nov. 30, 2007
[H.R. 3530]

To designate the facility of the United States Postal Service located at 1400 Highway 41 North in Inverness, Florida, as the “Chief Warrant Officer Aaron Weaver Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHIEF WARRANT OFFICER AARON WEAVER POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1400 Highway 41 North in Inverness, Florida, shall be known and designated as the “Chief Warrant Officer Aaron Weaver Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Chief Warrant Officer Aaron Weaver Post Office Building”.

Approved November 30, 2007.

LEGISLATIVE HISTORY—H.R. 3530:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 9, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 110–131
110th Congress

An Act

To designate the facility of the United States Postal Service located at 4320 Blue Parkway in Kansas City, Missouri, as the “Wallace S. Hartsfield Post Office Building”.

Nov. 30, 2007
[H.R. 3572]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WALLACE S. HARTSFIELD POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 4320 Blue Parkway in Kansas City, Missouri, shall be known and designated as the “Wallace S. Hartsfield Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Wallace S. Hartsfield Post Office Building”.

Approved November 30, 2007.

LEGISLATIVE HISTORY—H.R. 3572 (S. 2150):

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 15, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 110–132
110th Congress

An Act

Dec. 6, 2007
[H.R. 50]

To reauthorize the African Elephant Conservation Act and the Rhinoceros and Tiger Conservation Act of 1994.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Multinational
Species
Conservation
Funds
Reauthorization
Act of 2007.
16 USC 4201
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Multinational Species Conservation Funds Reauthorization Act of 2007”.

SEC. 2. REAUTHORIZATION AND AMENDMENT OF AFRICAN ELEPHANT CONSERVATION ACT.

(a) NOTICE OF APPROVAL OF PROJECT PROPOSAL.—Section 2101(c) of the African Elephant Conservation Act (16 U.S.C. 4211(c)) is amended by striking “and to each country within which the project is proposed to be conducted”.

(b) ADMINISTRATIVE EXPENSES.—Section 2306(b) of the African Elephant Conservation Act (16 U.S.C. 4245(b)) is amended by striking “\$80,000” and inserting “\$100,000”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 2306(a) of the African Elephant Conservation Act (16 U.S.C. 4245(a)) is amended by striking “2001, 2002, 2003, 2004, 2005, 2006, and 2007” and inserting “2007 through 2012”.

SEC. 3. REAUTHORIZATION AND AMENDMENT OF RHINOCEROS AND TIGER CONSERVATION ACT OF 1994.

(a) NOTICE OF APPROVAL OF PROJECT PROPOSAL.—Section 5(c) of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5304(c)) is amended in the third sentence by striking “, to the Administrator, and to each country within which the project is to be conducted” and inserting “and to the Administrator”.

(b) ADMINISTRATIVE EXPENSES.—Section 10(b) of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306(b)) is amended by striking “\$80,000” and inserting “\$100,000”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 10(a) of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306(a))

is amended by striking “2001, 2002, 2003, 2004, 2005, 2006, and 2007” and inserting “2007 through 2012”.

Approved December 6, 2007.

LEGISLATIVE HISTORY—H.R. 50:

HOUSE REPORTS: No. 110–244 (Comm. on Natural Resources).

SENATE REPORTS: No. 110–211 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 23, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 110–133
110th Congress

An Act

Dec. 6, 2007

[H.R. 465]

Asian Elephant
Conservation
Reauthorization
Act of 2007.
16 USC 4261
note.

To reauthorize the Asian Elephant Conservation Act of 1997.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Asian Elephant Conservation
Reauthorization Act of 2007”.

**SEC. 2. REAUTHORIZATION AND AMENDMENT OF ASIAN ELEPHANT
CONSERVATION ACT OF 1997.**

(a) NOTICE OF APPROVAL OF PROJECT PROPOSAL.—Section 5(c)(2)(C) of the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4264(c)(2)(C)) is amended by striking “, the Administrator, and each of those countries” and inserting “and the Administrator”.

(b) ADMINISTRATIVE EXPENSES.—Section 8(b) of the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4266(b)) is amended by striking “\$80,000” and inserting “\$100,000”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 8(a) of the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4266(a)) is amended by striking “2001, 2002, 2003, 2004, 2005, 2006, and 2007” and inserting “2007 through 2012”.

Approved December 6, 2007.

LEGISLATIVE HISTORY—H.R. 465 (S. 1832):

HOUSE REPORTS: No. 110–245 (Comm. on Natural Resources).

SENATE REPORTS: No. 110–212 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 23, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 110–134
110th Congress

An Act

To reauthorize the Head Start Act, to improve program quality, to expand access,
and for other purposes.

Dec. 12, 2007
[H.R. 1429]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

(a) **SHORT TITLE.**—This Act may be cited as the “Improving
Head Start for School Readiness Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act
is as follows:

- Sec. 1. Short title.
- Sec. 2. Statement of purpose.
- Sec. 3. Definitions.
- Sec. 4. Financial assistance for Head Start programs.
- Sec. 5. Authorization of appropriations.
- Sec. 6. Allotment of funds; limitations on assistance.
- Sec. 7. Designation of Head Start agencies.
- Sec. 8. Standards; monitoring of Head Start agencies and programs.
- Sec. 9. Powers and functions of Head Start agencies.
- Sec. 10. Head start transition and alignment with K–12 education.
- Sec. 11. Early childhood education, coordination, and improvement.
- Sec. 12. Submission of plans.
- Sec. 13. Administrative requirements and standards.
- Sec. 14. Participation in Head Start programs.
- Sec. 15. Early Head Start programs.
- Sec. 16. Appeals, notice, and hearing.
- Sec. 17. Records and audits.
- Sec. 18. Technical assistance and training.
- Sec. 19. Staff qualifications and development.
- Sec. 20. Research, demonstrations, and evaluation.
- Sec. 21. Reports.
- Sec. 22. Comparability of wages.
- Sec. 23. Limitation with respect to certain unlawful activities.
- Sec. 24. Political activities.
- Sec. 25. Parental consent requirement for health services.
- Sec. 26. Centers of Excellence in Early Childhood.
- Sec. 27. General provisions.
- Sec. 28. Compliance with Improper Payments Information Act of 2002.
- Sec. 29. References in other Acts.

SEC. 2. STATEMENT OF PURPOSE.

Section 636 of the Head Start Act (42 U.S.C. 9831) is amended
to read as follows:

“SEC. 636. STATEMENT OF PURPOSE.

“It is the purpose of this subchapter to promote the school
readiness of low-income children by enhancing their cognitive,
social, and emotional development—

“(1) in a learning environment that supports children’s
growth in language, literacy, mathematics, science, social and

Improving Head
Start for School
Readiness Act
of 2007.
42 USC 9801
note.

emotional functioning, creative arts, physical skills, and approaches to learning; and

“(2) through the provision to low-income children and their families of health, educational, nutritional, social, and other services that are determined, based on family needs assessments, to be necessary.”.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 637 of the Head Start Act (42 U.S.C. 9832) is amended—

(1) in paragraph (2), by inserting “(including a community-based organization, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801))” after “nonprofit”;

(2) in paragraph (3)(C), by inserting “, and financial literacy.” after “self-sufficiency”;

(3) in paragraph (12), by striking “migrant and seasonal Head Start program” and inserting “migrant or seasonal Head Start program”;

(4) by striking paragraph (17) and inserting the following:

“(17) The term ‘State’ means a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands. The term includes the Republic of Palau for fiscal years 2008 and 2009, and (if the legislation described in section 640(a)(2)(B)(v) has not been enacted by September 30, 2009) for fiscal years 2010 through 2012.”; and

(5) by adding at the end the following:

“(18) The term ‘deficiency’ means—

“(A) a systemic or substantial material failure of an agency in an area of performance that the Secretary determines involves—

“(i) a threat to the health, safety, or civil rights of children or staff;

“(ii) a denial to parents of the exercise of their full roles and responsibilities related to program operations;

“(iii) a failure to comply with standards related to early childhood development and health services, family and community partnerships, or program design and management;

“(iv) the misuse of funds received under this subchapter;

“(v) loss of legal status (as determined by the Secretary) or financial viability, loss of permits, debarment from receiving Federal grants or contracts, or the improper use of Federal funds; or

“(vi) failure to meet any other Federal or State requirement that the agency has shown an unwillingness or inability to correct, after notice from the Secretary, within the period specified;

“(B) systemic or material failure of the governing body of an agency to fully exercise its legal and fiduciary responsibilities; or

“(C) an unresolved area of noncompliance.

“(19) The term ‘homeless children’ has the meaning given the term ‘homeless children and youths’ in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)).

“(20) The term ‘institution of higher education’ has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

“(21) The term ‘interrater reliability’ means the extent to which 2 or more independent raters or observers consistently obtain the same result when using the same assessment tool.

“(22) The term ‘limited English proficient’, used with respect to a child, means a child—

“(A)(i) who was not born in the United States or whose native language is a language other than English;

“(ii)(I) who is a Native American (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), an Alaska Native, or a native resident of an outlying area (as defined in such section 9101); and

“(II) who comes from an environment where a language other than English has had a significant impact on the child’s level of English language proficiency; or

“(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

“(B) whose difficulties in speaking or understanding the English language may be sufficient to deny such child—

“(i) the ability to successfully achieve in a classroom in which the language of instruction is English; or

“(ii) the opportunity to participate fully in society.

“(23) The term ‘principles of scientific research’ means principles of research that—

“(A) applies rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs;

“(B) presents findings and makes claims that are appropriate to and supported by methods that have been employed; and

“(C) includes, as appropriate to the research being conducted—

“(i) use of systematic, empirical methods that draw on observation or experiment;

“(ii) use of data analyses that are adequate to support the general findings;

“(iii) reliance on measurements or observational methods that provide reliable and generalizable findings;

“(iv) strong claims of causal relationships, only with research designs that eliminate plausible competing explanations for observed results, such as, but not limited to, random assignment experiments;

“(v) presentation of studies and methods in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

“(vi) acceptance by a peer-reviewed journal or critique by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

“(vii) consistency of findings across multiple studies or sites to support the generality of results and conclusions.

“(24) The term ‘professional development’ means high-quality activities that will improve the knowledge and skills of Head Start teachers and staff, as relevant to their roles and functions, in program administration and the provision of services and instruction, as appropriate, in a manner that improves service delivery to enrolled children and their families, including activities that—

“(A) are part of a sustained effort to improve overall program quality and outcomes for enrolled children and their families;

“(B) are developed or selected with extensive participation of administrators and teachers from Head Start programs;

“(C) are developmentally appropriate for the children being served;

“(D) include instruction in ways that Head Start teachers and staff may work more effectively with parents, as appropriate;

“(E) are designed to give Head Start teachers and staff the knowledge and skills to provide instruction and appropriate support services to children of diverse backgrounds, as appropriate;

“(F) may include a 1-day or short-term workshop or conference, if the workshop or conference is consistent with the goals in the professional development plan described in section 648A(f) and will be delivered by an institution of higher education or other entity, with expertise in delivering training in early childhood development, training in family support, and other assistance designed to improve the delivery of Head Start services; and

“(G) in the case of teachers, assist teachers with—

“(i) the acquisition of the content knowledge and teaching strategies needed to provide effective instruction and other school readiness services regarding early language and literacy, early mathematics, early science, cognitive skills, approaches to learning, creative arts, physical health and development, and social and emotional development linked to school readiness;

“(ii) meeting the requirements in paragraphs (1) and (2) of section 648A(a), as appropriate;

“(iii) improving classroom management skills, as appropriate;

“(iv) advancing their understanding of effective instructional strategies that are—

“(I) based on scientifically valid research; and

“(II) aligned with—

“(aa) the Head Start Child Outcomes Framework developed by the Secretary and, as appropriate, State early learning standards; and

“(bb) curricula, ongoing assessments, and other instruction and services, designed to help meet the standards described in section 641A(a)(1);

“(v) acquiring the knowledge and skills to provide instruction and appropriate language and support services to increase the English language skills of limited English proficient children, as appropriate; or

“(vi) methods of teaching children with disabilities, as appropriate.

“(25) The term ‘scientifically valid research’ includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with principles of scientific research.

“(26) The term ‘unresolved area of noncompliance’ means failure to correct a noncompliance item within 120 days, or within such additional time (if any) as is authorized by the Secretary, after receiving from the Secretary notice of such noncompliance item, pursuant to section 641A(c).”.

(b) REDESIGNATION AND REORDERING OF DEFINITIONS.—Section 637 of such Act is amended—

(1) by redesignating paragraphs (1) through (23) as paragraphs (1), (3), (4), (5), (6), (7), (8), (9), (10), (12), (16), (17), (18), (19), (22), (24), (25), (2), (11), (13), (14), (15), (20), (21), (23), and (26), respectively; and

(2) so that paragraphs (1) through (26), as so redesignated in paragraph (1), appear in numerical order.

SEC. 4. FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended by inserting “for a period of 5 years” after “provide financial assistance to such agency”.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended to read as follows:

“SEC. 639. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this subchapter (other than section 657B) \$7,350,000,000 for fiscal year 2008, \$7,650,000,000 for fiscal year 2009, \$7,995,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 and 2012.”.

SEC. 6. ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE.

(a) ALLOTMENT OF FUNDS.—Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended to read as follows:

“(a)(1) Using the sums appropriated pursuant to section 639 for a fiscal year, the Secretary shall allocate such sums in accordance with paragraphs (2) through (5).

“(2)(A) The Secretary shall determine an amount for each fiscal year for each State that is equal to the amount received through base grants for the prior fiscal year by the Head Start agencies (including Early Head Start agencies) in the State that are not described in clause (ii) or (iii) of subparagraph (B).

“(B) The Secretary shall reserve for each fiscal year such sums as are necessary—

“(i) to provide each amount determined for a State under subparagraph (A) to the Head Start agencies (including Early Head Start agencies) in the State that are not described in clause (ii) or (iii), by allotting to each agency described in this clause an amount equal to that agency’s base grant for the prior fiscal year;

“(ii) to provide an amount for the Indian Head Start programs that is equal to the amount provided for base grants for such programs under this subchapter for the prior fiscal year, by allotting to each Head Start agency (including each Early Head Start agency) administering an Indian Head Start program an amount equal to that agency’s base grant for the prior fiscal year;

“(iii) to provide an amount for the migrant and seasonal Head Start programs, on a nationwide basis, that is equal to the amount provided nationwide for base grants for such programs under this subchapter for the prior fiscal year, by allotting to each Head Start agency administering a migrant or seasonal Head Start program an amount equal to that agency’s base grant for the prior fiscal year;

“(iv) to provide an amount for each of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States (for Head Start agencies (including Early Head Start agencies) in the jurisdiction) that is equal to the amount provided for base grants for such jurisdiction under this subchapter for the prior fiscal year, by allotting to each agency described in this clause an amount equal to that agency’s base grant for the prior fiscal year;

“(v) to provide an amount for the Republic of Palau (for Head Start agencies (including Early Head Start agencies) in the jurisdiction) for each of fiscal years 2008 and 2009, and (if legislation approving a new agreement regarding United States assistance for the Republic of Palau has not been enacted by September 30, 2009) for each of fiscal years 2010 through 2012, that is equal to the amount provided for base grants for such jurisdiction under this subchapter for the prior fiscal year, by allotting to each agency described in this clause an amount equal to that agency’s base grant for the prior fiscal year; and

“(vi) to provide an amount for a collaboration grant under section 642B(a) for each State, for the Indian Head Start programs, and for the migrant and seasonal Head Start programs, in the same amount as the corresponding collaboration grant provided under this subchapter for fiscal year 2007.

“(C)(i) The Secretary shall reserve for each fiscal year an amount that is not less than 2.5 percent and not more than 3 percent of the sums appropriated pursuant to section 639 for that fiscal year, to fund training and technical assistance activities, from which reserved amount—

“(I) the Secretary shall set aside a portion, but not less than 20 percent, to be used to fund training and technical assistance activities for Early Head Start programs, in accordance with section 645A(g)(2); and

“(II) the Secretary shall set aside a portion, equal to the rest of the reserved amount, to fund training and technical

assistance activities for other Head Start programs, in accordance with section 648, of which portion—

“(aa) not less than 50 percent shall be made available to Head Start agencies to use directly, which may include at their discretion the establishment of local or regional agreements with community experts, institutions of higher education, or private consultants, to make program improvements identified by such agencies, by carrying out the training and technical assistance activities described in section 648(d);

“(bb) not less than 25 percent shall be available to the Secretary to support a State-based training and technical assistance system, or a national system, described in section 648(e) for supporting program quality; and

“(cc) the remainder of the portion set aside under this subclause shall be available to the Secretary to assist Head Start agencies in meeting and exceeding the standards described in section 641A(a)(1) by carrying out activities described in subsections (a), (b), (c), (f), and (g) of section 648, including helping Head Start programs address weaknesses identified by monitoring activities conducted by the Secretary under section 641A(c), except that not less than \$3,000,000 of the remainder shall be made available to carry out activities described in section 648(a)(3)(B)(ii).

“(ii) In determining the portion set aside under clause (i)(I) and the amount reserved under this subparagraph, the Secretary shall consider the number of Early Head Start programs newly funded for that fiscal year.

“(D) The Secretary shall reserve not more than \$20,000,000 to fund research, demonstration, and evaluation activities under section 649, of which not more than \$7,000,000 for each of fiscal years 2008 through 2012 shall be available to carry out impact studies under section 649(g).

“(E) The Secretary shall reserve not more than \$42,000,000 for discretionary payments by the Secretary, including payments for all costs (other than compensation of Federal employees) for activities carried out under subsection (c) or (e) of section 641A.

“(F) If the sums appropriated under section 639 are not sufficient to provide the amounts required to be reserved under subparagraphs (B) through (E), the amounts shall be reduced proportionately.

“(G) Nothing in this section shall be construed to deny the Secretary the authority, consistent with sections 641, 641A, and 646 to terminate, suspend, or reduce funding to a Head Start agency.

“(3)(A) From any amount remaining for a fiscal year after the Secretary carries out paragraph (2) (referred to in this paragraph as the ‘remaining amount’), the Secretary shall—

“(i) subject to clause (ii)—

“(I) provide a cost of living increase for each Head Start agency (including each Early Head Start agency) funded under this subchapter for that fiscal year, to maintain the level of services provided during the prior year; and

“(II) subject to subparagraph (B), provide \$10,000,000 for Indian Head Start programs (including Early Head Start programs), and \$10,000,000 for migrant and seasonal

Head Start programs, to increase enrollment in the programs involved;

“(ii) subject to clause (iii), if the remaining amount is not sufficient to carry out clause (i)—

“(I) for each of fiscal years 2008, 2009, and 2010—

“(aa) subject to subparagraph (B), provide 5 percent of that amount for Indian Head Start programs (including Early Head Start programs), and 5 percent of that amount for migrant and seasonal Head Start programs, to increase enrollment in the programs involved; and

“(bb) use 90 percent of that amount to provide, for each Head Start agency (including each Early Head Start agency) funded as described in clause (i)(I), the same percentage (but not less than 50 percent) of the cost of living increase described in clause (i); and

“(II) for fiscal year 2011 and each subsequent fiscal year—

“(aa) provide, for each Head Start agency (including each Early Head Start agency) funded as described in clause (i)(I), the cost of living increase described in clause (i); and

“(bb) subject to subparagraph (B), with any portion of the remaining amount that is not used under item (aa), provide equal amounts for Indian Head Start programs (including Early Head Start programs), and for migrant and seasonal Head Start programs, to increase enrollment in the programs involved; and

“(iii) if the remaining amount is not sufficient to carry out clause (ii) for the fiscal year involved, use that amount to provide, for each Head Start agency (including each Early Head Start agency) funded as described in clause (i)(I), the same percentage of the cost of living increase described in clause (i).

“(B)(i) Notwithstanding any other provision of this paragraph, the Indian Head Start programs shall not receive more than a total cumulative amount of \$50,000,000 for all fiscal years, and the migrant and seasonal Head Start programs shall not receive more than a total cumulative amount of \$50,000,000 for all fiscal years, under clause (i)(II), and subclauses (I)(aa) and (II)(bb) of clause (ii), of subparagraph (A) (referred to in this subsection as the ‘special expansion provisions’), to increase enrollment in the programs involved.

“(ii)(I) Funds that are appropriated under section 639 for a fiscal year, and made available to Indian Head Start programs or migrant or seasonal Head Start programs under the special expansion provisions, shall remain available until the end of the following fiscal year.

“(II) For purposes of subclause (I)—

“(aa) if no portion is reallocated under clause (iii), those funds shall remain available to the programs involved; or

“(bb) if a portion is reallocated under clause (iii), the portion shall remain available to the recipients of the portion.

“(iii) Of the funds made available as described in clause (ii), the Secretary shall reallocate the portion that the Secretary determines is unobligated 18 months after the funds are made available. The Secretary shall add that portion to the balance described in

paragraph (4), and reallocate the portion in accordance with paragraph (4), for the following fiscal year referred to in clause (ii).

“(4)(A) Except as provided in subparagraph (B), from any amount remaining for a fiscal year after the Secretary carries out paragraphs (2) and (3) (referred to in this paragraph as the ‘balance’), the Secretary shall—

“(i) reserve 40 percent to carry out subparagraph (C) and paragraph (5);

“(ii) reserve 45 percent to carry out subparagraph (D); and

“(iii) reserve 15 percent (which shall remain available through the end of fiscal year 2012) to provide funds for carrying out section 642B(b)(2).

“(B)(i) Under the circumstances described in clause (ii), from the balance, the Secretary shall—

“(I) reserve 45 percent to carry out subparagraph (C) and paragraph (5); and

“(II) reserve 55 percent to carry out subparagraph (D).

“(ii) The Secretary shall make the reservations described in clause (i) for a fiscal year if—

“(I) the total cumulative amount reserved under subparagraph (A)(iii) for all preceding fiscal years equals \$100,000,000; or

“(II) in the 2-year period preceding such fiscal year, funds were reserved under subparagraph (A)(iii) in an amount that totals not less than \$15,000,000 and the Secretary received no approvable applications for such funds.

“(iii) The total cumulative amount reserved under subparagraph (A)(iii) for all fiscal years may not be greater than \$100,000,000.

“(C) The Secretary shall fund the quality improvement activities described in paragraph (5) using the amount reserved under subparagraph (A)(i) or subparagraph (B)(i)(I), as appropriate, of which—

“(i) a portion that is less than 10 percent may be reserved by the Secretary to provide funding to Head Start agencies (including Early Head Start agencies) that demonstrate the greatest need for additional funding for such activities, as determined by the Secretary; and

“(ii) a portion that is not less than 90 percent shall be reserved by the Secretary to allot, to each Head Start agency (including each Early Head Start agency), an amount that bears the same ratio to such portion as the number of enrolled children served by the agency involved bears to the number of enrolled children served by all the Head Start agencies (including Early Head Start agencies), except that the Secretary shall account for the additional costs of serving children in Early Head Start programs and may consider whether an agency is providing a full-day program or whether an agency is providing a full-year program.

“(D) The Secretary shall fund expansion of Head Start programs (including Early Head Start programs) using the amount reserved under subparagraph (A)(ii) or subparagraph (B)(i)(II), as appropriate, of which the Secretary shall—

“(i) use 0.2 percent for Head Start programs funded under clause (iv) or (v) of paragraph (2)(B) (other than Early Head Start programs);

“(ii) for any fiscal year after the last fiscal year for which Indian Head Start programs receive funds under the special expansion provisions, use 3 percent for Head Start programs funded under paragraph (2)(B)(ii) (other than Early Head Start programs), except that the Secretary may increase that percentage if the Secretary determines that the results of the study conducted under section 649(k) indicate that the percentage should be increased;

“(iii) for any fiscal year after the last fiscal year for which migrant or seasonal Head Start programs receive funds under the special expansion provisions, use 4.5 percent for Head Start programs funded under paragraph (2)(B)(iii) (other than Early Head Start programs), except that the Secretary may increase that percentage if the Secretary determines that the results of the study conducted under section 649(l) indicate that the percentage should be increased; and

“(iv) from the remainder of the reserved amount—

“(I) use 50 percent for Head Start programs funded under paragraph (2)(B)(i) (other than Early Head Start programs), of which—

“(aa) the covered percentage shall be allocated among the States serving less than 60 percent (as determined by the Secretary) of children who are 3 or 4 years of age from families whose income is below the poverty line, by allocating to each of those States an amount that bears the same relationship to that covered percentage as the number of children who are less than 5 years of age from families whose income is below the poverty line (referred to in this subclause as ‘young low-income children’) in that State bears to the number of young low-income children in all those States; and

“(bb) the remainder shall be allocated proportionately among the States on the basis of the number of young low-income children; and

“(II) use 50 percent for Early Head Start programs.

“(E) In this paragraph, the term ‘covered percentage’ means—

“(i) for fiscal year 2008, 30 percent;

“(ii) for fiscal year 2009, 40 percent;

“(iii) for fiscal year 2010, 50 percent;

“(iv) for fiscal year 2011, 55 percent; and

“(v) for fiscal year 2012, 55 percent.

“(5)(A) Not less than 50 percent of the amount reserved under subparagraph (A)(i) or subparagraph (B)(i)(I), as appropriate, of paragraph (4) to carry out quality improvement activities under paragraph (4)(C) and this paragraph shall be used to improve the compensation (including benefits) of educational personnel, family service workers, and child counselors, as described in sections 644(a) and 653, in the manner determined by the Head Start agencies (including Early Head Start agencies) involved, to—

“(i) ensure that compensation is adequate to attract and retain qualified staff for the programs involved in order to enhance program quality;

“(ii) improve staff qualifications and assist with the implementation of career development programs for staff that support ongoing improvement of their skills and expertise; and

“(iii) provide education and professional development to enable teachers to be fully competent to meet the professional standards established under section 648A(a)(1), including—

“(I) providing assistance to complete postsecondary course work;

“(II) improving the qualifications and skills of educational personnel to become certified and licensed as bilingual education teachers, or as teachers of English as a second language; and

“(III) improving the qualifications and skills of educational personnel to teach and provide services to children with disabilities.

“(B) Any remaining funds from the reserved amount described in subparagraph (A) shall be used to carry out any of the following activities:

“(i) Supporting staff training, child counseling, and other services, necessary to address the challenges of children from immigrant, refugee, and asylee families, homeless children, children in foster care, limited English proficient children, children of migrant or seasonal farmworker families, children from families in crisis, children referred to Head Start programs (including Early Head Start programs) by child welfare agencies, and children who are exposed to chronic violence or substance abuse.

“(ii) Ensuring that the physical environments of Head Start programs are conducive to providing effective program services to children and families, and are accessible to children with disabilities and other individuals with disabilities.

“(iii) Employing additional qualified classroom staff to reduce the child-to-teacher ratio in the classroom and additional qualified family service workers to reduce the family-to-staff ratio for those workers.

“(iv) Ensuring that Head Start programs have qualified staff that promote the language skills and literacy growth of children and that provide children with a variety of skills that have been identified, through scientifically based reading research, as predictive of later reading achievement.

“(v) Increasing hours of program operation, including—

“(I) conversion of part-day programs to full-working-day programs; and

“(II) increasing the number of weeks of operation in a calendar year.

“(vi) Improving communitywide strategic planning and needs assessments for Head Start programs and collaboration efforts for such programs, including outreach to children described in clause (i).

“(vii) Transporting children in Head Start programs safely, except that not more than 10 percent of funds made available to carry out this paragraph may be used for such purposes.

“(viii) Improving the compensation and benefits of staff of Head Start agencies, in order to improve the quality of Head Start programs.

“(6) No sums appropriated under this subchapter may be combined with funds appropriated under any provision other than this subchapter if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless

such sums appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this subchapter.

“(7) In this subsection:

“(A) The term ‘base grant’, used with respect to a fiscal year, means the amount of permanent ongoing funding (other than funding described in sections 645A(g)(2)(A)(i) and paragraph (2)(C)(i)(II)(aa)) provided to a Head Start agency (including an Early Head Start agency) under this subchapter for that fiscal year.

“(B) The term ‘cost-of-living increase’, used with respect to an agency for a fiscal year, means an increase in the funding for that agency, based on the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the prior fiscal year, calculated on the amount of the base grant for that agency for the prior fiscal year.

“(C) For the purposes of this subsection, the term ‘State’ does not include Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.”.

(b) MINIMUM ENROLLMENT REQUIREMENT FOR CHILDREN WITH DISABILITIES.—Section 640(d) of the Head Start Act (42 U.S.C. 9835(d)) is amended to read as follows:

Procedures.

“(d)(1) The Secretary shall establish policies and procedures to assure that, for fiscal year 2009 and thereafter, not less than 10 percent of the total number of children actually enrolled by each Head Start agency and each delegate agency will be children with disabilities who are determined to be eligible for special education and related services, or early intervention services, as appropriate, as determined under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), by the State or local agency providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.).

“(2) Such policies and procedures shall ensure the provision of early intervening services, such as educational and behavioral services and supports, to meet the needs of children with disabilities, prior to an eligibility determination under the Individuals with Disabilities Education Act.

“(3) Such policies and procedures shall require Head Start agencies to provide timely referral to and collaborate with the State or local agency providing services under section 619 or part C of the Individuals with Disabilities Education Act to ensure the provision of special education and related services and early intervention services, and the coordination of programmatic efforts, to meet the special needs of such children.

Waiver authority.

“(4) The Secretary shall establish policies and procedures to provide Head Start agencies with waivers of the requirements of paragraph (1) for not more than 3 years. Such policies and procedures shall require Head Start agencies, in order to receive such waivers, to provide evidence demonstrating that the Head Start agencies are making reasonable efforts on an annual basis to comply with the requirements of that paragraph.

“(5) Nothing in this subsection shall be construed to limit or create a right to a free appropriate public education under the Individuals with Disabilities Education Act.”.

(c) SERVICE DELIVERY MODELS.—Section 640(f) of the Head Start Act (42 U.S.C. 9835(f)) is amended—

(1) by striking “(f) The” and inserting “(f)(1) Not later than 1 year after the date of enactment of the Improving Head Start for School Readiness Act of 2007, the”;

(2) by striking “needs.” and inserting “needs, including models that leverage the capacity and capabilities of the delivery system of early childhood education and development services or programs.”; and

(3) by adding at the end the following:

“(2) In establishing the procedures the Secretary shall establish Procedures.
procedures to provide for—

“(A) the conversion of part-day programs to full-working-day programs or part-day slots to full-working-day slots; and

“(B) serving additional infants and toddlers pursuant to section 645(a)(5).”.

(d) ADDITIONAL FUNDS.—Section 640(g) of the Head Start Act (42 U.S.C. 9835(g)) is amended—

(1) by striking paragraphs (1), (3), and (4);

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking “, in allocating funds to an applicant within a State, from amounts allotted to a State pursuant to subsection (a)(4),”;

(B) in subparagraph (A), by striking “performance standards” and inserting “standards described in section 641A(a)(1)”;

(C) by striking subparagraph (C) and inserting the following:

“(C) the extent to which the applicant has undertaken a communitywide strategic planning and needs assessment involving other entities, including community organizations, and Federal, State, and local public agencies (including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))), that provide services to children and families, such as—

“(i) family support services;

“(ii) child abuse prevention services;

“(iii) protective services;

“(iv) foster care;

“(v) services for families in whose homes English is not the language customarily spoken;

“(vi) services for children with disabilities; and

“(vii) services for homeless children;”;

(D) in subparagraph (D)—

(i) by striking “family and community needs assessment” and inserting “family needs assessment and communitywide strategic planning and needs assessment”;

(ii) by striking “reflects” and inserting “reflect”; and

(iii) by striking “other local” and inserting “the State and local”;

(E) by striking subparagraph (E) and inserting the following:

“(E) the number of eligible children, as described in clause (i) or (ii) of section 645(a)(1)(B), in each community who are not participating in a Head Start program or any other publicly funded early childhood education and development program;”;

(F) by striking subparagraphs (G) and (H) and inserting the following:

“(G) the extent to which the applicant proposes to foster partnerships with other service providers in a manner that will leverage the existing delivery systems of such services and enhance the resource capacity of the applicant; and

“(H) the extent to which the applicant, in providing services, successfully coordinated activities with the local educational agency serving the community involved (including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))), and with schools in which children participating in such applicant’s program will enroll following such program, with respect to such services and the education services provided by such local educational agency.”;

(3) by redesignating paragraph (2) as paragraph (1); and

(4) by adding at the end the following:

“(2) Notwithstanding paragraph (1), in using funds made available for expansion under subsection (a)(4)(D), the Secretary shall first allocate the funds to qualified applicants proposing to use such funds to serve children from families with incomes below the poverty line. Agencies that receive such funds are subject to the eligibility and enrollment requirements under section 645(a)(1).

“(3)(A) In the event that the amount appropriated to carry out the program under this subchapter for a fiscal year does not exceed the amount appropriated for the prior fiscal year, or is not sufficient to maintain services comparable to the services provided under this subchapter during the prior fiscal year, a Head Start agency may negotiate with the Secretary a reduced funded enrollment level without a reduction in the amount of the grant received by the agency under this subchapter, if such agency can reasonably demonstrate that such reduced funded enrollment level is necessary to maintain the quality of services.

Process.

“(B) In accordance with this paragraph, the Secretary shall set up a process for Head Start agencies to negotiate the reduced funded enrollment levels referred to in subparagraph (A) for the fiscal year involved.

Notification.

“(C) In the event described in subparagraph (A), the Secretary shall be required to notify Head Start agencies of their ability to negotiate the reduced funded enrollment levels if such an agency can reasonably demonstrate that such reduced funded enrollment level is necessary to maintain the quality of services.”.

(e) VEHICLE SAFETY REQUIREMENTS.—Section 640(i) of the Head Start Act (42 U.S.C. 9835(i)) is amended by adding at the end the following: “The regulations shall also establish requirements to ensure the appropriate supervision of, and appropriate background checks for, individuals with whom the agencies contract to transport those children.”.

(f) MIGRANT AND SEASONAL HEAD START PROGRAMS.—Section 640(l) of the Head Start Act (42 U.S.C. 9835(l)) is amended—
(1) in paragraph (1)—

(A) by striking “With funds” and all that follows through “programs,” and inserting “With funds made available under this subchapter to expand migrant and seasonal Head Start programs,”; and

(B) by striking “children of migrant and seasonal farmworker families” and inserting “children of migrant or seasonal farmworker families”;

(2) in paragraph (2)—

(A) by striking “For” and all that follows through “in determining” and inserting “In determining”;

(B) by striking “children of migrant farmworkers” and inserting “children of migrant farmworker families”;

(C) by striking “under such subsection” and inserting “under this subchapter”;

(D) by striking “children of seasonal farmworkers” each place it appears and inserting “children of seasonal farmworker families”; and

(E) by striking “children of such farmworkers” and inserting “children of such farmworker families”; and

(3) by striking paragraph (3) and inserting the following:

“(3) In carrying out this subchapter, the Secretary shall continue the administrative arrangement at the national level for meeting the needs of Indian children and children of migrant and seasonal farmworker families and shall ensure—

“(A) the provision of training and technical assistance by staff with knowledge of and experience in working with such populations; and

“(B) the appointment of a national Indian Head Start collaboration director and a national migrant and seasonal Head Start collaboration director.

“(4)(A) For the purposes of paragraph (3), the Secretary shall conduct an annual consultation in each affected Head Start region, with tribal governments operating Head Start (including Early Head Start) programs.

“(B) The consultations shall be for the purpose of better meeting the needs of Indian, including Alaska Native, children and their families, in accordance with this subchapter, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations.

“(C) The Secretary shall publish a notification of the consultations in the Federal Register before conducting the consultations.

“(D) The Secretary shall ensure that a detailed report of each consultation shall be prepared and made available, within 90 days after the consultation, to all tribal governments receiving funds under this subchapter.”.

(g) ENROLLMENT OF HOMELESS CHILDREN; RULE OF CONSTRUCTION; MATERIALS.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

“(m) The Secretary shall issue rules to establish policies and procedures to remove barriers to the enrollment and participation of homeless children in Head Start programs. Such rules shall require Head Start agencies—

“(1) to implement policies and procedures to ensure that homeless children are identified and prioritized for enrollment;

Federal Register,
publication.

Reports.
Deadline.

Regulations.
Procedures.

“(2) to allow families of homeless children to apply to, enroll in, and attend Head Start programs while required documents, such as proof of residency, immunization and other medical records, birth certificates, and other documents, are obtained within a reasonable time frame; and

“(3) to coordinate individual Head Start programs with efforts to implement subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).

“(n) Nothing in this subchapter shall be construed to require a State to establish a publicly funded program of early childhood education and development, or to require any child to participate in such a publicly funded program, including a State-funded preschool program, or to participate in any initial screening before participating in a publicly funded program of early childhood education and development, except as provided under sections 612(a)(3) and 635(a)(5) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(3), 1435(a)(5)).

“(o) All curricula funded under this subchapter shall be based on scientifically valid research, and be age and developmentally appropriate. The curricula shall reflect all areas of child development and learning and be aligned with the Head Start Child Outcomes Framework. Parents shall have the opportunity to examine any such curricula or instructional materials funded under this subchapter.”.

SEC. 7. DESIGNATION OF HEAD START AGENCIES.

Section 641 of the Head Start Act (42 U.S.C. 9836) is amended to read as follows:

“SEC. 641. DESIGNATION OF HEAD START AGENCIES.

“(a) **AUTHORITY TO DESIGNATE.**—

“(1) **IN GENERAL.**—The Secretary is authorized to designate as a Head Start agency any local public or private nonprofit agency, including community-based and faith-based organizations, or for-profit agency, within a community, pursuant to the requirements of this section.

“(2) **INTERIM POLICY.**—Notwithstanding paragraph (1), until such time as the Secretary develops and implements the system for designation renewal under this section, the Secretary is authorized to designate as a Head Start agency, any local public or private nonprofit agency, including community-based and faith-based organizations, or for-profit agency, within a community, in the manner and process utilized by the Secretary prior to the enactment of the Improving Head Start for School Readiness Act of 2007.

“(b) **APPLICATION FOR DESIGNATION RENEWAL.**—To be considered for designation renewal, an entity shall submit an application to the Secretary, at such time and in such manner as the Secretary may require.

“(c) **SYSTEM FOR DESIGNATION RENEWAL.**—

“(1) **IN GENERAL.**—The Secretary shall develop a system for designation renewal that integrates the recommendations of the expert panel convened under paragraph (2) to determine if a Head Start agency is delivering a high-quality and comprehensive Head Start program that meets the educational, health, nutritional, and social needs of the children and families it serves, and meets program and financial management

requirements and standards described in section 641A(a)(1), based on—

“(A) annual budget and fiscal management data;

“(B) program reviews conducted under section 641A(c);

“(C) annual audits required under section 647;

“(D) classroom quality as measured under section 641A(c)(2)(F); and

“(E) Program Information Reports.

“(2) EXPERT PANEL.—Not later than 3 months after the date of enactment of the Improving Head Start for School Readiness Act of 2007, the Secretary shall convene an expert panel of 7 members to make recommendations to the Secretary on the development of a transparent, reliable, and valid system for designation renewal.

Deadline.

“(3) COMPOSITION OF EXPERT PANEL.—The Secretary, in convening such panel, shall appoint the following:

“(A)(i) One member, who has demonstrated competency, as evidenced by training, expertise, and experience, in early childhood program accreditation.

“(ii) One member, who has demonstrated competency (as so evidenced) in research on early childhood development.

“(iii) One member, who has demonstrated competency (as so evidenced) in governance and finance of nonprofit organizations.

“(iv) One member, who has demonstrated competency (as so evidenced) in delivery of services to populations of children with special needs and their families.

“(v) One member, who has demonstrated competency (as so evidenced) in assessment and evaluation of programs serving young children.

“(B) An employee from the Office of Head Start.

“(C) An executive director of a Head Start agency.

“(4) EXPERT PANEL REPORT.—Within 9 months after being convened by the Secretary, the expert panel shall issue a report to the Secretary that provides recommendations on a proposed system for designation renewal that takes into account the criteria in subparagraphs (A) through (E) of paragraph (1) to evaluate whether a Head Start agency is fulfilling its mission to deliver a high-quality and comprehensive Head Start program, including adequately meeting its governance, legal, and financial management requirements.

“(5) PUBLIC COMMENT AND CONSIDERATION.—Not later than 3 months after receiving the report described in paragraph (4), the Secretary shall publish a notice describing a proposed system for designation renewal in the Federal Register, including a proposal for the transition to such system, providing at least 90 days for public comment. The Secretary shall review and consider public comments prior to finalizing the system for designation renewal described in this subsection.

Deadline.
Federal Register,
publication.

“(6) DESIGNATION RENEWAL SYSTEM.—Not later than 12 months after publishing a notice describing the proposed system under paragraph (5), the Secretary shall implement the system for designation renewal and use that system to determine—

Deadline.

“(A) whether a Head Start grantee is successfully delivering a high-quality and comprehensive Head Start program; and

“(B) whether the grantee has any unresolved deficiencies found during the last triennial review under section 641A(c).

“(7) IMPLEMENTATION OF THE DESIGNATION RENEWAL SYSTEM.—

“(A) IN GENERAL.—A grantee who is determined under such system—

“(i) to be delivering a high-quality and comprehensive Head Start program shall be designated (consistent with section 643) as a Head Start agency for the period of 5 years described in section 638;

“(ii) to not be delivering a high-quality and comprehensive Head Start program shall be subject to an open competition as described in subsection (d); and

“(iii) in the case of an Indian Head Start agency, to not be delivering a high-quality and comprehensive Head Start program shall (notwithstanding clause (ii)) be subject to the requirements of subparagraph (B).

Plan.
Deadlines.

“(B) TRIBAL GOVERNMENT CONSULTATION AND REEVALUATION.—On making a determination described in subparagraph (A)(iii), the Secretary shall engage in government-to-government consultation with the appropriate tribal government or governments for the purpose of establishing a plan to improve the quality of Head Start programs operated by the Indian Head Start agency. Such plan shall be established and implemented within 6 months after the Secretary’s determination. Not more than 6 months after the implementation of that plan, the Secretary shall reevaluate the performance of the Indian Head Start agency. If the Indian Head Start agency is still not delivering a high-quality and comprehensive Head Start program, the Secretary shall conduct an open competition as described in subsection (d), subject to the limitations described in subsection (e).

Evaluation.

“(8) TRANSPARENCY, RELIABILITY, AND VALIDITY.—The Secretary shall ensure the system for designation renewal is fair, consistent, and transparent and is applied in a manner that renews designations, in a timely manner, grantees as Head Start agencies for periods of 5 years if such grantees are delivering high-quality and comprehensive Head Start programs. The Secretary shall periodically evaluate whether the criteria of the system are being applied in a manner that is transparent, reliable, and valid.

Deadline.

“(9) TRANSITION.—

“(A) IN GENERAL.—Each Head Start agency shall be reviewed under the system for designation renewal described in paragraph (6), not later than 3 years after the implementation of such system.

“(B) LIMITATION.—A Head Start agency shall not be subject to the requirements of the system for designation renewal prior to 18 months after the date of enactment of the Improving Head Start for School Readiness Act of 2007.

“(C) SCHEDULE.—The Secretary shall establish and implement a schedule for reviewing each Head Start agency

under the system for designation renewal described in paragraph (6), consistent with subparagraphs (A) and (B).

“(10) REPORTS TO CONGRESS.—The Secretary shall—

“(A) make available to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the report described in paragraph (4);

“(B) concurrently with publishing a notice in the Federal Register as described in paragraph (5), provide a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate that provides a detailed description of the proposed system described in paragraph (5), including a clear rationale for any differences between the proposed system and the recommendations of the expert panel, if any such differences exist; and

“(C) prior to implementing the system for designation renewal, provide a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate—

“(i) summarizing the public comment on the proposed system and the Secretary’s response to such comment; and

“(ii) describing the final system for designation renewal and the plans for implementation of such system.

“(d) DESIGNATION WHEN NO ENTITY IS RENEWED.—

“(1) IN GENERAL.—If no entity in a community is determined to be successfully delivering a high-quality and comprehensive Head Start program, as specified in subsection (c), the Secretary shall, after conducting an open competition, designate for a 5-year period a Head Start agency from among qualified applicants in such community.

“(2) CONSIDERATIONS FOR DESIGNATION.—In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall consider the effectiveness of each such applicant to provide Head Start services, based on—

“(A) any past performance of such applicant in providing services comparable to Head Start services, including how effectively such applicant provided such comparable services;

“(B) the plan of such applicant to provide comprehensive health, educational, nutritional, social, and other services needed to aid participating children in attaining their full potential, and to prepare children to succeed in school;

“(C) the plan of such applicant to attract and retain qualified staff capable of delivering, including implementing, a high-quality and comprehensive program, including the ability to carry out a research based curriculum aligned with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards;

“(D) the ability of such applicant to maintain child-to-teacher ratios and family service worker caseloads that

reflect best practices and are tied to high-quality service delivery;

“(E) the capacity of such applicant to serve eligible children with—

“(i) curricula that are based on scientifically valid research, that are developmentally appropriate, and that promote the school readiness of children participating in the program involved; and

“(ii) teaching practices that are based, as appropriate, on scientifically valid research, that are developmentally appropriate, and that promote the school readiness of children participating in the program involved;

“(F) the plan of such applicant to meet standards described in section 641A(a)(1), with particular attention to the standards described in subparagraphs (A) and (B) of such section;

“(G) the proposed budget of the applicant and plan of such applicant to maintain strong fiscal controls and cost-effective fiscal management;

“(H) the plan of such applicant to coordinate and collaborate with other public or private entities providing early childhood education and development programs and services for young children in the community involved, including—

“(i) programs implementing grant agreements under the Early Reading First and Even Start programs under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.);

“(ii) other preschool programs under title I of that Act (20 U.S.C. 6301 et seq.);

“(iii) programs under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

“(iv) State prekindergarten programs;

“(v) child care programs;

“(vi) the educational programs that the children in the Head Start program involved will enter at the age of compulsory school attendance; and

“(vii) local entities, such as a public or school library, for—

“(I) conducting reading readiness programs;

“(II) developing innovative programs to excite children about the world of books, including providing fresh books in the Head Start classroom;

“(III) assisting in literacy training for Head Start teachers; or

“(IV) supporting parents and other caregivers in literacy efforts;

“(I) the plan of such applicant to coordinate the Head Start program that the applicant proposes to carry out, with public and private entities that are willing to commit resources to assist the Head Start program in meeting its program needs;

“(J) the plan of such applicant—

“(i) to facilitate the involvement of parents (including grandparents and kinship caregivers, as appropriate) of children participating in the proposed Head Start program, in activities (at home and, if practicable, at the location of the Head Start program) designed to help such parents become full partners in the education of their children;

“(ii) to afford such parents the opportunity to participate in the development and overall conduct of the program at the local level, including transportation assistance, as appropriate;

“(iii) to offer (directly or through referral to local entities, such as entities carrying out Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.), public and school libraries, and entities carrying out family support programs) to such parents—

“(I) family literacy services; and

“(II) parenting skills training;

“(iv) to offer to parents of participating children substance abuse counseling (either directly or through referral to local entities), if needed, including information on the effect of drug exposure on infants and fetal alcohol syndrome;

“(v) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

“(I) training in basic child development (including cognitive, social, and emotional development);

“(II) assistance in developing literacy and communication skills;

“(III) opportunities to share experiences with other parents (including parent-mentor relationships);

“(IV) regular in-home visitation;

“(V) health services, including information on maternal depression; or

“(VI) any other activity designed to help such parents become full partners in the education of their children;

“(vi) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents (including foster parents, grandparents, and kinship caregivers, where applicable), in a manner and language that such parents can understand, to the extent practicable, about the benefits of parent involvement and about the activities described in this subparagraph in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities); and

“(vii) to extend outreach to fathers (including father figures), in appropriate cases, in order to strengthen the role of those fathers in families, in the education of young children, and in the Head Start

program, by working directly with the fathers through activities such as—

“(I) in appropriate cases, including the fathers in home visits and providing opportunities for direct father-child interactions; and

“(II) targeting increased male participation in the conduct of the program;

“(K) the plan of such applicant to meet the needs of limited English proficient children and their families, including procedures to identify such children, plans to provide trained personnel, and plans to provide services to assist the children in making progress toward the acquisition of the English language, while making meaningful progress in attaining the knowledge, skills, abilities, and development described in section 641A(a)(1)(B);

“(L) the plan of such applicant to meet the diverse needs of the population served;

“(M) the plan of such applicant who chooses to assist younger siblings of children who will participate in the Head Start program to obtain health services from other sources;

“(N) the plan of such applicant to meet the needs of children with disabilities, including procedures to identify such children, procedures for referral of such children for evaluation to State or local agencies providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.), and plans for collaboration with those State or local agencies;

“(O) the plan of such applicant to meet the needs of homeless children, including transportation needs, and the needs of children in foster care; and

“(P) other factors related to the requirements of this subchapter.

“(3) PRIORITY.—In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall give priority to applicants that have demonstrated capacity in providing effective, comprehensive, and well-coordinated early childhood education and development services and programs to children and their families.

“(e) PROHIBITION AGAINST NON-INDIAN HEAD START AGENCY RECEIVING A GRANT FOR AN INDIAN HEAD START PROGRAM.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, except as provided in paragraph (2), under no condition may a non-Indian Head Start agency receive a grant to carry out an Indian Head Start program.

“(2) EXCEPTION.—In a community in which there is no Indian Head Start agency available for designation to carry out an Indian Head Start program, a non-Indian Head Start agency may receive a grant to carry out an Indian Head Start program but only until such time as an Indian Head Start agency in such community becomes available and is designated pursuant to this section.

“(f) INTERIM PROVIDER.—If no agency in a community is designated under subsection (d), and there is no qualified applicant in the community, the Secretary shall designate a qualified agency to carry out the Head Start program in the community on an

interim basis until a qualified applicant from the community is designated under subsection (d).

“(g) PARENT AND COMMUNITY PARTICIPATION.—The Secretary shall require that the practice of significantly involving parents and community residents in the area affected by the program involved, in the selection of Head Start agencies, be continued.

“(h) COMMUNITY.—For purposes of this subchapter, a community may be a city, county, or multicounty or multicounty unit within a State, an Indian reservation (including Indians in any off-reservation area designated by an appropriate tribal government in consultation with the Secretary), or a neighborhood or other area (irrespective of boundaries or political subdivisions) that provides a suitable organizational base and possesses the commonality of interest needed to operate a Head Start program.”.

SEC. 8. STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

Section 641A of the Head Start Act (42 U.S.C. 9836a) is amended to read as follows:

“SEC. 641A. STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

“(a) STANDARDS.—

“(1) CONTENT OF STANDARDS.—The Secretary shall modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs under this subchapter, including—

Regulations.

“(A) performance standards with respect to services required to be provided, including health, parental involvement, nutritional, and social services, transition activities described in section 642A, and other services;

“(B) scientifically based and developmentally appropriate education performance standards related to school readiness that are based on the Head Start Child Outcomes Framework to ensure that the children participating in the program, at a minimum, develop and demonstrate—

“(i) language knowledge and skills, including oral language and listening comprehension;

“(ii) literacy knowledge and skills, including phonological awareness, print awareness and skills, and alphabetic knowledge;

“(iii) mathematics knowledge and skills;

“(iv) science knowledge and skills;

“(v) cognitive abilities related to academic achievement and child development;

“(vi) approaches to learning related to child development and early learning;

“(vii) social and emotional development related to early learning, school success, and social problem-solving;

“(viii) abilities in creative arts;

“(ix) physical development; and

“(x) in the case of limited English proficient children, progress toward acquisition of the English language while making meaningful progress in attaining the knowledge, skills, abilities, and development described in clauses (i) through (ix), including progress

made through the use of culturally and linguistically appropriate instructional services;

“(C) administrative and financial management standards;

“(D) standards relating to the condition and location of facilities (including indoor air quality assessment standards, where appropriate) for such agencies, and programs, including regulations that require that the facilities used by Head Start agencies (including Early Head Start agencies and any delegate agencies) for regularly scheduled center-based and combination program option classroom activities—

“(i) shall meet or exceed State and local requirements concerning licensing for such facilities; and

“(ii) shall be accessible by State and local authorities for purposes of monitoring and ensuring compliance, unless State or local laws prohibit such access; and

“(E) such other standards as the Secretary finds to be appropriate.

“(2) CONSIDERATIONS REGARDING STANDARDS.—In developing any modifications to standards required under paragraph (1), the Secretary shall—

“(A) consult with experts in the fields of child development, early childhood education, child health care, family services (including linguistically and culturally appropriate services to non-English speaking children and their families), administration, and financial management, and with persons with experience in the operation of Head Start programs;

“(B) take into consideration—

“(i) past experience with use of the standards in effect under this subchapter on the date of enactment of the Improving Head Start for School Readiness Act of 2007;

“(ii) changes over the period since October 27, 1998, in the circumstances and problems typically facing children and families served by Head Start agencies;

“(iii) recommendations from the study on Developmental Outcomes and Assessments for Young Children by the National Academy of Sciences, consistent with section 649(j);

“(iv) developments concerning research-based practices with respect to early childhood education and development, children with disabilities, homeless children, children in foster care, and family services, and best practices with respect to program administration and financial management;

“(v) projected needs of an expanding Head Start program;

“(vi) guidelines and standards that promote child health services and physical development, including participation in outdoor activity that supports children’s motor development and overall health and nutrition;

“(vii) changes in the characteristics of the population of children who are eligible to participate in Head Start programs, including country of origin, language background, and family structure of such children, and changes in the population and number of such children who are in foster care or are homeless children;

“(viii) mechanisms to ensure that children participating in Head Start programs make a successful transition to the schools that the children will be attending;

“(ix) the need for Head Start agencies to maintain regular communications with parents, including conducting periodic meetings to discuss the progress of individual children in Head Start programs; and

“(x) the unique challenges faced by individual programs, including those programs that are seasonal or short term and those programs that serve rural populations;

“(C)(i) review and revise as necessary the standards in effect under this subsection; and

“(ii) ensure that any such revisions in the standards will not result in the elimination of or any reduction in quality, scope, or types of health, educational, parental involvement, nutritional, social, or other services required to be provided under such standards as in effect on the date of enactment of the Improving Head Start for School Readiness Act of 2007; and

“(D) consult with Indian tribes, including Alaska Natives, experts in Indian, including Alaska Native, early childhood education and development, linguists, and the National Indian Head Start Directors Association on the review and promulgation of standards under paragraph (1) (including standards for language acquisition and school readiness).

“(3) STANDARDS RELATING TO OBLIGATIONS TO DELEGATE AGENCIES.—In developing any modifications to standards under paragraph (1), the Secretary shall describe the obligations of a Head Start agency to a delegate agency to which the Head Start agency has delegated responsibility for providing services under this subchapter.

“(b) MEASURES.—

“(1) IN GENERAL.—The Secretary, in consultation with representatives of Head Start agencies and with experts in the fields of early childhood education and development, family services, and program management, shall use the study on Developmental Outcomes and Assessments for Young Children by the National Academy of Sciences and other relevant research to inform, revise, and provide guidance to Head Start agencies for utilizing, scientifically based measures that support, as appropriate—

“(A) classroom instructional practices;

“(B) identification of children with special needs;

“(C) program evaluation; and

“(D) administrative and financial management practices.

“(2) CHARACTERISTICS OF MEASURES.—The measures under this subsection shall—

“(A) be developmentally, linguistically, and culturally appropriate for the population served;

“(B) be reviewed periodically, based on advances in the science of early childhood development;

“(C) be consistent with relevant, nationally recognized professional and technical standards related to the assessment of young children;

“(D) be valid and reliable in the language in which they are administered;

“(E) be administered by staff with appropriate training for such administration;

“(F) provide for appropriate accommodations for children with disabilities and children who are limited English proficient;

“(G) be high-quality research-based measures that have been demonstrated to assist with the purposes for which they were devised; and

“(H) be adaptable, as appropriate, for use in the self-assessment of Head Start agencies, including in the evaluation of administrative and financial management practices.

“(3) USE OF MEASURES; LIMITATIONS ON USE.—

“(A) USE.—The measures shall be designed, as appropriate, for the purpose of—

“(i) helping to develop the skills, knowledge, abilities, and development described in subsection (a)(1)(B) of children participating in Head Start programs, with an emphasis on measuring skills that scientifically valid research has demonstrated are related to children’s school readiness and later success in school;

“(ii) improving classroom practices, including reviewing children’s strengths and weaknesses and individualizing instruction to better meet the needs of the children involved;

“(iii) identifying the special needs of children; and

“(iv) improving overall program performance in order to help programs identify problem areas that may require additional training and technical assistance resources.

“(B) LIMITATIONS.—Such measures shall not be used to exclude children from Head Start programs.

“(4) CONFIDENTIALITY.—

Regulations.

“(A) IN GENERAL.—The Secretary, through regulation, shall ensure the confidentiality of any personally identifiable data, information, and records collected or maintained under this subchapter by the Secretary and any Head Start agency. Such regulations shall provide the policies, protections, and rights equivalent to those provided to a parent, student, or educational agency or institution under section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

“(B) PROHIBITION ON NATIONWIDE DATABASE.—Nothing in this subsection shall be construed to authorize the development of a nationwide database of personally identifiable data, information, or records on children resulting from the use of measures under this subsection.

“(5) SPECIAL RULE.—

“(A) PROHIBITION.—The use of assessment items and data on any assessment authorized under this subchapter by any agent of the Federal Government is prohibited for the purposes of—

“(i) ranking, comparing, or otherwise evaluating individual children for purposes other than research, training, or technical assistance; and

“(ii) providing rewards or sanctions for individual children or teachers.

“(B) RESULTS.—The Secretary shall not use the results of a single assessment as the sole method for assessing program effectiveness or making agency funding determinations at the national, regional, or local level under this subchapter.

“(c) MONITORING OF LOCAL AGENCIES AND PROGRAMS.—

Reviews.

“(1) IN GENERAL.—To determine whether Head Start agencies meet standards described in subsection (a)(1) established under this subchapter with respect to program, administrative, financial management, and other requirements, and in order to help the programs identify areas for improvement and areas of strength as part of their ongoing self-assessment process, the Secretary shall conduct the following reviews of Head Start agencies, including the Head Start programs operated by such agencies:

“(A) A full review, including the use of a risk-based assessment approach, of each such agency at least once during each 3-year period.

“(B) A review of each newly designated Head Start agency immediately after the completion of the first year such agency carries out a Head Start program.

“(C) Followup reviews, including—

Deadline.

“(i) return visits to Head Start agencies with 1 or more findings of deficiencies, not later than 6 months after the Secretary provides notification of such findings, or not later than 12 months after such notification if the Secretary determines that additional time is necessary for an agency to address such a deficiency prior to the review; and

“(ii) a review of Head Start agencies with significant areas of noncompliance.

“(D) Other reviews, including unannounced site inspections of Head Start centers, as appropriate.

“(2) CONDUCT OF REVIEWS.—The Secretary shall ensure that reviews described in subparagraphs (A) through (C) of paragraph (1)—

“(A) are conducted by review teams that—

“(i) include individuals who are knowledgeable about Head Start programs and, to the maximum extent practicable, individuals who are knowledgeable about—

“(I) other early childhood education and development programs, personnel management, financial accountability, and systems development and monitoring; and

“(II) the diverse (including linguistic and cultural) needs of eligible children (including children

with disabilities, homeless children, children in foster care, and limited English proficient children) and their families;

“(ii) include, to the maximum extent practicable, current or former employees of the Department of Health and Human Services who are knowledgeable about Head Start programs; and

“(iii) shall receive periodic training to ensure quality and consistency across reviews;

“(B) include as part of the reviews, a review and assessment of program strengths and areas in need of improvement;

“(C) include as part of the reviews, a review and assessment of whether programs have adequately addressed population and community needs (including those of limited English proficient children and children of migrant or seasonal farmworker families);

“(D) include as part of the reviews, an assessment of the extent to which the programs address the communitywide strategic planning and needs assessment described in section 640(g)(1)(C);

“(E) include information on the innovative and effective efforts of the Head Start agencies to collaborate with the entities providing early childhood and development services or programs in the community and any barriers to such collaboration that the agencies encounter;

“(F) include as part of the reviews, a valid and reliable research-based observational instrument, implemented by qualified individuals with demonstrated reliability, that assesses classroom quality, including assessing multiple dimensions of teacher-child interactions that are linked to positive child development and later achievement;

“(G) are conducted in a manner that evaluates program performance, quality, and overall operations with consistency and objectivity, are based on a transparent and reliable system of review, and are conducted in a manner that includes periodic interrater reliability checks, to ensure quality and consistency, across and within regions, of the reviews and of noncompliance and deficiency determinations;

“(H) in the case of reviews of Early Head Start agencies and programs, are conducted by a review team that includes individuals who are knowledgeable about the development of infants and toddlers;

“(I) include as part of the reviews a protocol for fiscal management that shall be used to assess compliance with program requirements for—

“(i) using Federal funds appropriately;

“(ii) using Federal funds specifically to purchase property (consistent with section 644(f)) and to compensate personnel;

“(iii) securing and using qualified financial officer support; and

“(iv) reporting financial information and implementing appropriate internal controls to safeguard Federal funds;

“(J) include as part of the reviews of the programs, a review and assessment of whether the programs are in conformity with the eligibility requirements under section 645(a)(1), including regulations promulgated under such section and whether the programs have met the requirements for the outreach and enrollment policies and procedures, and selection criteria, in such section, for the participation of children in programs assisted under this subchapter;

“(K) include as part of the reviews, a review and assessment of whether agencies have adequately addressed the needs of children with disabilities, including whether the agencies involved have met the 10 percent minimum enrollment requirement specified in section 640(d) and whether the agencies have made sufficient efforts to collaborate with State and local agencies providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.); and

“(L) include as part of the reviews, a review and assessment of child outcomes and performance as they relate to agency-determined school readiness goals described in subsection (g)(2), consistent with subsection (b)(5).

“(3) STANDARDS RELATING TO OBLIGATIONS TO DELEGATE AGENCIES.—In conducting a review described in paragraph (1)(A) of a Head Start agency, the Secretary shall determine whether the agency complies with the obligations described in subsection (a)(3). The Secretary shall consider such compliance in determining whether to renew financial assistance to the Head Start agency under this subchapter.

“(4) USE OF REVIEW FINDINGS.—The findings of a review described in paragraph (1) of a Head Start agency shall, at a minimum—

“(A) be presented to the agency in a timely, transparent, and uniform manner that conveys information of program strengths and weaknesses and assists with program improvement; and

“(B) be used by the agency to inform the development and implementation of its plan for training and technical assistance.

“(d) EVALUATIONS AND CORRECTIVE ACTION FOR DELEGATE AGENCIES.—

“(1) PROCEDURES.—Each Head Start agency shall establish, subject to paragraph (4), procedures relating to its delegate agencies, including—

“(A) procedures for evaluating delegate agencies;

“(B) procedures for defunding delegate agencies; and

“(C) procedures for a delegate agency to appeal a defunding decision.

“(2) EVALUATION.—Each Head Start agency—

“(A) shall evaluate its delegate agencies using the procedures established under this subsection; and

“(B) shall inform the delegate agencies of the deficiencies identified through the evaluation that are required to be corrected.

“(3) REMEDIES TO ENSURE CORRECTIVE ACTIONS.—In the event that the Head Start agency identifies a deficiency for

a delegate agency through the evaluation, the Head Start agency shall take action, which may include—

“(A) initiating procedures to terminate the designation of the agency unless the agency corrects the deficiency;

“(B) conducting monthly monitoring visits to such delegate agency until all deficiencies are corrected or the Head Start agency decides to defund such delegate agency; and

“(C) releasing funds to such delegate agency—

“(i) only as reimbursements except that, upon receiving a request from the delegate agency accompanied by assurances satisfactory to the Head Start agency that the funds will be appropriately safeguarded, the Head Start agency shall provide to the delegate agency a working capital advance in an amount sufficient to cover the estimated expenses involved during an agreed upon disbursing cycle; and

“(ii) only if there is continuity of services.

“(4) TERMINATION.—The Head Start agency may not terminate a delegate agency’s contract or reduce a delegate agency’s service area without showing cause or demonstrating the cost-effectiveness of such a decision.

“(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the powers, duties, or functions of the Secretary with respect to Head Start agencies or delegate agencies that receive financial assistance under this subchapter.

“(e) CORRECTIVE ACTION FOR HEAD START AGENCIES.—

“(1) DETERMINATION.—If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to this subchapter fails to meet the standards described in subsection (a)(1) or fails to address the communitywide strategic planning and needs assessment, the Secretary shall—

“(A) inform the agency of the deficiencies that shall be corrected and identify the assistance to be provided consistent with paragraph (3);

“(B) with respect to each identified deficiency, require the agency—

“(i) to correct the deficiency immediately, if the Secretary finds that the deficiency threatens the health or safety of staff or program participants or poses a threat to the integrity of Federal funds;

“(ii) to correct the deficiency not later than 90 days after the identification of the deficiency if the Secretary finds, in the discretion of the Secretary, that such a 90-day period is reasonable, in light of the nature and magnitude of the deficiency; or

“(iii) in the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and

“(C) initiate proceedings to terminate the designation of the agency unless the agency corrects the deficiency.

“(2) QUALITY IMPROVEMENT PLAN.—

“(A) AGENCY AND PROGRAM RESPONSIBILITIES.—To retain a designation as a Head Start agency under this subchapter, or in the case of a Head Start program to

Deadline.

continue to receive funds from such agency, a Head Start agency that is the subject of a determination described in paragraph (1), or a Head Start program that is determined to have a deficiency under subsection (d)(2) (excluding an agency required to correct a deficiency immediately or during a 90-day period under clause (i) or (ii) of paragraph (1)(B)) shall—

“(i) develop in a timely manner, a quality improvement plan that shall be subject to the approval of the Secretary, or in the case of a program, the sponsoring agency, and that shall specify—

“(I) the deficiencies to be corrected;

“(II) the actions to be taken to correct such deficiencies; and

“(III) the timetable for accomplishment of the corrective actions specified; and

“(ii) correct each deficiency identified, not later than the date for correction of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency or Head Start program that is determined to have a deficiency received notice of the determination and of the specific deficiency to be corrected). Deadline.

“(B) SECRETARIAL RESPONSIBILITY.—Not later than 30 days after receiving from a Head Start agency a proposed quality improvement plan pursuant to subparagraph (A), the Secretary shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved. Deadline.

“(C) AGENCY RESPONSIBILITY.—Not later than 30 days after receiving from a Head Start program a proposed quality improvement plan pursuant to subparagraph (A), the Head Start agency involved shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved. Deadline.

“(3) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide training and technical assistance to Head Start agencies and programs with respect to the development or implementation of such quality improvement plans to the extent the Secretary finds such provision to be feasible and appropriate given available funding and other statutory responsibilities.

“(f) SUMMARIES OF MONITORING OUTCOMES.—

“(1) IN GENERAL.—Not later than 120 days after the end of each fiscal year, the Secretary shall publish a summary report on the findings of reviews conducted under subsection (c) and on the outcomes of quality improvement plans implemented under subsection (e), during such fiscal year. Deadline.
Publication.
Reports.

“(2) REPORT AVAILABILITY.—Such report shall be made widely available to—

“(A) parents with children receiving assistance under this subchapter—

“(i) in an understandable and uniform format; and

“(ii) to the extent practicable, in a language that the parents understand; and

“(B) the public through means such as—

“(i) distribution through public agencies; and

“(ii) posting such information on the Internet.

“(3) REPORT INFORMATION.—Such report shall contain detailed data—

“(A) on compliance with specific standards and measures; and

“(B) sufficient to allow Head Start agencies to use such data to improve the quality of their programs.

“(g) SELF-ASSESSMENTS.—

“(1) IN GENERAL.—Not less frequently than once each program year, with the consultation and participation of policy councils and, as applicable, policy committees and, as appropriate, other community members, each Head Start agency, and each delegate agency, that receives financial assistance under this subchapter shall conduct a comprehensive self-assessment of its effectiveness and progress in meeting program goals and objectives and in implementing and complying with standards described in subsection (a)(1).

“(2) GOALS, REPORTS, AND IMPROVEMENT PLANS.—

“(A) GOALS.—An agency conducting a self-assessment shall establish agency-determined program goals for improving the school readiness of children participating in a program under this subchapter, including school readiness goals that are aligned with the Head Start Child Outcomes Framework, State early learning standards as appropriate, and requirements and expectations of the schools the children will be attending.

“(B) IMPROVEMENT PLAN.—The agency shall develop, and submit to the Secretary a report containing, an improvement plan approved by the governing body of the agency to strengthen any areas identified in the self-assessment as weaknesses or in need of improvement.

Procedures.

“(3) ONGOING MONITORING.—Each Head Start agency (including each Early Head Start agency) and each delegate agency shall establish and implement procedures for the ongoing monitoring of their respective programs, to ensure that the operations of the programs work toward meeting program goals and objectives and standards described in subsection (a)(1).

“(h) REDUCTION OF GRANTS AND REDISTRIBUTION OF FUNDS IN CASES OF UNDERENROLLMENT.—

“(1) DEFINITIONS.—In this subsection:

“(A) ACTUAL ENROLLMENT.—The term ‘actual enrollment’ means, with respect to the program of a Head Start agency, the actual number of children enrolled in such program and reported by the agency (as required in paragraph (2)) in a given month.

“(B) BASE GRANT.—The term ‘base grant’ has the meaning given the term in section 640(a)(7).

“(C) FUNDED ENROLLMENT.—The term ‘funded enrollment’ means, with respect to the program of a Head Start agency in a fiscal year, the number of children that the agency is funded to serve through a grant for the program during such fiscal year, as indicated in the grant agreement.

“(2) ENROLLMENT REPORTING REQUIREMENT.—Each entity carrying out a Head Start program shall report on a monthly basis to the Secretary and the relevant Head Start agency—

“(A) the actual enrollment in such program; and

“(B) if such actual enrollment is less than the funded enrollment, any apparent reason for such enrollment shortfall.

“(3) SECRETARIAL REVIEW AND PLAN.—The Secretary shall—

“(A) on a semiannual basis, determine which Head Start agencies are operating with an actual enrollment that is less than the funded enrollment based on not less than 4 consecutive months of data;

“(B) for each such Head Start agency operating a program with an actual enrollment that is less than its funded enrollment, as determined under subparagraph (A), develop, in collaboration with such agency, a plan and timetable for reducing or eliminating underenrollment taking into consideration—

“(i) the quality and extent of the outreach, recruitment, and communitywide strategic planning and needs assessment conducted by such agency;

“(ii) changing demographics, mobility of populations, and the identification of new underserved low-income populations;

“(iii) facilities-related issues that may impact enrollment;

“(iv) the ability to provide full-working-day programs, where needed, through funds made available under this subchapter or through collaboration with entities carrying out other early childhood education and development programs, or programs with other funding sources (where available);

“(v) the availability and use by families of other early childhood education and development options in the community served; and

“(vi) agency management procedures that may impact enrollment; and

“(C) provide timely and ongoing technical assistance to each agency described in subparagraph (B) for the purpose of assisting the Head Start agency to implement the plan described in such subparagraph.

“(4) IMPLEMENTATION.—Upon receipt of the technical assistance described in paragraph (3)(C), a Head Start agency shall immediately implement the plan described in paragraph (3)(B). The Secretary shall, where determined appropriate, continue to provide technical assistance to such agency.

“(5) SECRETARIAL REVIEW AND ADJUSTMENT FOR CHRONIC UNDERENROLLMENT.—

“(A) IN GENERAL.—If, after receiving technical assistance and developing and implementing the plan as described in paragraphs (3) and (4) for 12 months, a Head Start agency is operating a program with an actual enrollment that is less than 97 percent of its funded enrollment, the Secretary may—

“(i) designate such agency as chronically under-enrolled; and

“(ii) recapture, withhold, or reduce the base grant for the program by a percentage equal to the percentage difference between funded enrollment and actual enrollment for the program for the most recent year

for which the agency is determined to be underenrolled under paragraph (3)(A).

“(B) WAIVER OR LIMITATION OF REDUCTIONS.—The Secretary may, as appropriate, waive or reduce the percentage recapturing, withholding, or reduction otherwise required by subparagraph (A), if, after the implementation of the plan described in paragraph (3)(B), the Secretary finds that—

“(i) the causes of the enrollment shortfall, or a portion of the shortfall, are related to the agency’s serving significant numbers of highly mobile children, or are other significant causes as determined by the Secretary;

“(ii) the shortfall can reasonably be expected to be temporary; or

“(iii) the number of slots allotted to the agency is small enough that underenrollment does not create a significant shortfall.

“(6) REDISTRIBUTION OF FUNDS.—

“(A) IN GENERAL.—Funds held by the Secretary as a result of recapturing, withholding, or reducing a base grant in a fiscal year shall be redistributed by the end of the following fiscal year as follows:

“(i) INDIAN HEAD START PROGRAMS.—If such funds are derived from an Indian Head Start program, then such funds shall be redistributed to increase enrollment by the end of the following fiscal year in 1 or more Indian Head Start programs.

“(ii) MIGRANT AND SEASONAL HEAD START PROGRAMS.—If such funds are derived from a migrant or seasonal Head Start program, then such funds shall be redistributed to increase enrollment by the end of the following fiscal year in 1 or more programs of the type from which such funds are derived.

“(iii) EARLY HEAD START PROGRAMS.—If such funds are derived from an Early Head Start program in a State, then such funds shall be redistributed to increase enrollment by the end of the following fiscal year in 1 or more Early Head Start programs in that State. If such funds are derived from an Indian Early Head Start program, then such funds shall be redistributed to increase enrollment by the end of the following fiscal year in 1 or more Indian Early Head Start programs.

“(iv) OTHER HEAD START PROGRAMS.—If such funds are derived from a Head Start program in a State (excluding programs described in clauses (i) through (iii)), then such funds shall be redistributed to increase enrollment by the end of the following fiscal year in 1 or more Head Start programs (excluding programs described in clauses (i) through (iii)) that are carried out in such State.

“(B) ADJUSTMENT TO FUNDED ENROLLMENT.—The Secretary shall adjust as necessary the requirements relating to funded enrollment indicated in the grant agreement of a Head Start agency receiving redistributed funds under this paragraph.”.

SEC. 9. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

Section 642 of the Head Start Act (42 U.S.C. 9837) is amended to read as follows:

“SEC. 642. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

“(a) **AUTHORITY.**—To be designated as a Head Start agency under this subchapter, an agency shall have authority under its charter or applicable law to receive and administer funds under this subchapter, funds and contributions from private or local public sources that may be used in support of a Head Start program, and funds under any Federal or State assistance program pursuant to which a public or private nonprofit or for-profit agency (as the case may be) organized in accordance with this subchapter, could act as grantee, contractor, or sponsor of projects appropriate for inclusion in a Head Start program. Such an agency shall also be empowered to transfer funds so received, and to delegate powers to other agencies, subject to the powers of its governing board and its overall program responsibilities. The power to transfer funds and delegate powers shall include the power to make transfers and delegations covering component projects in all cases where this will contribute to efficiency and effectiveness or otherwise further program objectives.

“(b) **FAMILY AND COMMUNITY INVOLVEMENT; FAMILY SERVICES.**—To be so designated, a Head Start agency shall, at a minimum, do all the following to involve and serve families and communities:

“(1) Provide for the regular and direct participation of parents and community residents in the implementation of the Head Start program, including decisions that influence the character of such program, consistent with paragraphs (2)(D) and (3)(C) of subsection (c).

“(2) Seek the involvement of parents, community residents, and local business in the design and implementation of the program.

“(3) Establish effective procedures—

Procedures.

“(A) to facilitate and seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children; and

“(B) to afford such parents the opportunity to participate in the development and overall conduct of the program at the local level, including transportation assistance as appropriate.

“(4) Offer (directly or through referral to local entities, such as entities carrying out Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.), public and school libraries, and entities carrying out family support programs) to such parents—

“(A) family literacy services; and

“(B) parenting skills training.

“(5) Offer to parents of participating children substance abuse counseling (either directly or through referral to local entities), if needed, including information on the effect of drug exposure on infants and fetal alcohol syndrome.

“(6) At the option of such agency, offer (directly or through referral to local entities) to such parents—

“(A) training in basic child development (including cognitive, social, and emotional development);

“(B) assistance in developing literacy and communication skills;

“(C) opportunities to share experiences with other parents (including parent-mentor relationships);

“(D) health services, including information on maternal depression;

“(E) regular in-home visitation; or

“(F) any other activity designed to help such parents become full partners in the education of their children.

“(7) Provide, with respect to each participating family, a family needs assessment that includes consultation with such parents (including foster parents, grandparents, and kinship caregivers, where applicable), in a manner and language that such parents can understand (to the extent practicable), about the benefits of parent involvement and about the activities described in this subsection in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities).

“(8) Consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources.

“(9) Perform community outreach to encourage individuals previously unaffiliated with Head Start programs to participate in its Head Start program as volunteers.

“(10)(A) Inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this subchapter about the availability of child support services for purposes of establishing paternity and acquiring child support.

“(B) Refer eligible parents to the child support offices of State and local governments.

“(11) Provide to parents of limited English proficient children outreach and information, in an understandable and uniform format and, to the extent practicable, in a language that the parents can understand.

“(12) Provide technical and other support needed to enable parents and community residents to secure, on their own behalf, available assistance from public and private sources.

“(13) Promote the continued involvement of the parents (including foster parents, grandparents, and kinship caregivers, as appropriate) of children that participate in Head Start programs in the education of their children upon transition of their children to school, by working with the local educational agency—

“(A) to provide training to the parents—

“(i) to inform the parents about their rights and responsibilities concerning the education of their children; and

“(ii) to enable the parents—

“(I) to understand and work with schools in order to communicate with teachers and other school personnel;

“(II) to support the schoolwork of their children; and

“(III) to participate as appropriate in decisions relating to the education of their children; and
“(B) to take other actions, as appropriate and feasible, to support the active involvement of the parents with schools, school personnel, and school-related organizations.

“(14) Establish effective procedures for timely referral of children with disabilities to the State or local agency providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.), and collaboration with that agency, consistent with section 640(d)(3). Procedures.

“(15) Establish effective procedures for providing necessary early intervening services to children with disabilities prior to an eligibility determination by the State or local agency responsible for providing services under section 619 or part C of such Act, consistent with section 640(d)(2). Procedures.

“(16) At the option of the Head Start agency, partner with an institution of higher education and a nonprofit organization to provide college students with the opportunity to serve as mentors or reading partners for Head Start participants.

“(c) PROGRAM GOVERNANCE.—Upon receiving designation as a Head Start agency, the agency shall establish and maintain a formal structure for program governance, for the oversight of quality services for Head Start children and families and for making decisions related to program design and implementation. Such structure shall include the following:

“(1) GOVERNING BODY.—

“(A) IN GENERAL.—The governing body shall have legal and fiscal responsibility for the Head Start agency.

“(B) COMPOSITION.—The governing body shall be composed as follows:

“(i) Not less than 1 member shall have a background and expertise in fiscal management or accounting.

“(ii) Not less than 1 member shall have a background and expertise in early childhood education and development.

“(iii) Not less than 1 member shall be a licensed attorney familiar with issues that come before the governing body.

“(iv) Additional members shall—

“(I) reflect the community to be served and include parents of children who are currently, or were formerly, enrolled in Head Start programs; and

“(II) are selected for their expertise in education, business administration, or community affairs.

“(v) Exceptions shall be made to the requirements of clauses (i) through (iv) for members of a governing body when those members oversee a public entity and are selected to their positions with the public entity by public election or political appointment.

“(vi) If a person described in clause (i), (ii), or (iii) is not available to serve as a member of the governing body, the governing body shall use a consultant,

or an other individual with relevant expertise, with the qualifications described in that clause, who shall work directly with the governing body.

“(C) CONFLICT OF INTEREST.—Members of the governing body shall—

“(i) not have a financial conflict of interest with the Head Start agency (including any delegate agency);

“(ii) not receive compensation for serving on the governing body or for providing services to the Head Start agency;

“(iii) not be employed, nor shall members of their immediate family be employed, by the Head Start agency (including any delegate agency); and

“(iv) operate as an entity independent of staff employed by the Head Start agency.

“(D) EXCEPTION.—If an individual holds a position as a result of public election or political appointment, and such position carries with it a concurrent appointment to serve as a member of a Head Start agency governing body, and such individual has any conflict of interest described in clause (ii) or (iii) of subparagraph (C)—

“(i) such individual shall not be prohibited from serving on such body and the Head Start agency shall report such conflict to the Secretary; and

“(ii) if the position held as a result of public election or political appointment provides compensation, such individual shall not be prohibited from receiving such compensation.

“(E) RESPONSIBILITIES.—The governing body shall—

“(i) have legal and fiscal responsibility for administering and overseeing programs under this subchapter, including the safeguarding of Federal funds;

“(ii) adopt practices that assure active, independent, and informed governance of the Head Start agency, including practices consistent with subsection (d)(1), and fully participate in the development, planning, and evaluation of the Head Start programs involved;

“(iii) be responsible for ensuring compliance with Federal laws (including regulations) and applicable State, tribal, and local laws (including regulations); and

“(iv) be responsible for other activities, including—

“(I) selecting delegate agencies and the service areas for such agencies;

“(II) establishing procedures and criteria for recruitment, selection, and enrollment of children;

“(III) reviewing all applications for funding and amendments to applications for funding for programs under this subchapter;

“(IV) establishing procedures and guidelines for accessing and collecting information described in subsection (d)(2);

“(V) reviewing and approving all major policies of the agency, including—

“(aa) the annual self-assessment and financial audit;

“(bb) such agency’s progress in carrying out the programmatic and fiscal provisions in such agency’s grant application, including implementation of corrective actions; and

“(cc) personnel policies of such agencies regarding the hiring, evaluation, termination, and compensation of agency employees;

“(VI) developing procedures for how members of the policy council are selected, consistent with paragraph (2)(B);

“(VII) approving financial management, accounting, and reporting policies, and compliance with laws and regulations related to financial statements, including the—

“(aa) approval of all major financial expenditures of the agency;

“(bb) annual approval of the operating budget of the agency;

“(cc) selection (except when a financial auditor is assigned by the State under State law or is assigned under local law) of independent financial auditors who shall report all critical accounting policies and practices to the governing body; and

“(dd) monitoring of the agency’s actions to correct any audit findings and of other action necessary to comply with applicable laws (including regulations) governing financial statement and accounting practices;

“(VIII) reviewing results from monitoring conducted under section 641A(c), including appropriate followup activities;

“(IX) approving personnel policies and procedures, including policies and procedures regarding the hiring, evaluation, compensation, and termination of the Executive Director, Head Start Director, Director of Human Resources, Chief Fiscal Officer, and any other person in an equivalent position with the agency;

“(X) establishing, adopting, and periodically updating written standards of conduct that establish standards and formal procedures for disclosing, addressing, and resolving—

“(aa) any conflict of interest, and any appearance of a conflict of interest, by members of the governing body, officers and employees of the Head Start agency, and consultants and agents who provide services or furnish goods to the Head Start agency; and

“(bb) complaints, including investigations, when appropriate; and

“(XI) to the extent practicable and appropriate, at the discretion of the governing body, establishing advisory committees to oversee key responsibilities related to program governance and improvement of the Head Start program involved.

“(2) POLICY COUNCIL.—

“(A) IN GENERAL.—Consistent with paragraph (1)(E), each Head Start agency shall have a policy council responsible for the direction of the Head Start program, including program design and operation, and long- and short-term planning goals and objectives, taking into account the annual communitywide strategic planning and needs assessment and self-assessment.

“(B) COMPOSITION AND SELECTION.—

“(i) The policy council shall be elected by the parents of children who are currently enrolled in the Head Start program of the Head Start agency.

“(ii) The policy council shall be composed of—

“(I) parents of children who are currently enrolled in the Head Start program of the Head Start agency (including any delegate agency), who shall constitute a majority of the members of the policy council; and

“(II) members at large of the community served by the Head Start agency (including any delegate agency), who may include parents of children who were formerly enrolled in the Head Start program of the agency.

“(C) CONFLICT OF INTEREST.—Members of the policy council shall—

“(i) not have a conflict of interest with the Head Start agency (including any delegate agency); and

“(ii) not receive compensation for serving on the policy council or for providing services to the Head Start agency.

“(D) RESPONSIBILITIES.—The policy council shall approve and submit to the governing body decisions about each of the following activities:

“(i) Activities to support the active involvement of parents in supporting program operations, including policies to ensure that the Head Start agency is responsive to community and parent needs.

“(ii) Program recruitment, selection, and enrollment priorities.

“(iii) Applications for funding and amendments to applications for funding for programs under this subchapter, prior to submission of applications described in this clause.

“(iv) Budget planning for program expenditures, including policies for reimbursement and participation in policy council activities.

“(v) Bylaws for the operation of the policy council.

“(vi) Program personnel policies and decisions regarding the employment of program staff, consistent with paragraph (1)(E)(iv)(IX), including standards of conduct for program staff, contractors, and volunteers and criteria for the employment and dismissal of program staff.

“(vii) Developing procedures for how members of the policy council of the Head Start agency will be elected.

“(viii) Recommendations on the selection of delegate agencies and the service areas for such agencies.

“(3) POLICY COMMITTEES.—Each delegate agency shall create a policy committee, which shall—

“(A) be elected and composed of members, consistent with paragraph (2)(B) (with respect to delegate agencies);

“(B) follow procedures to prohibit conflict of interest, consistent with clauses (i) and (ii) of paragraph (2)(C) (with respect to delegate agencies); and

“(C) be responsible for approval and submission of decisions about activities as they relate to the delegate agency, consistent with paragraph (2)(D) (with respect to delegate agencies).

“(d) PROGRAM GOVERNANCE ADMINISTRATION.—

“(1) IMPASSE POLICIES.—The Secretary shall develop policies, procedures, and guidance for Head Start agencies concerning—

Procedures.

“(A) the resolution of internal disputes, including any impasse in the governance of Head Start programs; and

“(B) the facilitation of meaningful consultation and collaboration about decisions of the governing body and policy council.

“(2) CONDUCT OF RESPONSIBILITIES.—Each Head Start agency shall ensure the sharing of accurate and regular information for use by the governing body and the policy council, about program planning, policies, and Head Start agency operations, including—

Reports.

“(A) monthly financial statements, including credit card expenditures;

“(B) monthly program information summaries;

“(C) program enrollment reports, including attendance reports for children whose care is partially subsidized by another public agency;

“(D) monthly reports of meals and snacks provided through programs of the Department of Agriculture;

“(E) the financial audit;

“(F) the annual self-assessment, including any findings related to such assessment;

“(G) the communitywide strategic planning and needs assessment of the Head Start agency, including any applicable updates;

“(H) communication and guidance from the Secretary; and

“(I) the program information reports.

“(3) TRAINING AND TECHNICAL ASSISTANCE.—Appropriate training and technical assistance shall be provided to the members of the governing body and the policy council to ensure that the members understand the information the members receive and can effectively oversee and participate in the programs of the Head Start agency.

“(e) COLLABORATION AND COORDINATION.—To be so designated, a Head Start agency shall collaborate and coordinate with public and private entities, to the maximum extent practicable, to improve the availability and quality of services to Head Start children and families, including carrying out the following activities:

“(1) Conduct outreach to schools in which children participating in the Head Start program will enroll following the

program, local educational agencies, the local business community, community-based organizations, faith-based organizations, museums, and libraries to generate support and leverage the resources of the entire local community in order to improve school readiness.

“(2)(A) In communities where both a public prekindergarten program and a Head Start program operate, collaborate and coordinate activities with the local educational agency or other public agency responsible for the operation of the prekindergarten program and providers of prekindergarten, including outreach activities to identify eligible children.

“(B) With the permission of the parents of children enrolled in the Head Start program, regularly communicate with the schools in which the children will enroll following the program, to—

“(i) share information about such children;

“(ii) collaborate with the teachers in such schools regarding professional development and instructional strategies, as appropriate; and

“(iii) ensure a smooth transition to school for such children.

“(3) Coordinate activities and collaborate with programs under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) and parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq., 670 et seq.), programs under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.), programs under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.), and other entities providing early childhood education and development programs or services, serving the children and families served by the Head Start agency.

“(4) Take steps to coordinate activities with the local educational agency serving the community involved and with schools in which children participating in the Head Start program will enroll following the program, including—

“(A) collaborating on the shared use of transportation and facilities, in appropriate cases;

“(B) collaborating to reduce the duplication and enhance the efficiency of services while increasing the program participation of underserved populations of eligible children; and

“(C) exchanging information on the provision of non-educational services to such children.

“(5) Enter into a memorandum of understanding, not later than 1 year after the date of enactment of the Improving Head Start for School Readiness Act of 2007, with the appropriate local entity responsible for managing publicly funded preschool programs in the service area of the Head Start agency, that shall—

“(A)(i) provide for a review of each of the activities described in clause (ii); and

Memorandum.
Deadline.

“(ii) include plans to coordinate, as appropriate, activities regarding—

“(I) educational activities, curricular objectives, and instruction;

“(II) public information dissemination and access to programs for families contacting the Head Start program or any of the preschool programs;

“(III) selection priorities for eligible children to be served by programs;

“(IV) service areas;

“(V) staff training, including opportunities for joint staff training on topics such as academic content standards, instructional methods, curricula, and social and emotional development;

“(VI) program technical assistance;

“(VII) provision of additional services to meet the needs of working parents, as applicable;

“(VIII) communications and parent outreach for smooth transitions to kindergarten as required in paragraphs (3) and (6) of section 642A(a);

“(IX) provision and use of facilities, transportation, and other program elements; and

“(X) other elements mutually agreed to by the parties to such memorandum;

“(B) be submitted to the Secretary and the State Director of Head Start Collaboration not later than 30 days after the parties enter into such memorandum, except that—

Deadline.

“(i) where there is an absence of publicly funded preschool programs in the service area of a Head Start agency, this paragraph shall not apply; or

“(ii) where the appropriate local entity responsible for managing the publicly funded preschool programs is unable or unwilling to enter into such a memorandum, this paragraph shall not apply and the Head Start agency shall inform the Secretary and the State Director of Head Start Collaboration of such inability or unwillingness; and

“(C) be revised periodically and renewed biennially by the parties to such memorandum, in alignment with the beginning of the school year.

“(f) **QUALITY STANDARDS, CURRICULA, AND ASSESSMENT.**—To be so designated, each Head Start agency shall—

“(1) take steps to ensure, to the maximum extent practicable, that children maintain the developmental and educational gains achieved in Head Start programs and build upon such gains in further schooling;

“(2) establish a program with the standards set forth in section 641A(a)(1), with particular attention to the standards set forth in subparagraphs (A) and (B) of such section;

“(3) implement a research-based early childhood curriculum that—

“(A) promotes young children’s school readiness in the areas of language and cognitive development, early reading and mathematics skills, socio-emotional development, physical development, and approaches to learning;

“(B) is based on scientifically valid research and has standardized training procedures and curriculum materials to support implementation;

“(C) is comprehensive and linked to ongoing assessment, with developmental and learning goals and measurable objectives;

“(D) is focused on improving the learning environment, teaching practices, family involvement, and child outcomes across all areas of development; and

“(E) is aligned with the Head Start Child Outcomes Framework developed by the Secretary and, as appropriate, State early learning standards;

“(4) implement effective interventions and support services that help promote the school readiness of children participating in the program;

“(5) use research-based assessment methods that reflect the characteristics described in section 641A(b)(2) in order to support the educational instruction and school readiness of children in the program;

“(6) use research-based developmental screening tools that have been demonstrated to be standardized, reliable, valid, and accurate for the child being assessed, to the maximum extent practicable, for the purpose of meeting the relevant standards described in section 641A(a)(1);

“(7) adopt, in consultation with experts in child development and with classroom teachers, an evaluation to assess whether classroom teachers have mastered the functions discussed in section 648A(a)(1);

“(8) use the information provided from the assessment conducted under section 641A(c)(2)(F) to inform professional development plans, as appropriate, that lead to improved teacher effectiveness;

“(9) establish goals and measurable objectives for the provision of health, educational, nutritional, and social services provided under this subchapter and related to the program mission and to promote school readiness; and

“(10) develop procedures for identifying children who are limited English proficient, and informing the parents of such children about the instructional services used to help children make progress towards acquiring the knowledge and skills described in section 641A(a)(1)(B) and acquisition of the English language.

“(g) FUNDED ENROLLMENT; WAITING LIST.—Each Head Start agency shall enroll 100 percent of its funded enrollment and maintain an active waiting list at all times with ongoing outreach to the community and activities to identify underserved populations.

“(h) TECHNICAL ASSISTANCE AND TRAINING PLAN.—In order to receive funds under this subchapter, a Head Start agency shall develop an annual technical assistance and training plan. Such plan shall be based on the agency’s self-assessment, the community-wide strategic planning and needs assessment, the needs of parents and children to be served by such agency, and the results of the reviews conducted under section 641A(c).

“(i) FINANCIAL MANAGEMENT.—In order to receive funds under this subchapter, a Head Start agency shall document strong fiscal controls, including the employment of well-qualified fiscal staff with

a history of successful management of a public or private organization.”.

SEC. 10. HEAD START TRANSITION AND ALIGNMENT WITH K-12 EDUCATION.

Section 642A of the Head Start Act (42 U.S.C. 9837a) is amended to read as follows:

“SEC. 642A. HEAD START TRANSITION AND ALIGNMENT WITH K-12 EDUCATION.

“(a) IN GENERAL.—Each Head Start agency shall take steps to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program to promote continuity of services and effective transitions, including—

“(1) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

“(2) establishing ongoing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, local educational agency liaisons designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii)), and health staff) to facilitate coordination of programs;

“(3) establishing ongoing communications between the Head Start agency and local educational agency for developing continuity of developmentally appropriate curricular objectives (which for the purpose of the Head Start program shall be aligned with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards) and for shared expectations for children’s learning and development as the children transition to school;

“(4) organizing and participating in joint training, including transition-related training for school staff and Head Start staff;

“(5) establishing comprehensive transition policies and procedures that support children transitioning to school, including by engaging the local educational agency in the establishment of such policies;

“(6) conducting outreach to parents and elementary school (such as kindergarten) teachers to discuss the educational, developmental, and other needs of individual children;

“(7) helping parents of limited English proficient children understand—

“(A) the instructional and other services provided by the school in which such child will enroll after participation in Head Start; and

“(B) as appropriate, the information provided to parents of limited English proficient children under section 3302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7012);

“(8) developing and implementing a family outreach and support program, in cooperation with entities carrying out parental involvement efforts under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), and family outreach and support efforts under subtitle B of

title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), taking into consideration the language needs of parents of limited English proficient children;

“(9) assisting families, administrators, and teachers in enhancing educational and developmental continuity and continuity of parental involvement in activities between Head Start services and elementary school classes;

“(10) linking the services provided in such Head Start program with educational services, including services relating to language, literacy, and numeracy, provided by such local educational agency;

“(11) helping parents (including grandparents and kinship caregivers, as appropriate) to understand the importance of parental involvement in a child’s academic success while teaching them strategies for maintaining parental involvement as their child moves from Head Start to elementary school;

“(12) helping parents understand the instructional and other services provided by the school in which their child will enroll after participation in the Head Start program;

“(13) developing and implementing a system to increase program participation of underserved populations of eligible children; and

“(14) coordinating activities and collaborating to ensure that curricula used in the Head Start program are aligned with—

“(A) the Head Start Child Outcomes Framework, as developed by the Secretary; and

“(B) State early learning standards, as appropriate, with regard to cognitive, social, emotional, and physical competencies that children entering kindergarten are expected to demonstrate.

“(b) CONSTRUCTION.—In this section, a reference to a Head Start agency, or its program, services, facility, or personnel, shall not be construed to be a reference to an Early Head Start agency, or its program, services, facility, or personnel.

“(c) DISSEMINATION AND TECHNICAL ASSISTANCE.—The Secretary, in consultation with the Secretary of Education, shall—

“(1) disseminate to Head Start agencies information on effective policies and activities relating to the transition of children from Head Start programs to public schools; and

“(2) provide technical assistance to such agencies to promote and assist such agencies to adopt and implement such effective policies and activities.”.

SEC. 11. EARLY CHILDHOOD EDUCATION, COORDINATION, AND IMPROVEMENT.

(a) HEAD START COLLABORATION.—The Head Start Act (42 U.S.C. 9831 et seq.) is amended by inserting after section 642A the following:

“HEAD START COLLABORATION; STATE EARLY EDUCATION AND CARE

42 USC 9837b.

“SEC. 642B. (a)(1) From amounts made available under section 640(a)(2)(B)(vi), the Secretary shall award the collaboration grants described in paragraphs (2), (3), and (4).

Grants.

“(2)(A) The Secretary shall award, upon submission of a written request, a collaboration grant to each State and to each national administrative office serving Indian Head Start programs and

migrant or seasonal Head Start programs to facilitate collaboration among Head Start agencies (including Early Head Start agencies) and entities that carry out activities designed to benefit low-income children from birth to school entry, and their families. The national administrative offices shall use the funds made available through the grants to carry out the authorities and responsibilities described in subparagraph (B) and paragraphs (3) and (4), as appropriate.

“(B) Grants described in subparagraph (A) shall be used to—

“(i) assist Head Start agencies to collaborate with entities involved in State and local planning processes to better meet the needs of low-income children from birth to school entry, and their families;

“(ii) assist Head Start agencies to coordinate activities with the State agency responsible for administering the State program carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) and entities providing resource and referral services in the State, to make full-working-day and full calendar year services available to children;

“(iii) promote alignment of curricula used in Head Start programs and continuity of services with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards;

“(iv) promote better linkages between Head Start agencies and other child and family agencies, including agencies that provide health, mental health, or family services, or other child or family supportive services, such as services provided under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.); and

“(v) carry out the activities of the State Director of Head Start Collaboration authorized in paragraph (4).

“(3) In order to improve coordination and delivery of early childhood education and development to children in the State, a State that receives a collaboration grant under paragraph (2) shall—

“(A) appoint or designate an individual to serve as, or carry out the responsibilities of, the State Director of Head Start Collaboration;

“(B) ensure that the State Director of Head Start Collaboration holds a position with sufficient authority and access to ensure that the collaboration described in paragraph (2) is effective and involves a range of State agencies; and

“(C) involve the State Head Start Association in the selection of the Director and involve the Association in determinations relating to the ongoing direction of the collaboration office involved.

“(4) The State Director of Head Start Collaboration shall—

“(A) not later than 1 year after the State receives a collaboration grant under paragraph (2), conduct an assessment that—

Deadline.
Assessment.

“(i) addresses the needs of Head Start agencies in the State with respect to collaboration, coordination and alignment of services, and alignment of curricula and assessments used in Head Start programs with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards;

“(ii) shall be updated on an annual basis; and

Public
information.
Strategic plan.

“(iii) shall be made available to the general public within the State;

“(B) develop a strategic plan that is based on the assessment described in subparagraph (A) that will—

“(i) enhance collaboration and coordination of Head Start services by Head Start agencies with other entities providing early childhood education and development (such as child care or services offered by museums), health care, mental health care, welfare, child protective services, education and community service activities, family literacy services, reading readiness programs (including such programs offered by public and school libraries), services relating to children with disabilities, other early childhood education and development for limited English proficient children and homeless children, and services provided for children in foster care and children referred to Head Start programs by child welfare agencies, including agencies and State officials responsible for services described in this clause;

“(ii) assist Head Start agencies to develop a plan for the provision of full working-day, full calendar year services for children enrolled in Head Start programs who need such services;

“(iii) assist Head Start agencies to align curricula and assessments used in Head Start programs with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards;

“(iv) enable Head Start agencies to better access professional development opportunities for Head Start staff, such as by working with Head Start agencies to enable the agencies to meet the degree requirements described in section 648A(a)(2)(A), including providing distance learning opportunities for Head Start staff, where needed to make higher education more accessible to Head Start staff; and

“(v) enable the Head Start agencies to better conduct outreach to eligible families;

“(C) promote partnerships between Head Start agencies, State and local governments, and the private sector to help ensure that children from low-income families, who are in Head Start programs or are preschool age, are receiving comprehensive services to prepare the children for elementary school;

“(D) consult with the chief State school officer, local educational agencies, and providers of early childhood education and development, at both the State and local levels;

“(E) promote partnerships between Head Start agencies, schools, law enforcement, relevant community-based organizations, and substance abuse and mental health treatment agencies to strengthen family and community environments and to reduce the impact on child development of substance abuse, child abuse, domestic violence, and other high-risk behaviors that compromise healthy development;

“(F) promote partnerships between Head Start agencies and other organizations in order to enhance Head Start program quality, including partnerships to promote inclusion of more books in Head Start classrooms;

“(G) identify other resources and organizations (both public and private) for the provision of in-kind services to Head Start agencies in the State; and

“(H) serve on the State Advisory Council in order to assist the efforts of Head Start agencies to engage in effective coordination and collaboration.”.

(b) STATE EARLY EDUCATION AND CARE.—Section 642B of the Head Start Act, as added by subsection (a), is amended by adding at the end the following:

“(b)(1)(A) The Governor of the State shall—

“(i) designate or establish a council to serve as the State Advisory Council on Early Childhood Education and Care for children from birth to school entry (in this subchapter referred to as the ‘State Advisory Council’); and

“(ii) designate an individual to coordinate activities of the State Advisory Council, as described in subparagraph (D)(i).

“(B) The Governor may designate an existing entity in the State to serve as the State Advisory Council, and shall appoint representatives to the State Advisory Council at the Governor’s discretion. In designating an existing entity, the Governor shall take steps to ensure that its membership includes, to the extent possible, representatives consistent with subparagraph (C).

“(C) Members of the State Advisory Council shall include, to the maximum extent possible—

“(i) a representative of the State agency responsible for child care;

“(ii) a representative of the State educational agency;

“(iii) a representative of local educational agencies;

“(iv) a representative of institutions of higher education in the State;

“(v) a representative of local providers of early childhood education and development services;

“(vi) a representative from Head Start agencies located in the State, including migrant and seasonal Head Start programs and Indian Head Start programs;

“(vii) the State Director of Head Start Collaboration;

“(viii) a representative of the State agency responsible for programs under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

“(ix) a representative of the State agency responsible for health or mental health care; and

“(x) representatives of other entities determined to be relevant by the Governor of the State.

“(D)(i) The State Advisory Council shall, in addition to any responsibilities assigned to the Council by the Governor of the State—

“(I) conduct a periodic statewide needs assessment concerning the quality and availability of early childhood education and development programs and services for children from birth to school entry, including an assessment of the availability of high-quality pre-kindergarten services for low-income children in the State;

“(II) identify opportunities for, and barriers to, collaboration and coordination among Federally-funded and State-funded child development, child care, and early childhood education programs and services, including collaboration and coordination

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Assessment.

among State agencies responsible for administering such programs;

“(III) develop recommendations for increasing the overall participation of children in existing Federal, State, and local child care and early childhood education programs, including outreach to underrepresented and special populations;

“(IV) develop recommendations regarding the establishment of a unified data collection system for public early childhood education and development programs and services throughout the State;

“(V) develop recommendations regarding statewide professional development and career advancement plans for early childhood educators in the State;

“(VI) assess the capacity and effectiveness of 2- and 4-year public and private institutions of higher education in the State toward supporting the development of early childhood educators, including the extent to which such institutions have in place articulation agreements, professional development and career advancement plans, and practice or internships for students to spend time in a Head Start or prekindergarten program; and

“(VII) make recommendations for improvements in State early learning standards and undertake efforts to develop high-quality comprehensive early learning standards, as appropriate.

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“(ii) The State Advisory Council shall hold public hearings and provide an opportunity for public comment on the activities described in clause (i). The State Advisory Council shall submit a statewide strategic report addressing the activities described in clause (i) to the State Director of Head Start Collaboration and the Governor of the State.

“(iii) After submission of a statewide strategic report under clause (ii), the State Advisory Council shall meet periodically to review any implementation of the recommendations in such report and any changes in State and local needs.

Grants.

“(2)(A) The Secretary shall use the portion reserved under section 640(a)(4)(A)(iii) to award, on a competitive basis, one-time startup grants of not less than \$500,000 to eligible States to enable such States to pay for the Federal share of developing and implementing a plan pursuant to the responsibilities included under paragraph (1)(D)(i). A State that receives funds under this paragraph shall use such funds to facilitate the development or enhancement of high-quality systems of early childhood education and care designed to improve school preparedness through one or more of the following activities—

“(i) promoting school preparedness of children from birth through school entry, including activities to encourage families and caregivers to engage in highly interactive, developmentally and age-appropriate activities to improve children’s early social, emotional, and cognitive development, support the transition of young children to school, and foster parental and family involvement in the early education of young children;

“(ii) supporting professional development, recruitment, and retention initiatives for early childhood educators;

“(iii) enhancing existing early childhood education and development programs and services (in existence on the date on which the grant involved is awarded), including quality

improvement activities authorized under the Child Care and Development Block Grant Act of 1990; and

“(iv) carrying out other activities consistent with the State’s plan and application, pursuant to subparagraph (B).

“(B) To be eligible to receive a grant under this paragraph, a State shall prepare and submit to the Secretary a plan and application, for a 3-year period, at such time, in such manner, and containing such information as the Secretary shall require, including—

Plan.

“(i) the statewide strategic report described in paragraph (1)(D)(ii), including a description of the State Advisory Council’s responsibilities under paragraph (1)(D)(i);

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“(ii) a description, for each fiscal year, of how the State will make effective use of funds available under this paragraph, with funds described in subparagraph (C), to create an early childhood education and care system, by developing or enhancing programs and activities consistent with the statewide strategic report described in paragraph (1)(D)(i);

“(iii) a description of the State early learning standards and the State’s goals for increasing the number of children entering kindergarten ready to learn;

“(iv) information identifying the agency or joint interagency office, and individual, designated to carry out the activities under this paragraph, which may be the individual designated under paragraph (1)(A)(ii); and

“(v) a description of how the State plans to sustain activities under this paragraph beyond the grant period.

“(C) The Federal share of the cost of activities proposed to be conducted under subparagraph (A) shall be 30 percent, and the State shall provide the non-Federal share.

“(D) Funds made available under this paragraph shall be used to supplement, and not supplant, other Federal, State, and local funds expended to carry out activities related to early childhood education and care in the State.

“(E) Not later than 18 months after the date a State receives a grant under this paragraph, the State shall submit an interim report to the Secretary. A State that receives a grant under this paragraph shall submit a final report to the Secretary at the end of the grant period. Each report shall include—

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Reports.

“(i) a description of the activities and services carried out under the grant, including the outcomes of such activities and services in meeting the needs described in the periodic needs assessment and statewide strategic report;

“(ii) information about how the State used such funds to meet the goals of this subsection through activities to develop or enhance high-quality systems of early childhood education and care, increase effectiveness of delivery systems and use of funds, and enhance existing programs and services;

“(iii) information regarding the remaining needs described in the periodic statewide needs assessment and statewide strategic report that have not yet been addressed by the State; and

“(iv) any other information that the Secretary may require.

“(F) Nothing in this subsection shall be construed to provide the State Advisory Council with authority to modify, supersede, or negate the requirements of this subchapter.”.

SEC. 12. SUBMISSION OF PLANS.

Section 643 of the Head Start Act (42 U.S.C. 9838) is amended by adding at the end the following: “This section shall not apply to contracts, agreements, grants, loans, or other assistance for Indian Head Start programs or migrant or seasonal Head Start programs.”.

SEC. 13. ADMINISTRATIVE REQUIREMENTS AND STANDARDS.

Section 644 of the Head Start Act (42 U.S.C. 9839) is amended—

(1) by striking subsection (a) and inserting the following:

“(a)(1) Each Head Start agency shall observe standards of organization, management, and administration that will ensure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of this subchapter and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism. Each such agency shall establish or adopt rules to carry out this section, which shall include rules to assure full staff accountability in matters governed by law, regulations, or agency policy. Each agency shall also provide for reasonable public access to information, including public hearings at the request of appropriate community groups and reasonable public access to books and records of the agency or other agencies engaged in program activities or operations involving the use of authority or funds for which it is responsible.

“(2) Each Head Start agency shall make available to the public a report published at least once in each fiscal year that discloses the following information from the most recently concluded fiscal year, except that reporting such information shall not reveal personally identifiable information about an individual child or parent:

“(A) The total amount of public and private funds received and the amount from each source.

“(B) An explanation of budgetary expenditures and proposed budget for the fiscal year.

“(C) The total number of children and families served, the average monthly enrollment (as a percentage of funded enrollment), and the percentage of eligible children served.

“(D) The results of the most recent review by the Secretary and the financial audit.

“(E) The percentage of enrolled children that received medical and dental exams.

“(F) Information about parent involvement activities.

“(G) The agency’s efforts to prepare children for kindergarten.

“(H) Any other information required by the Secretary.

“(3) Each such agency shall adopt for itself and other agencies using funds or exercising authority for which it is responsible, rules designed to—

“(A) establish specific standards governing salaries, salary increases, travel and per diem allowances, and other employee benefits;

“(B) assure that only persons capable of discharging their duties with competence and integrity are employed and that employees are promoted or advanced under impartial procedures calculated to improve agency performance and effectiveness;

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“(C) guard against personal or financial conflicts of interest; and

“(D) define employee duties in an appropriate manner that will in any case preclude employees from participating, in connection with the performance of their duties, in any form of picketing, protest, or other direct action that is in violation of law.”; and

(2) in subsection (f)—

(A) in paragraph (2)—

(i) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively; and

(ii) by inserting before subparagraph (B), as redesignated by clause (i), the following:

“(A) a description of the efforts by the agency to coordinate or collaborate with other providers in the community to seek assistance, including financial assistance, prior to the use of funds under this section;”;

(B) in paragraph (3), by striking “, from the amount reserved under section 640(a)(2)(A).”.

SEC. 14. PARTICIPATION IN HEAD START PROGRAMS.

Section 645 of the Head Start Act (42 U.S.C. 9840) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

“(a)(1)(A) The Secretary shall by regulation prescribe eligibility for the participation of persons in Head Start programs assisted under this subchapter.

Regulations.

“(B) Except as provided in paragraph (2), such regulation shall provide—

“(i) that children from low-income families shall be eligible for participation in programs assisted under this subchapter if their families’ incomes are below the poverty line, or if their families are eligible or, in the absence of child care, would potentially be eligible for public assistance;

“(ii) that homeless children shall be deemed to be eligible for such participation;

“(iii) that programs assisted under this subchapter may include—

“(I) to a reasonable extent (but not to exceed 10 percent of participants), participation of children in the area served who would benefit from such programs but who are not eligible under clause (i) or (ii); and

“(II) from the area served, an additional 35 percent of participants who are not eligible under clause (i) or (ii) and whose families have incomes below 130 percent of the poverty line, if—

“(aa) the Head Start agency involved establishes and implements outreach and enrollment policies and procedures that ensure such agency is meeting the needs of children eligible under clause (i) or (ii) (or subclause (I) if the child involved has a disability) prior to meeting the needs of children eligible under this subclause; and

“(bb) in prioritizing the selection of children to be served, the Head Start agency establishes criteria

that provide that the agency will serve children eligible under clause (i) or (ii) prior to serving the children eligible under this subclause;

“(iv) that any Head Start agency serving children eligible under clause (iii)(II) shall report annually to the Secretary information on—

“(I) how such agency is meeting the needs of children eligible under clause (i) or (ii), in the area served, including local demographic data on families of children eligible under clause (i) or (ii);

“(II) the outreach and enrollment policies and procedures established by the agency that ensure the agency is meeting the needs of children eligible under clause (i) or (ii) (or clause (iii)(I) if the child involved has a disability) prior to meeting the needs of children eligible under clause (iii)(II);

“(III) the efforts, including outreach efforts (that are appropriate to the community involved), of such agency to be fully enrolled with children eligible under clause (i) or (ii);

“(IV) the policies, procedures, and selection criteria such agency is implementing to serve eligible children, consistent with clause (iii)(II);

“(V) the agency’s enrollment level, and enrollment level over the fiscal year prior to the fiscal year in which the report is submitted;

“(VI) the number of children served by the agency, disaggregated by whether such children are eligible under clause (i), clause (ii), clause (iii)(I), or clause (iii)(II); and

“(VII) the eligibility criteria category of the children on the agency’s waiting list;

“(v) that a child who has been determined to meet the eligibility criteria described in this subparagraph and who is participating in a Head Start program in a program year shall be considered to continue to meet the eligibility criteria through the end of the succeeding program year.

“(C) In determining, for purposes of this paragraph, whether a child who has applied for enrollment in a Head Start program meets the eligibility criteria, an entity may consider evidence of family income during the 12 months preceding the month in which the application is submitted, or during the calendar year preceding the calendar year in which the application is submitted, whichever more accurately reflects the needs of the family at the time of application.”; and

(B) by adding at the end the following:

“(3)(A) In this paragraph:

“(i) The term ‘dependent’ has the meaning given the term in paragraphs (2)(A) and (4)(A)(i) of section 401(a) of title 37, United States Code.

“(ii) The terms ‘member’ and ‘uniformed services’ have the meanings given the terms in paragraphs (23) and (3), respectively, of section 101 of title 37, United States Code.

“(B) The following amounts of pay and allowance of a member of the uniformed services shall not be considered to be income for purposes of determining the eligibility of a dependent of such member for programs funded under this subchapter:

“(i) The amount of any special pay payable under section 310 of title 37, United States Code, relating to duty subject to hostile fire or imminent danger.

“(ii) The amount of basic allowance payable under section 403 of such title, including any such amount that is provided on behalf of the member for housing that is acquired or constructed under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code, or any other related provision of law.

“(4) After demonstrating a need through a communitywide strategic planning and needs assessment, a Head Start agency may apply to the Secretary to convert part-day sessions, particularly consecutive part-day sessions, into full-working-day sessions.

“(5)(A) Upon written request and pursuant to the requirements of this paragraph, a Head Start agency may use funds that were awarded under this subchapter to serve children age 3 to compulsory school age, in order to serve infants and toddlers if the agency submits an application to the Secretary containing, as specified in rules issued by the Secretary, all of the following information:

“(i) The amount of such funds that are proposed to be used in accordance with section 645A(b).

“(ii) A communitywide strategic planning and needs assessment demonstrating how the use of such funds would best meet the needs of the community.

“(iii) A description of how the needs of pregnant women, and of infants and toddlers, will be addressed in accordance with section 645A(b), and with regulations prescribed by the Secretary pursuant to section 641A in areas including the agency’s approach to child development and provision of health services, approach to family and community partnerships, and approach to program design and management.

“(iv) A description of how the needs of eligible children will be met in the community.

“(v) Assurances that the agency will participate in technical assistance activities (including planning, start-up site visits, and national training activities) in the same manner as recipients of grants under section 645A.

“(vi) Evidence that the agency meets the same eligibility criteria as recipients of grants under section 645A.

“(B) An application that satisfies the requirements specified in subparagraph (A) shall be approved by the Secretary unless the Secretary finds that—

“(i) the agency lacks adequate capacity and capability to carry out an effective Early Head Start program; or

“(ii) the information provided under subparagraph (A) is inadequate.

“(C) In approving such applications, the Secretary shall take into account the costs of serving persons under section 645A.

“(D) Any Head Start agency with an application approved under subparagraph (B) shall be considered to be an Early Head Start agency and shall be subject to the same rules, regulations, and conditions as apply to recipients of grants under section 645A, with respect to activities carried out under this paragraph.”;

(2) in the first sentence of subsection (c), by striking “(age 3 to compulsory school attendance)”;

(3) in subsection (d)—

(A) by striking paragraph (3); and

(B) by adding at the end the following:

“(3) Notwithstanding any other provision of this Act, an Indian tribe or tribes that operates both an Early Head Start program under section 645A and a Head Start program may, at its discretion, at any time during the grant period involved, reallocate funds between the Early Head Start program and the Head Start program in order to address fluctuations in client populations, including pregnant women and children from birth to compulsory school age. The reallocation of such funds between programs by an Indian tribe or tribes during a year shall not serve as the basis for the Secretary to reduce a base grant (as defined in section 640(a)(7)) for either program in succeeding years.”.

SEC. 15. EARLY HEAD START PROGRAMS.

Section 645A of the Head Start Act (42 U.S.C. 9840a) is amended—

(1) by striking the section heading and inserting the following:

“SEC. 645A. EARLY HEAD START PROGRAMS.”;

Grants.

(2) in subsection (a) by striking “The Secretary” and all that follows through “for programs” and inserting “The Secretary shall make grants to entities (referred to in this subchapter as ‘Early Head Start agencies’) in accordance with this section for programs (referred to in this subchapter as ‘Early Head Start programs’)”;

(3) in subsection (b)—

(A) by striking paragraph (4) and inserting the following:

“(4) provide services to parents to support their role as parents (including parenting skills training and training in basic child development) and services to help the families move toward self-sufficiency (including educational and employment services, as appropriate);”;

(B) by striking paragraph (5) and inserting the following:

“(5) coordinate services with services provided by programs in the State (including home-based services) and programs in the community (including programs for infants and toddlers with disabilities and programs for homeless infants and toddlers) to ensure a comprehensive array of services (such as health and mental health services and family support services);”;

(C) by redesignating paragraphs (6), (7), (8), and (9), as paragraphs (7), (10), (11), and (12), respectively;

(D) by inserting after paragraph (5) the following:

“(6) ensure that children with documented behavioral problems, including problems involving behavior related to prior or existing trauma, receive appropriate screening and referral;”;

(E) by inserting after paragraph (7), as redesignated by subparagraph (C), the following:

“(8) develop and implement a systematic procedure for transitioning children and parents from an Early Head Start program to a Head Start program or other local early childhood education and development program;

“(9) establish channels of communication between staff of the Early Head Start program, and staff of a Head Start

program or other local providers of early childhood education and development programs, to facilitate the coordination of programs;” and

(F) by striking paragraph (11), as redesignated by subparagraph (C), and inserting the following:

“(11) ensure formal linkages with providers of early intervention services for infants and toddlers with disabilities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), with the State interagency coordinating council, as established in part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), and with the agency responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a);”;

(4) in subsection (c), by striking “income criteria specified for families in section 645(a)(1)” and inserting “eligibility criteria specified in section 645(a)(1), including the criteria specified in section 645(a)(1)(B)(ii)”;

(5) in subsection (d), by striking paragraphs (1) and (2) and inserting the following:

“(1) entities operating Head Start programs under this subchapter;

“(2) entities operating Indian Head Start programs or migrant or seasonal Head Start programs; and

“(3) other public entities, and nonprofit or for-profit private entities, including community-based and faith-based organizations, capable of providing child and family services that meet the standards for participation in programs under this subchapter and meet such other appropriate requirements relating to the activities under this section as the Secretary may establish.”;

(6) in subsection (e), by striking “From” and all that follows through “under this subsection” and inserting “The Secretary shall award grants under this section”;

(7) by striking subsection (g) and inserting the following:

“(g) MONITORING, TRAINING, TECHNICAL ASSISTANCE, AND EVALUATION.—

“(1) REQUIREMENT.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds made available under section 640(a)(2)(E) to monitor the operation of such programs, and funds made available under section 640(a)(2)(C)(i)(I) to provide training and technical assistance tailored to the particular needs of such programs, consistent with section 640(c).

“(2) TRAINING AND TECHNICAL ASSISTANCE.—

“(A) ACTIVITIES.—Of the portion set aside under section 640(a)(2)(C)(i)(I)—

“(i) not less than 50 percent shall be made available to Early Head Start agencies to use directly, which may include, at their discretion, the establishment of local or regional agreements with community experts, institutions of higher education, or private consultants, for training and technical assistance activities in order to make program improvements identified by such agencies;

“(ii) not less than 25 percent shall be available to the Secretary to support a State-based training and technical assistance system, or a national system,

described in section 648(e), including infant and toddler specialists, to support Early Head Start agencies, consistent with subparagraph (B); and

“(iii) the remainder of such amount shall be made available to the Secretary to assist Early Head Start agencies in meeting and exceeding the standards described in section 641A(a)(1) (directly, or through grants, contracts, or other agreements or arrangements with an entity with demonstrated expertise relating to infants, toddlers, and families) by—

“(I) providing ongoing training and technical assistance to Early Head Start agencies, including developing training and technical assistance materials and resources to support program development and improvement and best practices in providing services to children and families served by Early Head Start programs;

“(II) supporting a national network of infant and toddler specialists designed to improve the quality of Early Head Start programs;

“(III) providing ongoing training and technical assistance on Early Head Start program development and improvement for regional staff charged with monitoring and overseeing the administration of the program carried out under this section; and

“(IV) if funds remain after the activities described in subclauses (I), (II), and (III) are carried out, carry out 1 or more of the following activities:

“(aa) Providing support and program planning and implementation assistance for new Early Head Start agencies, including for agencies who want to use funds as described in section 645(a)(5) to serve infants and toddlers.

“(bb) Creating special training and technical assistance initiatives targeted to serving high-risk populations, such as children in the child welfare system and homeless children.

“(cc) Providing professional development designed to increase program participation for underserved populations of eligible children.

“(B) **CONTRACTS.**—For the purposes of supporting a State-based system, as described in subparagraph (A)(ii), that will meet the needs of Early Head Start agencies and provide high-quality, sustained, and intensive training and technical assistance on programming for infants and toddlers to Early Head Start agencies, and in order to help such agencies meet or exceed the standards described in section 641A(a)(1), the Secretary shall—

“(i) use funds reserved under subparagraph (A)(ii) in combination with funds reserved under section 640(a)(2)(C)(i)(II)(bb) to ensure the contracts described in section 648(e)(1) provide for a minimum of 1 full-time specialist with demonstrated expertise in the development of infants and toddlers; and

“(ii) ensure that such contracts and the services provided in the contracts are integrated with and augment the contracts awarded and services provided under section 648(e);” and

(8) by adding at the end the following:

“(h) CENTER-BASED STAFF.—The Secretary shall—

Deadlines.

“(1) ensure that, not later than September 30, 2010, all teachers providing direct services to children and families participating in Early Head Start programs located in Early Head Start centers, have a minimum of a child development associate credential, and have been trained (or have equivalent coursework) in early childhood development; and

“(2) establish staff qualification goals to ensure that not later than September 30, 2012, all such teachers have been trained (or have equivalent coursework) in early childhood development with a focus on infant and toddler development.

“(i) STAFF QUALIFICATIONS AND DEVELOPMENT.—

“(1) HOME VISITOR STAFF STANDARDS.—In order to further enhance the quality of home visiting services provided to families of children participating in home-based, center-based, or combination program options under this subchapter, the Secretary shall establish standards for training, qualifications, and the conduct of home visits for home visitor staff in Early Head Start programs.

“(2) CONTENTS OF STANDARDS.—The standards for training, qualifications, and the conduct of home visits shall include content related to—

“(A) structured child-focused home visiting that promotes parents’ ability to support the child’s cognitive, social, emotional, and physical development;

“(B) effective strengths-based parent education, including methods to encourage parents as their child’s first teachers;

“(C) early childhood development with respect to children from birth through age 3;

“(D) methods to help parents promote emergent literacy in their children from birth through age 3, including use of research-based strategies to support the development of literacy and language skills for children who are limited English proficient;

“(E) ascertaining what health and developmental services the family receives and working with providers of these services to eliminate gaps in service by offering annual health, vision, hearing, and developmental screening for children from birth to entry into kindergarten, when needed;

“(F) strategies for helping families coping with crisis; and

“(G) the relationship of health and well-being of pregnant women to prenatal and early child development.”.

SEC. 16. APPEALS, NOTICE, AND HEARING.

Section 646(a) of the Head Start Act (42 U.S.C. 9841(a)) is amended—

(1) in the matter preceding paragraph (1), by striking “procedures to assure that”;

Deadlines.

(2) in paragraphs (1) and (2), by inserting “procedures to assure that” after the paragraph designation;

(3) by striking paragraphs (3) and (4) and inserting the following:

“(3) procedures to assure that financial assistance under this subchapter may be terminated or reduced, and an application for refunding may be denied, after the recipient has been afforded reasonable notice and opportunity for a full and fair hearing, including—

“(A) a right to file a notice of appeal of a decision not later than 30 days after notice of the decision from the Secretary; and

“(B) access to a full and fair hearing of the appeal, not later than 120 days after receipt by the Secretary of the notice of appeal;

“(4) procedures (including mediation procedures) are developed and published, to be used in order to—

“(A) resolve in a timely manner conflicts potentially leading to an adverse action between—

“(i) recipients of financial assistance under this subchapter; and

“(ii) delegate agencies, or policy councils of Head Start agencies;

“(B) avoid the need for an administrative hearing on an adverse action; and

“(C) prohibit a Head Start agency from expending financial assistance awarded under this subchapter for the purpose of paying legal fees, or other costs incurred, pursuant to an appeal under paragraph (3);

“(5) procedures to assure that the Secretary may suspend financial assistance to a recipient under this subchapter—

“(A) except as provided in subparagraph (B), for not more than 30 days; or

“(B) in the case of a recipient under this subchapter that has multiple and recurring deficiencies for 180 days or more and has not made substantial and significant progress toward meeting the goals of the grantee’s quality improvement plan or eliminating all deficiencies identified by the Secretary, during the hearing of an appeal described in paragraph (3), for any amount of time; and

“(6) procedures to assure that in cases where a Head Start agency prevails in a decision under paragraph (4), the Secretary may determine and provide a reimbursement to the Head Start agency for fees deemed reasonable and customary.”.

SEC. 17. RECORDS AND AUDITS.

Section 647 of the Head Start Act (42 U.S.C. 9842) is amended by adding at the end the following:

“(c) Each recipient of financial assistance under this subchapter shall—

“(1) maintain, and annually submit to the Secretary, a complete accounting of the recipient’s administrative expenses (including a detailed statement identifying the amount of financial assistance provided under this subchapter used to pay expenses for salaries and compensation and the amount (if any) of other funds used to pay such expenses);

“(2) not later than 30 days after the date of completion of an audit conducted in the manner and to the extent provided in chapter 75 of title 31, United States Code (commonly known as the ‘Single Audit Act of 1984’), submit to the Secretary a copy of the audit management letter and of any audit findings as they relate to the Head Start program; and

“(3) provide such additional documentation as the Secretary may require.”

Deadline.

SEC. 18. TECHNICAL ASSISTANCE AND TRAINING.

Section 648 of the of the Head Start Act (42 U.S.C. 9843) is amended to read as follows:

“SEC. 648. TECHNICAL ASSISTANCE AND TRAINING.Grants.
Contracts.

“(a) SECRETARIAL TRAINING AND TECHNICAL ASSISTANCE.—

“(1) AUTHORITY.—From the funds provided under section 640(a)(2)(C)(i), the Secretary shall provide, directly or through grants, contracts, or other agreements or arrangements as the Secretary considers appropriate, technical assistance and training for Head Start programs for the purposes of improving program quality and helping prepare children to succeed in school.

“(2) PROCESS.—The process for determining the technical assistance and training activities to be carried out under this section shall—

“(A) ensure that the needs of local Head Start agencies and programs relating to improving program quality and to program expansion are addressed to the maximum extent practicable; and

“(B) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the individuals and agencies carrying out Head Start programs.

“(3) ACTIVITIES.—In providing training and technical assistance and for allocating resources for such assistance under this section, the Secretary shall—

“(A) give priority consideration to—

“(i) activities to correct program and management deficiencies identified through reviews carried out pursuant to section 641A(c) (including the provision of assistance to local programs in the development of quality improvement plans under section 641A(d)(2));

“(ii) assisting Head Start agencies in ensuring the school readiness of children; and

“(iii) activities that supplement those funded with amounts provided under section 640(a)(5)(B) to address the training and career development needs of classroom staff (including instruction for providing services to children with disabilities, and for activities described in section 1222(d) of the Elementary and Secondary Education Act of 1965), and non-classroom staff, including home visitors and other staff working directly with families, including training relating to increasing parent involvement and services designed to increase family literacy and improve parenting skills; and

“(B) to the maximum extent practicable—

“(i) assist Head Start agencies in the development of collaborative initiatives with States and other entities within the States, to foster effective professional development systems for early childhood education and development services;

“(ii) provide technical assistance and training, either directly or through a grant, contract, or cooperative agreement with an entity that has experience in the development and operation of successful family literacy services programs, for the purpose of—

“(I) assisting Head Start agencies providing family literacy services, in order to improve the quality of such family literacy services; and

“(II) enabling those Head Start agencies that demonstrate effective provision of family literacy services, based on improved outcomes for children and their parents, to provide technical assistance and training to other Head Start agencies and to service providers that work in collaboration with such agencies to provide family literacy services;

“(iii) assist Head Start agencies and programs in conducting and participating in communitywide strategic planning and needs assessments, including the needs of homeless children and their families, and in conducting self-assessments;

“(iv) assist Head Start agencies and programs in developing and implementing full-working-day and full calendar year programs where community need is clearly identified and making the transition to such programs, with particular attention to involving parents and programming for children throughout the day, and assist the agencies and programs in expediting the sharing of information about innovative models for providing full-working-day, full calendar year services for children;

“(v) assist Head Start agencies in better serving the needs of families with very young children, including providing support and program planning and implementation assistance for Head Start agencies that apply to serve or are serving additional infants and toddlers, in accordance with section 645(a)(5);

“(vi) assist Head Start agencies and programs in the development of sound management practices, including financial management procedures;

“(vii) assist in efforts to secure and maintain adequate facilities for Head Start programs;

“(viii) assist Head Start agencies in developing innovative program models, including mobile and home-based programs;

“(ix) provide support for Head Start agencies (including policy councils and policy committees) that meet the standards described in section 641A(a) but that have, as documented by the Secretary through reviews conducted pursuant to section 641A(c), programmatic, quality, and fiscal issues to address;

“(x) assist Head Start agencies and programs in improving outreach to, increasing program participation of, and improving the quality of services available to meet the unique needs of—

“(I) homeless children;

“(II) limited English proficient children and their families, particularly in communities that have experienced a large percentage increase in the population of limited English proficient individuals, as measured by the Bureau of the Census; and

“(III) children with disabilities, particularly if such program’s enrollment opportunities or funded enrollment for children with disabilities is less than 10 percent;

“(xi) assist Head Start agencies and programs to increase the capacity of classroom staff to meet the needs of eligible children in Head Start classrooms that are serving both children with disabilities and children without disabilities;

“(xii) assist Head Start agencies and programs to address the unique needs of programs located in rural communities, including—

“(I) removing barriers related to the recruitment and retention of Head Start teachers in rural communities;

“(II) developing innovative and effective models of professional development for improving staff qualifications and skills for staff living in rural communities;

“(III) removing barriers related to outreach efforts to eligible families in rural communities;

“(IV) removing barriers to parent involvement in Head Start programs in rural communities;

“(V) removing barriers to providing home visiting services in rural communities; and

“(VI) removing barriers to obtaining health screenings for Head Start participants in rural communities;

“(xiii) provide training and technical assistance to members of governing bodies, policy councils, and, as appropriate, policy committees, to ensure that the members can fulfill their functions;

“(xiv) provide activities that help ensure that Head Start programs have qualified staff who can promote prevention of childhood obesity by integrating developmentally appropriate research-based initiatives that stress the importance of physical activity and healthy, nutritional choices in daily classroom and family routines;

“(xv) assist Indian Head Start agencies to provide on-site and off-site training to staff, using approaches that identify and enhance the positive resources and strengths of Indian children and families, to improve parent and family engagement and staff development, particularly with regard to child and family development; and

“(xvi) assisting Head Start agencies in selecting and using the measures described in section 641A(b).
“(b) ADDITIONAL SUPPORT.—The Secretary shall provide, either directly or through grants, contracts or other arrangements, funds from section 640(a)(2)(C)(i)(II)(cc) to—

“(1) support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood education and development programs; and

“(2) support training for personnel—

“(A) providing services to limited English proficient children and their families (including services to promote the acquisition of the English language);

“(B) providing services to children determined to be abused or neglected or children referred by or receiving child welfare services;

“(C) in helping children cope with community violence;

“(D) to recognize common health, including mental health, problems in children for appropriate referral;

“(E) to address the needs of children with disabilities and their families;

“(F) to address the needs of migrant and seasonal farmworker families; and

“(G) to address the needs of homeless families.

“(c) OUTREACH.—The Secretary shall develop and implement a program of outreach to recruit and train professionals from diverse backgrounds to become Head Start teachers in order to reflect the communities in which Head Start children live and to increase the provision of quality services and instruction to children with diverse backgrounds.

“(d) FUNDS TO AGENCIES.—Funds made available under section 640(a)(2)(C)(i)(II)(aa) shall be used by a Head Start agency to provide high-quality, sustained, and intensive training and technical assistance as follows:

“(1) For 1 or more of the following:

“(A) Activities that ensure that Head Start programs meet or exceed the standards described in section 641A(a)(1).

“(B) Activities that ensure that Head Start programs have adequate numbers of trained, qualified staff who have skills in working with children and families, including children and families who are limited English proficient and children with disabilities and their families.

“(C) Activities to improve the management and implementation of Head Start services and systems, including direct training for expert consultants working with staff.

“(D) Activities that help ensure that Head Start programs have qualified staff who can promote language skills and literacy growth of children and who can provide children with a variety of skills that have been identified as predictive of later reading achievement, school success, and the skills, knowledge, abilities, development, and progress described in section 641A(a)(1)(B)(ii).

“(E) Activities to improve staff qualifications and to assist with the implementation of career development programs and to encourage the staff to continually improve

their skills and expertise, including developing partnerships with programs that recruit, train, place, and support college students in Head Start centers to deliver an innovative early learning program to preschool children.

“(F) Activities that help local programs ensure that the arrangement, condition, and implementation of the learning environments in Head Start programs are conducive to providing effective program services to children and families.

“(G) Activities to provide training necessary to improve the qualifications of Head Start staff and to support staff training, child counseling, health services, and other services necessary to address the needs of children enrolled in Head Start programs, including children from families in crises, children who experience chronic violence or homelessness, children who experience substance abuse in their families, and children under 3 years of age, where applicable.

“(H) Activities to provide classes or in-service-type programs to improve or enhance parenting skills, job skills, and adult and family literacy, including financial literacy, or training to become a classroom aide or bus driver in a Head Start program.

“(I) Additional activities deemed appropriate to the improvement of Head Start programs, as determined by the technical assistance and training plans of the Head Start agencies.

“(2) To support enhanced early language and literacy development of children in Head Start programs, and to provide the children with high-quality oral language skills and with environments that are rich in literature in which to acquire language and early literacy skills. Each Head Start agency, in consultation with the State-based training and technical assistance system, as appropriate, shall ensure that—

“(A) all of the agency’s Head Start teachers receive ongoing training in language and emergent literacy (referred to in this subsection as ‘literacy training’), including appropriate curricula and assessment to improve instruction and learning;

“(B) such literacy training shall include training in methods to promote vocabulary development and phonological awareness (including phonemic awareness) in a developmentally, culturally, and linguistically appropriate manner and support children’s development in their native language;

“(C) the literacy training shall include training in how to work with parents to enhance positive language and early literacy development at home;

“(D) the literacy training shall include specific methods to best address the needs of children who are limited English proficient;

“(E) the literacy training shall include training on how to best address the language and literacy needs of children with disabilities, including training on how to work with specialists in language development; and

“(F) the literacy training shall be tailored to the early childhood literacy background and experience of the teachers involved;

except that funds made available under section 640(a)(2)(C)(i) shall not be used for long-distance travel expenses for training activities available locally or regionally or for training activities substantially similar to locally or regionally available training activities.

“(e) STATE-BASED TRAINING AND TECHNICAL ASSISTANCE SYSTEM.—For the purposes of delivering a State-based training and technical assistance system (which may include a consortium of 2 or more States within a region) or a national system in the case of migrant or seasonal Head Start and Indian Head Start programs, as described in section 640(a)(2)(C)(i)(II)(bb), that will meet the needs of local grantees, as determined by such grantees, and provide high-quality, sustained, and intensive training and technical assistance to Head Start agencies and programs in order to improve their capacity to deliver services that meet or exceed the standards described in section 641A(a)(1), the Secretary shall—

“(1) enter into contracts in each State with 1 or more entities that have a demonstrated expertise in supporting the delivery of high-quality early childhood education and development programs, except that contracts for a consortium of 2 or more States within a geographic region may be entered into if such a system is more appropriate to better meet the needs of local grantees within a region, as determined by such grantees;

“(2) ensure that the entities described in subparagraph (1) determine the types of services to be provided through consultation with—

“(A) local Head Start agencies (including Indian Head Start agencies and migrant or seasonal Head Start agencies, as appropriate);

“(B) the State Head Start collaboration office; and

“(C) the State Head Start Association;

“(3) encourage States to supplement the funds authorized in section 640(a)(2)(C)(i)(II)(bb) with Federal, State, or local funds other than funds made available under this subchapter, to expand training and technical assistance activities beyond Head Start agencies to include other providers of other early childhood education and development programs within a State;

“(4) provide a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, not later than 90 days after the end of the fiscal year, summarizing the funding for such contracts and the activities carried out thereunder;

“(5) periodically evaluate the effectiveness of the delivery of services in each State in promoting program quality; and

“(6) ensure that in entering into such contracts as described in paragraph (1), such entities will address the needs of grantees in both urban and rural communities.

“(f) INDOOR AIR QUALITY.—The Secretary shall consult with appropriate Federal agencies and other experts, as appropriate, on issues of air quality related to children’s health and inform Head Start agencies of existing programs or combination of programs that provide methods for improving indoor air quality.

Reports.
Deadline.

“(g) CAREER ADVANCEMENT PARTNERSHIP PROGRAM.—

Minorities.

“(1) AUTHORITY.—From amounts allocated under section 640(a)(2)(C) the Secretary is authorized to award demonstration grants, for a period of not less than 5 years, to historically Black colleges and universities, Hispanic-serving institutions, and Tribal Colleges and Universities—

“(A) to implement education programs that increase the number of associate, baccalaureate, and graduate degrees in early childhood education and related fields that are earned by Head Start agency staff members, parents of children served by such agencies, and members of the communities involved;

“(B) to provide assistance for stipends and costs related to tuition, fees, and books for enrolling Head Start agency staff members, parents of children served by such an agency, and members of the communities involved in courses required to complete the degree and certification requirement to become teachers in early childhood education and related fields;

“(C) to develop program curricula to promote high-quality services and instruction to children with diverse backgrounds, including—

“(i) in the case of historically Black colleges and universities, to help Head Start Agency staff members develop skills and expertise needed to teach in programs serving large numbers of African American children;

“(ii) in the case of Hispanic-serving institutions, programs to help Head Start Agency staff members develop skills and expertise needed to teach in programs serving large numbers of Hispanic children, including programs to develop the linguistic skills and expertise needed to teach in programs serving a large number of children with limited English proficiency; and

“(iii) in the case of Tribal Colleges and Universities, to help Head Start Agency staff members develop skills and expertise needed to teach in programs serving large numbers of Indian children, including programs concerning tribal culture and language;

“(D) to provide other activities to upgrade the skills and qualifications of educational personnel to meet the professional standards in subsection (a) to better promote high-quality services and instruction to children and parents from populations served by historically Black colleges and universities, Hispanic-serving institutions, or Tribal Colleges and Universities;

“(E) to provide technology literacy programs for Indian Head Start agency staff members and families of children served by such agency; and

“(F) to develop and implement the programs described under subparagraph (A) in technology-mediated formats, including through such means as distance learning and use of advanced technology, as appropriate.

“(2) OTHER ASSISTANCE.—The Secretary shall, using resources within the Department of Health and Human Services—

“(A) provide appropriate technical assistance to historically Black colleges and universities, Hispanic-serving institutions, and Tribal Colleges and Universities receiving grants under this section, including coordinating with the White House Initiative on historically Black colleges and universities; and

“(B) ensure that the American Indian Programs Branch of the Office of Head Start of the Administration for Children and Families of the Department of Health and Human Services can effectively administer the programs under this section and provide appropriate technical assistance to Tribal Colleges and Universities under this section.

“(3) APPLICATION.—Each historically Black college or university, Hispanic-serving institution, or Tribal College or University desiring a grant under this section shall submit an application, in partnership with at least 1 Head Start agency enrolling large numbers of students from the populations served by historically Black colleges and universities, Hispanic-serving institutions, or Tribal Colleges and Universities, to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including a certification that the institution of higher education has established a formal partnership with 1 or more Head Start agencies for the purposes of conducting the activities described in paragraph (1).

“(4) DEFINITIONS.—In this subsection:

“(A) The term ‘Hispanic-serving institution’ has the meaning given such term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).

“(B) The term ‘historically Black college or university’ has the meaning given the term ‘part B institution’ in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

“(C) The term ‘Tribal College or University’ has the meaning given such term in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

“(5) TEACHING REQUIREMENT.—A student at an institution receiving a grant under this subsection who receives assistance under a program funded under this subsection shall teach in a center-based Head Start program for a period of time equivalent to the period for which they received assistance or shall repay such assistance.”.

SEC. 19. STAFF QUALIFICATIONS AND DEVELOPMENT.

Section 648A of the Head Start Act (42 U.S.C. 9843a) is amended—

(1) by amending subsection (a) to read as follows:

“(a) CLASSROOM TEACHERS.—

“(1) PROFESSIONAL REQUIREMENTS.—The Secretary shall ensure that each Head Start classroom in a center-based program is assigned 1 teacher who has demonstrated competency to perform functions that include—

“(A) planning and implementing learning experiences that advance the intellectual and physical development

of children, including improving the readiness of children for school by developing their literacy, phonemic, and print awareness, their understanding and use of language, their understanding and use of increasingly complex and varied vocabulary, their appreciation of books, their understanding of early math and early science, their problem-solving abilities, and their approaches to learning;

“(B) establishing and maintaining a safe, healthy learning environment;

“(C) supporting the social and emotional development of children; and

“(D) encouraging the involvement of the families of the children in a Head Start program and supporting the development of relationships between children and their families.

“(2) DEGREE REQUIREMENTS.—

Deadlines.

“(A) HEAD START TEACHERS.—The Secretary shall ensure that not later than September 30, 2013, at least 50 percent of Head Start teachers nationwide in center-based programs have—

“(i) a baccalaureate or advanced degree in early childhood education; or

“(ii) a baccalaureate or advanced degree and coursework equivalent to a major relating to early childhood education, with experience teaching preschool-age children.

“(B) ADDITIONAL STAFF.—The Secretary shall ensure that, not later than September 30, 2013, all—

“(i) Head Start education coordinators, including those that serve as curriculum specialists, nationwide in center-based programs—

“(I) have the capacity to offer assistance to other teachers in the implementation and adaptation of curricula to the group and individual needs of children in a Head Start classroom; and

“(II) have—

“(aa) a baccalaureate or advanced degree in early childhood education; or

“(bb) a baccalaureate or advanced degree and coursework equivalent to a major relating to early childhood education, with experience teaching preschool-age children; and

“(ii) Head Start teaching assistants nationwide in center-based programs have—

“(I) at least a child development associate credential;

“(II) enrolled in a program leading to an associate or baccalaureate degree; or

“(III) enrolled in a child development associate credential program to be completed within 2 years.

“(C) PROGRESS.—

Reports.

“(i) IMPLEMENTATION.—The Secretary shall—

“(I) require Head Start agencies to—

“(aa) describe continuing progress each year toward achieving the goals described in subparagraphs (A) and (B); and

“(bb) annually submit to the Secretary a report indicating the number and percentage of classroom personnel described in subparagraphs (A) and (B) in center-based programs with child development associate credentials or associate, baccalaureate, or advanced degrees;

“(II) compile and submit a summary of all program reports described in subclause (I)(bb) to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate; and

“(III) not impose any penalties or sanctions on any individual Head Start agency, program, or staff in the monitoring of local agencies and programs under this subchapter not meeting the requirements of subparagraph (A) or (B).

“(D) CONSTRUCTION.—In this paragraph a reference to a Head Start agency, or its program, services, facility, or personnel, shall not be considered to be a reference to an Early Head Start agency, or its program, services, facility, or personnel.

Deadlines.

“(3) ALTERNATIVE CREDENTIALING AND DEGREE REQUIREMENTS.—The Secretary shall ensure that, for center-based programs, each Head Start classroom that does not have a teacher who meets the qualifications described in clause (i) or (ii) of paragraph (2)(A) is assigned one teacher who has the following during the period specified:

“(A) Through September 30, 2011—

“(i) a child development associate credential that is appropriate to the age of children being served in center-based programs;

“(ii) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

“(iii) an associate degree in early childhood education;

“(iv) an associate degree in a related field and coursework equivalent to a major relating to early childhood education, with experience teaching preschool-age children; or

“(v) a baccalaureate degree and has been admitted into the Teach For America program, passed a rigorous early childhood content exam, such as the Praxis II, participated in a Teach For America summer training institute that includes teaching preschool children, and is receiving ongoing professional development and support from Teach For America’s professional staff.

“(B) As of October 1, 2011—

“(i) an associate degree in early childhood education;

“(ii) an associate degree in a related field and coursework equivalent to a major relating to early childhood education, with experience teaching preschool-age children; or

“(iii) a baccalaureate degree and has been admitted into the Teach For America program, passed a rigorous early childhood content exam, such as the Praxis II, participated in a Teach For America summer training institute that includes teaching preschool children, and is receiving ongoing professional development and support from Teach For America’s professional staff.

“(4) WAIVER.—On request, the Secretary shall grant—

“(A) through September 30, 2011, a 180-day waiver ending on or before September 30, 2011, of the requirements of paragraph (3)(A) for a Head Start agency that can demonstrate that the agency has attempted unsuccessfully to recruit an individual who has the qualifications described in any of clauses (i) through (iv) of paragraph (3)(A) with respect to an individual who—

“(i) is enrolled in a program that grants a credential, certificate, or degree described in clauses (i) through (iv) of paragraph (3)(A); and

“(ii) will receive such credential, certificate, or degree under the terms of such program not later than 180 days after beginning employment as a teacher with such agency; and

“(B) as of October 1, 2011, a 3-year waiver of the requirements of paragraph (3)(B) for a Head Start agency that can demonstrate that—

“(i) the agency has attempted unsuccessfully to recruit an individual who has the qualifications described in clause (i) or (ii) of such paragraph, with respect to an individual who is enrolled in a program that grants a degree described in clause (i) or (ii) of such paragraph and will receive such degree in a reasonable time; and

“(ii) each Head Start classroom has a teacher who has, at a minimum—

“(I) a child development associate credential that is appropriate to the age of children being served in center-based programs; or

“(II) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential.

“(5) TEACHER IN-SERVICE REQUIREMENT.—Each Head Start teacher shall attend not less than 15 clock hours of professional development per year. Such professional development shall be high-quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher’s performance in the classroom, and regularly evaluated by the program for effectiveness.

“(6) SERVICE REQUIREMENTS.—The Secretary shall establish requirements to ensure that, in order to enable Head Start agencies to comply with the requirements of paragraph (2)(A), individuals who receive financial assistance under this subchapter to pursue a degree described in paragraph (2)(A) shall—

“(A) teach or work in a Head Start program for a minimum of 3 years after receiving the degree; or

“(B) repay the total or a prorated amount of the financial assistance received based on the length of service completed after receiving the degree.

“(7) USE OF FUNDS.—The Secretary shall require that any Federal funds provided directly or indirectly to comply with paragraph (2)(A) shall be used toward degrees awarded by an institution of higher education, as defined by section 101 or 102 of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002).”;

(2) by amending subsection (c) to read as follows:

“(c) FAMILY SERVICE WORKERS.—To improve the quality and effectiveness of staff providing in-home and other services (including needs assessment, development of service plans, family advocacy, and coordination of service delivery) to families of children participating in Head Start programs, the Secretary, in coordination with concerned public and private agencies and organizations examining the issues of standards and training for family service workers, shall—

“(1) review and, as necessary, revise or develop new qualification standards for Head Start staff providing such services;

“(2) review, and as necessary, revise or develop maximum caseload requirements, as suggested by best practices;

“(3) promote the development of model curricula (on subjects including parenting training and family literacy) designed to ensure the attainment of appropriate competencies by individuals working or planning to work in the field of early childhood and family services;

“(4) promote the establishment of a credential that indicates attainment of the competencies and that is accepted nationwide; and

“(5) promote the use of appropriate strategies to meet the needs of special populations (including populations of limited English proficient children).”;

(3) in subsection (d)—

(A) in paragraph (3)(C), by inserting “(including a center)” after “agency”; and

(B) in paragraph (6), by striking “amounts appropriated under this subchapter and allotted under section 640(a)(2)(D)” and inserting “amounts made available under section 640(a)(2)(E)”; and

(4) by adding at the end the following:

“(f) PROFESSIONAL DEVELOPMENT PLANS.—Each Head Start agency and program shall create, in consultation with an employee, a professional development plan for all full-time Head Start employees who provide direct services to children and shall ensure that such plans are regularly evaluated for their impact on teacher and staff effectiveness. The agency and the employee shall implement the plan to the extent feasible and practicable.

“(g) STAFF RECRUITMENT AND SELECTION PROCEDURES.—Before a Head Start agency employs an individual, such agency shall—

“(1) conduct an interview of such individual;

“(2) verify the personal and employment references provided by such individual; and

“(3) obtain—

“(A) a State, tribal, or Federal criminal record check covering all jurisdictions where the grantee provides Head Start services to children;

“(B) a State, tribal, or Federal criminal record check as required by the law of the jurisdiction where the grantee provides Head Start services; or

“(C) a criminal record check as otherwise required by Federal law.”.

SEC. 20. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

Section 649 of the Head Start Act (42 U.S.C. 9844) is amended—

(1) by amending subsection (a)(1)(B) to read as follows:

“(B) use the Head Start programs to develop, test, and disseminate new ideas based on existing scientifically valid research, for addressing the needs of low-income preschool children (including children with disabilities, homeless children, children who have been abused or neglected, and children in foster care) and their families and communities (including demonstrations of innovative non-center-based program models such as home-based and mobile programs), and otherwise to further the purposes of this subchapter.”;

(2) in subsection (d)—

(A) in paragraph (8), by adding “and” at the end;

(B) by striking paragraphs (9) and (10), and inserting the following:

“(10)(A) contribute to understanding the impact of Head Start services delivered in classrooms which include both children with disabilities and children without disabilities, on all of the children; and

“(B) disseminate promising practices for increasing the availability and quality of such services and such classrooms.”;

(C) in paragraph (5), by striking “early childhood education, or child development services” and inserting “early childhood education and development or services programs”;

(D) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively;

(E) by inserting after paragraph (4) the following:

“(5)(A) identify successful strategies that promote good oral health and provide effective linkages to quality dental services through pediatric dental referral networks, for infants and toddlers participating in Early Head Start programs and children participating in other Head Start programs; and

“(B) identify successful strategies that promote good vision health through vision screenings for such infants, toddlers, and children, and referrals for appropriate followup care for those identified as having a vision problem.”; and

(F) by striking the last sentence; and

(3) in subsection (e)(3), by striking “child care, early childhood education, or child development services” and inserting “early childhood education and development services or programs”;

(4) in subsection (g) by amending paragraph (7)(C) to read as follows:

“(C) TRANSMITTAL OF REPORT TO CONGRESS.—Not later than September 30, 2009, the Secretary shall transmit the final report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.”; and

(5) by striking subsection (h) and inserting the following:

“(h) LIMITED ENGLISH PROFICIENT CHILDREN.—

“(1) STUDY.—Not later than 1 year after the date of enactment of the Improving Head Start for School Readiness Act of 2007, the Secretary shall conduct a study on the status of limited English proficient children and their families participating in Head Start programs (including Early Head Start programs).

“(2) REPORT.—The Secretary shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, not later than September 30, 2010, a report containing the results of the study, including information on—

“(A) the demographics of limited English proficient children from birth through age 5, including the number of such children receiving Head Start services and Early Head Start services, and the geographic distribution of children described in this subparagraph;

“(B) the nature of the Head Start services and of the Early Head Start services provided to limited English proficient children and their families, including the types, content, duration, intensity, and costs of family services, language assistance, and educational services;

“(C) procedures in Head Start programs and Early Head Start programs for the assessment of language needs and the transition of limited English proficient children to kindergarten, including the extent to which such programs meet the requirements of section 642A for limited English proficient children;

“(D) the qualifications and training provided to Head Start teachers and Early Head Start teachers who serve limited English proficient children and their families;

“(E) the languages in which Head Start teachers and Early Head Start teachers are fluent, in relation to the population, and instructional needs, of the children served;

“(F) the rate of progress made by limited English proficient children and their families in Head Start programs and in Early Head Start programs, including—

“(i) the rate of progress made by limited English proficient children toward meeting the additional educational standards described in section 641A(a)(1)(B)(ii) while enrolled in such programs;

“(ii) a description of the type of assessment or assessments used to determine the rate of progress made by limited English proficient children;

“(iii) the correlation between such progress and the type and quality of instruction and educational programs provided to limited English proficient children; and

“(iv) the correlation between such progress and the health and family services provided by such programs to limited English proficient children and their families; and

“(G) the extent to which Head Start programs and Early Head Start programs make use of funds under section 640(a)(2)(D) to improve the quality of such services

provided to limited English proficient children and their families.

“(i) RESEARCH AND EVALUATION ACTIVITIES RELEVANT TO DIVERSE COMMUNITIES.—For purposes of conducting the study described in subsection (h), activities described in section 640(l)(5)(A), and other research and evaluation activities relevant to limited English proficient children and their families, migrant and seasonal farmworker families, and other families from diverse populations served by Head Start programs, the Secretary shall award, on a competitive basis, funds from amounts made available under section 640(a)(2)(D) to 1 or more organizations with a demonstrated capacity for serving and studying the populations involved.

“(j) REVIEW OF ASSESSMENTS.—

“(1) APPLICATION OF STUDY.—When the study on Developmental Outcomes and Assessments for Young Children by the National Academy of Sciences is made available to the Secretary, the Secretary shall—

“(A) integrate the results of the study, as appropriate and in accordance with paragraphs (2) and (3), into each assessment used in Head Start programs; and

“(B) use the results of the study to develop, inform, and revise as appropriate the standards and measures described in section 641A, consistent with section 641A(a)(2)(C)(ii).

“(2) INFORM AND REVISE.—In informing and revising any assessment used in the Head Start programs, the Secretary shall—

“(A) receive recommendations from the Panel on Developmental Outcomes and Assessments for Young Children of the National Academy of Sciences; and

“(B) with respect to the development or refinement of such assessment, ensure—

“(i) consistency with relevant, nationally recognized professional and technical standards;

“(ii) validity and reliability for all purposes for which assessments under this subchapter are designed and used;

“(iii) developmental and linguistic appropriateness of such assessments for children assessed, including children who are limited English proficient; and

“(iv) that the results can be used to improve the quality of, accountability of, and training and technical assistance in, Head Start programs.

“(3) ADDITIONAL REQUIREMENTS.—The Secretary, in carrying out the process described in paragraph (2), shall ensure that—

“(A) staff administering any assessments under this subchapter have received appropriate training to administer such assessments;

“(B) appropriate accommodations for children with disabilities and children who are limited English proficient are made;

“(C) the English and Spanish (and any other language, as appropriate) forms of such assessments are valid and reliable in the languages in which they are administered; and

“(D) such assessments are not used to exclude children from Head Start programs.

“(4) SUSPENDED IMPLEMENTATION OF NATIONAL REPORTING SYSTEM.—The Secretary shall suspend implementation and terminate further development and use of the National Reporting System.

“(k) INDIAN HEAD START STUDY.—The Secretary shall—

“(1) work in collaboration with the Head Start agencies that carry out Indian Head Start programs, the Indian Head Start collaboration director, and other appropriate entities, including tribal governments and the National Indian Head Start Directors Association—

“(A) to undertake a study or set of studies designed to focus on the American Indian and Alaska Native Head Start-eligible population, with a focus on issues such as curriculum development, availability and need for services, appropriate research methodologies and measures for these populations, and best practices for teaching and educating American Indian and Alaska Native Head Start Children;

“(B) to accurately determine the number of children nationwide who are eligible to participate in Indian Head Start programs each year;

“(C) to document how many of these children are receiving Head Start services each year;

“(D) to the extent practicable, to ensure that access to Indian Head Start programs for eligible children is comparable to access to other Head Start programs for other eligible children; and

“(E) to make the funding decisions required in section 640(a)(4)(D)(ii), after completion of the studies required in that section, taking into account—

“(i) the Federal government’s unique trust responsibility to American Indians and Alaska Natives;

“(ii) limitations faced by tribal communities in accessing non-Federal sources of funding to supplement Federal funding for early childhood programs; and

“(iii) other factors that uniquely and adversely impact children in American Indian and Alaska Native communities such as highly elevated poverty, unemployment and violent crime rates, as well as depressed levels of educational achievement and limited access to non-Federal health, social and educational resources;

“(2) in carrying out paragraph (1), consult with the Secretary of Education about the Department of Education’s systems for collecting and reporting data about, and maintaining records on, American Indian and Alaska Native students;

“(3) not later than 9 months after the effective date of this subsection, publish in the Federal Register a notice of how the Secretary plans to carry out paragraph (1) and shall provide a period for public comment. To the extent practicable, the Secretary shall consider comments received before submitting a report to the Congress;

“(4) not later than 1 year after the effective date of this subsection, submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate,

Deadline.
Federal Register,
publication.

Deadline.
Reports.

detailing how the Department of Health and Human Services plans to carry out paragraph (1);

“(5) through regulation, ensure the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary, by Head Start agencies that carry out Indian Head Start programs, and by State Directors of Head Start Collaboration, by the Indian Head Start Collaboration Project Director and by other appropriate entities pursuant to this subsection (such regulations shall provide the policies, protections, and rights equivalent to those provided a parent, student, or educational agency or institution under section 444 of the General Education Provisions Act); and

Regulations.
Confidentiality.

“(6) ensure that nothing in this subsection shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this subsection.

“(1) MIGRANT AND SEASONAL HEAD START PROGRAM STUDY.—

“(1) DATA.—In order to increase access to Head Start services for children of migrant and seasonal farmworkers, the Secretary shall work in collaboration with providers of migrant and seasonal Head Start programs, the Secretary of Agriculture, the Secretary of Labor, the Bureau of Migrant Health, and the Secretary of Education to—

“(A) collect, report, and share data, within a coordinated system, on children of migrant and seasonal farmworkers and their families, including health records and educational documents of such children, in order to adequately account for the number of children of migrant and seasonal farmworkers who are eligible for Head Start services and determine how many of such children receive the services; and

“(B) identify barriers that prevent children of migrant and seasonal farmworkers who are eligible for Head Start services from accessing Head Start services, and develop a plan for eliminating such barriers, including certain requirements relating to tracking, health records, and educational documents, and increasing enrollment.

“(2) PUBLICATION OF PLAN.—Not later than 1 year after the date of enactment of the Improving Head Start for School Readiness Act of 2007, the Secretary shall publish in the Federal Register a notice about how the Secretary plans to implement the activities identified in paragraph (1) and shall provide a period for public comment. To the extent practicable, the Secretary shall consider comments received before implementing any of the activities identified in paragraph (1).

Deadline.
Federal Register,
publication.

“(3) REPORT.—Not later than 18 months after the date of enactment of the Improving Head Start for School Readiness Act of 2007, and annually thereafter, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate detailing how the Secretary plans to implement the activities identified in paragraph (1), including the progress made in reaching out to and serving eligible children of migrant and seasonal farmworkers, and information on States where such children are still underserved.

Regulations.

“(4) PROTECTION OF CONFIDENTIALITY.—The Secretary shall, through regulation, ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary, by Head Start agencies that carry out migrant or seasonal Head Start programs, by the State director of Head Start Collaboration, and by the Migrant and Seasonal Farmworker Collaboration project Director (such regulations shall provide the policies, protections, and rights equivalent to those provided a parent, student, or educational agency or institution under section 444 of the General Education Provisions Act (20 U.S.C. 1232g)).

“(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the development of a nationwide database of personally identifiable data, information, or records on individuals involved in studies or other collections of data under this subsection.

“(m) PROGRAM EMERGENCY PREPAREDNESS.—

“(1) PURPOSE.—The purpose of this subsection is to evaluate the emergency preparedness of the Head Start programs, including Early Head Start programs, and make recommendations for how Head Start shall enhance its readiness to respond to an emergency.

“(2) STUDY.—The Secretary shall evaluate the Federal, State, and local preparedness of Head Start programs, including Early Head Start programs, to respond appropriately in the event of a large-scale emergency, such as the hurricanes Katrina, Rita, and Wilma, the terrorist attacks of September 11, 2001, or other incidents where assistance may be warranted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(3) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of the Improving Head Start for School Readiness Act of 2007, the Secretary shall prepare and submit to Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of the evaluation required under paragraph (2), including—

“(A) recommendations for improvements to Federal, State, and local preparedness and response capabilities to large-scale emergencies, including those that were developed in response to hurricanes Katrina, Rita, and Wilma, as they relate to Head Start programs, including Early Head Start programs, and the Secretary’s plan to implement such recommendations;

“(B) an evaluation of the procedures for informing families of children in Head Start programs about the program protocols for response to a large-scale emergency, including procedures for communicating with such families in the event of a large-scale emergency;

“(C) an evaluation of such procedures for staff training on State and local evacuation and emergency protocols; and

“(D) an evaluation of procedures for Head Start agencies and the Secretary to coordinate with appropriate Federal, State, and local emergency management agencies in

the event of a large scale emergency and recommendations to improve such procedures.”.

SEC. 21. REPORTS.

Section 650 of the Head Start Act (42 U.S.C. 9846) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking “Education and the Workforce” and inserting “Education and Labor”;

(ii) by striking “Labor and Human Resources” and inserting “Health, Education, Labor, and Pensions”; and

(iii) by striking “(including disabled and non-English language background children)” and inserting “(including children with disabilities, limited English proficient children, homeless children, children in foster care, and children participating in Indian Head Start programs and migrant or seasonal Head Start programs)”;

(B) in paragraph (2), by inserting before the semicolon the following: “, and information on the number of children served under this subsection, disaggregated by type of eligibility criterion”;

(C) in paragraph (3), by striking “funds expended” and all that follows through “640(a)(3),” and inserting “funds made available under section 640(a)”;

(D) in paragraph (8), by inserting “homelessness, whether the child is in foster care or was referred by a child welfare agency,” after “background,”;

(E) in paragraph (12), by inserting “vision care,” after “dental care,”;

(F) in paragraph (14)—

(i) by striking “Alaskan Natives” and inserting “Alaska Natives”; and

(ii) by striking “seasonal farmworkers” and inserting “seasonal farmworker families”; and

(G) in the flush matter at the end—

(i) by striking “Education and the Workforce” and inserting “Education and Labor”; and

(ii) by striking “Labor and Human Resources” and inserting “Health, Education, Labor, and Pensions”;

(2) in subsection (b)—

(A) by striking “Education and the Workforce” and inserting “Education and Labor”;

(B) by striking “Labor and Human Resources” and inserting “Health, Education, Labor, and Pensions”; and

(C) by striking “Native Alaskan” and inserting “Alaska Native”; and

(3) by adding at the end the following:

“(c) FISCAL PROTOCOL.—

“(1) IN GENERAL.—The Secretary shall conduct an annual review to assess whether the design and implementation of the triennial reviews described in section 641A(c) include compliance procedures that provide reasonable assurances that Head Start agencies are complying with applicable fiscal laws and regulations.

“(2) REPORT.—Not later than 30 days after the date the Secretary completes the annual review under paragraph (1), the Secretary shall report the findings and conclusions of the annual review to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

“(d) DISABILITY-RELATED SERVICES.—

“(1) IN GENERAL.—The Secretary shall track the provision of disability-related services for children, in order to—

“(A) determine whether Head Start agencies are making timely referrals to the State or local agency responsible for providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

“(B) identify barriers to timely evaluations and eligibility determinations by the State or local agency responsible for providing services under section 619 or part C of the Individuals with Disabilities Education Act; and

“(C) determine under what circumstances and for what length of time Head Start agencies are providing disability-related services for children who have not been determined under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to be children with disabilities.

“(2) REPORT.—Not later than 1 year after the date of enactment of the Improving Head Start for School Readiness Act of 2007, the Secretary shall provide a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate on the activities described in paragraph (1).

“(e) EVALUATION AND RECOMMENDATIONS REGARDING OBESITY PREVENTION.—Not later than 1 year after the date of enactment of the Improving Head Start for School Readiness Act of 2007 the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the Secretary’s progress in assisting program efforts to prevent and reduce obesity in children who participate in Head Start programs, including progress on implementing initiatives within the Head Start program to prevent and reduce obesity in such children.”.

SEC. 22. COMPARABILITY OF WAGES.

Section 653 of the Head Start Act (42 U.S.C. 9848) is amended—

(1) by striking “The Secretary shall take” and inserting “(a) COMPARABILITY OF WAGES.—The Secretary shall take”; and

(2) by adding at the end the following:

“(b) LIMITATION.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds may be used to pay any part of the compensation of an individual employed by a Head Start agency, if such compensation, including non-Federal funds, exceeds an amount equal to the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code.

“(2) COMPENSATION.—In this subsection, the term ‘compensation’—

“(A) includes salary, bonuses, periodic payments, severance pay, the value of any vacation time, the value of a compensatory or paid leave benefit not excluded by subparagraph (B), and the fair market value of any employee perquisite or benefit not excluded by subparagraph (B); and

“(B) excludes any Head Start agency expenditure for a health, medical, life insurance, disability, retirement, or any other employee welfare or pension benefit.”.

SEC. 23. LIMITATION WITH RESPECT TO CERTAIN UNLAWFUL ACTIVITIES.

Section 655 of the Head Start Act (42 U.S.C. 9850) is amended by inserting “or in” after “assigned by”.

SEC. 24. POLITICAL ACTIVITIES.

Section 656 of the Head Start Act (42 U.S.C. 9851) is amended—

(1) by striking all that precedes “chapter 15” and inserting the following:

“SEC. 656. POLITICAL ACTIVITIES.

“(a) STATE OR LOCAL AGENCY.—For purposes of”; and

(2) by striking subsection (b) and inserting the following:

“(b) RESTRICTIONS.—

“(1) IN GENERAL.—A program assisted under this subchapter, and any individual employed by, or assigned to or in, a program assisted under this subchapter (during the hours in which such individual is working on behalf of such program), shall not engage in—

“(A) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; or

“(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election.

“(2) REGISTRATION.—No funds appropriated under this subchapter may be used to conduct voter registration activities. Nothing in this subchapter prohibits the availability of Head Start facilities during hours of operation for the use of any nonpartisan organization to increase the number of eligible citizens who register to vote in elections for Federal office.

“(3) RULES AND REGULATIONS.—The Secretary, after consultation with the Director of the Office of Personnel Management, may issue rules and regulations to provide for the enforcement of this section, which may include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.”.

SEC. 25. PARENTAL CONSENT REQUIREMENT FOR HEALTH SERVICES.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by adding at the end the following:

42 USC 9852a.

“SEC. 657A. PARENTAL CONSENT REQUIREMENT FOR NONEMERGENCY INTRUSIVE PHYSICAL EXAMINATIONS.

“(a) **DEFINITION.**—The term ‘nonemergency intrusive physical examination’ means, with respect to a child, a physical examination that—

“(1) is not immediately necessary to protect the health or safety of the child involved or the health or safety of another individual; and

“(2) requires incision or is otherwise invasive, or involves exposure of private body parts.

“(b) **REQUIREMENT.**—A Head Start agency shall obtain written parental consent before administration of any nonemergency intrusive physical examination of a child in connection with participation in a program under this subchapter.

“(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to prohibit agencies from using established methods, for handling cases of suspected or known child abuse and neglect, that are in compliance with applicable Federal, State, or tribal law.”.

SEC. 26. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD.

The Head Start Act (42 U.S.C. 9831 et seq.), as amended by section 25, is further amended by adding at the end the following:

42 USC 9852b.

“SEC. 657B. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD.

“(a) **DEFINITION.**—In this section, the term ‘center of excellence’ means a Center of Excellence in Early Childhood designated under subsection (b).

“(b) **DESIGNATION AND BONUS GRANTS.**—The Secretary shall, subject to the availability of funds under this section, establish a program under which the Secretary shall—

“(1) designate not more than 200 exemplary Head Start agencies (including Early Head Start agencies, Indian Head Start agencies, and migrant and seasonal Head Start agencies) as Centers of Excellence in Early Childhood; and

“(2) make bonus grants to the centers of excellence to carry out the activities described in subsection (d).

“(c) **APPLICATION AND DESIGNATION.**—

“(1) **APPLICATION.**—

“(A) **NOMINATION AND SUBMISSION.**—

“(i) **IN GENERAL.**—To be eligible to receive a designation as a center of excellence under subsection (b), except as provided in clause (ii), a Head Start agency in a State shall be nominated by the Governor of the State, after selection for nomination by such Governor through a competitive process, and shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(ii) **INDIAN AND MIGRANT AND SEASONAL HEAD START PROGRAMS.**—In the case of an Indian Head Start agency or a migrant or seasonal Head Start agency, to be eligible to receive a designation as a center of excellence under subsection (b), such an agency shall be nominated by the head of the appropriate regional office of the Department of Health and Human Services

and shall submit an application to the Secretary in accordance with clause (i).

“(B) CONTENTS.—At a minimum, the application shall include—

“(i) evidence that the Head Start program carried out by the agency involved has significantly improved the school readiness of children who have participated in the program;

“(ii) evidence that the program meets or exceeds standards described in section 641A(a)(1), as evidenced by the results of monitoring reviews described in section 641A(c), and has no findings of deficiencies in the preceding 3 years;

“(iii) evidence that the program is making progress toward meeting the requirements described in section 648A;

“(iv) an assurance that the Head Start agency will develop a collaborative partnership with the State (or a State agency) and other providers of early childhood education and development programs and services in the local community involved to conduct activities under subsection (d);

“(v) a nomination letter from the Governor, or appropriate regional office, demonstrating the agency’s ability to provide the coordination, transition, and training services of the program to be carried out under the bonus grant involved, including coordination of activities with State and local agencies that provide early childhood education and development to children and families in the community served by the agency, and carry out the activities described under subsection (d)(1); and

“(vi) a description of how the center involved, in order to expand accessibility and continuity of quality early childhood education and development services and programs, will coordinate activities, as appropriate, assisted under this section with—

“(I) programs carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.);

“(II) the Early Head Start programs carried out under section 645A;

“(III) Early Reading First and Even Start programs carried out under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.);

“(IV) other preschool programs carried out under title I of that Act (20 U.S.C. 6301 et seq.);

“(V) programs carried out under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

“(VI) State prekindergarten programs; and

“(VII) other programs of early childhood education and development.

“(2) SELECTION.—In selecting agencies to designate as centers of excellence under subsection (b), the Secretary shall

designate not less than 1 from each of the 50 States, the District of Columbia, an Indian Head Start program, a migrant or seasonal Head Start program, and the Commonwealth of Puerto Rico.

“(3) PRIORITY.—In making bonus grant determinations under this section, the Secretary shall give priority to agencies that, through their applications, demonstrate that their programs are of exceptional quality and would serve as exemplary models for programs in the same geographic region. The Secretary may also consider the populations served by the applicants, such as agencies that serve large proportions of families of limited English proficient children or other underserved populations, and may make bonus grants to agencies that do an exceptional job meeting the needs of children in such populations.

“(4) TERM OF DESIGNATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall designate a Head Start agency as a center of excellence for a 5-year term. During the period of that designation, subject to the availability of appropriations, the agency shall be eligible to receive a bonus grant under subsection (b).

“(B) REVOCATION.—The Secretary may revoke an agency’s designation under subsection (b) if the Secretary determines that the agency is not demonstrating adequate performance or has had findings of deficiencies described in paragraph (1)(B)(ii).

“(5) AMOUNT OF BONUS GRANT.—The Secretary shall base the amount of funding provided through a bonus grant made under subsection (b) to a center of excellence on the number of children eligible for Head Start services in the community involved. The Secretary shall, subject to the availability of funding, make such a bonus grant in an amount of not less than \$200,000 per year.

“(d) USE OF FUNDS.—A center of excellence that receives a bonus grant under subsection (b)—

“(1) shall use not less than 15 percent of the funds made available through the bonus grant to disseminate to other Head Start agencies in the State involved, best practices for achieving early academic success, including—

“(A) best practices for achieving school readiness, including developing early literacy and mathematics skills, for children at risk for school difficulties;

“(B) best practices for achieving the acquisition of the English language for limited English proficient children, if appropriate to the population served; and

“(C) best practices for providing high-quality comprehensive services for eligible children and their families;

“(2) may use the funds made available through the bonus grant—

“(A) to provide Head Start services to additional eligible children;

“(B) to better meet the needs of working families in the community served by the center by serving more children in existing Early Head Start programs (existing as of the date the center is designated under this section)

or in full-working-day, full calendar year Head Start programs;

“(C) to further coordinate early childhood education and development programs and services and social services available in the community served by the center for at-risk children (birth through age 8), their families, and pregnant women;

“(D) to provide professional development for Head Start teachers and staff, including joint training for Head Start teachers and staff, child care providers, public and private preschool and elementary school teachers, and other providers of early childhood education and development programs;

“(E) to provide effective transitions between Head Start programs and elementary schools and to facilitate ongoing communication between Head Start and elementary school teachers concerning children receiving Head Start services to improve the teachers’ ability to work effectively with low-income, at-risk children and their families;

“(F) to develop or maintain partnerships with institutions of higher education and nonprofit organizations, including community-based organizations, that recruit, train, place, and support college students to serve as mentors and reading partners to preschool children in Head Start programs; and

“(G) to carry out other activities determined by the center to improve the overall quality of the Head Start program carried out by the agency and the program carried out under the bonus grant involved.

“(e) RESEARCH AND REPORTS.—

“(1) RESEARCH.—The Secretary shall, subject to the availability of funds to carry out this subsection, award a grant or contract to an independent organization to conduct research on the ability of the centers of excellence to use the funds received under this section to improve the school readiness of children receiving Head Start services, and to positively impact school results in the earliest grades. The organization shall also conduct research to measure the success of the centers of excellence at encouraging the center’s delegate agencies, additional Head Start agencies, and other providers of early childhood education and development programs in the communities involved to meet measurable improvement goals, particularly in the area of school readiness.

“(2) RESEARCH REPORT.—Not later than 48 months after the date of enactment of the Improving Head Start for School Readiness Act of 2007, the organization shall prepare and submit to the Secretary and Congress a report containing the results of the research described in paragraph (1).

“(3) REPORTS TO THE SECRETARY.—Each center of excellence shall submit an annual report to the Secretary, at such time and in such manner as the Secretary may require, that contains a description of the activities the center carried out with funds received under this section, including a description of how such funds improved services for children and families.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012 to make bonus grants to centers

Grants.
Contracts.

of excellence under subsection (b) to carry out activities described in subsection (d) and research and report activities described in subsection (e).”.

SEC. 27. GENERAL PROVISIONS.

The Head Start Act (42 U.S.C. 9831 et seq.), as amended by section 26, is further amended by adding at the end the following:

42 USC 9852c.

“SEC. 657C. GENERAL PROVISIONS.

“(a) **LIMITATION.**—Nothing in this subchapter shall be construed to authorize or permit the Secretary or any employee or contractor of the Department of Health and Human Services to mandate, direct, or control, the selection of a curriculum, a program of instruction, or instructional materials, for a Head Start program.

“(b) **SPECIAL RULE.**—Nothing in this subchapter shall be construed to authorize a Head Start program or a local educational agency to require the other to select or implement a specific curriculum or program of instruction.

“(c) **DEFINITION.**—In this subchapter, the term ‘health’, when used to refer to services or care provided to enrolled children, their parents, or their siblings, shall be interpreted to refer to both physical and mental health.”.

SEC. 28. COMPLIANCE WITH IMPROPER PAYMENTS INFORMATION ACT OF 2002.

(a) **DEFINITIONS.**—In this section, the term—

(1) “appropriate committees” means—

(A) the Committee on Health, Education, Labor, and Pensions of the Senate; and

(B) the Committee on Education and Labor of the House of Representatives; and

(2) “improper payment” has the meaning given that term under section 2(d)(2) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).

(b) **REQUIREMENT FOR COMPLIANCE CERTIFICATION AND REPORT.**—The Secretary of Health and Human Services shall submit a report to the appropriate committees that—

(1) contains a certification that the Department of Health and Human Services has, for each program and activity of the Administration for Children and Families, performed and completed a risk assessment to determine programs and activities that are at significant risk of making improper payments; and

(2) describes the actions to be taken to reduce improper payments for the programs and activities determined to be at significant risk of making improper payments.

SEC. 29. REFERENCES IN OTHER ACTS.

(a) **ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.**—Section 1112(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6312(c)) is amended—

(1) in paragraph (1)(G), by striking “performance standards established under section 641A(a) of the Head Start Act” and inserting “education performance standards in effect under section 641A(a)(1)(B) of the Head Start Act”; and

(2) in paragraph (2)(B), by striking “Head Start performance standards as in effect under section 641A(a) of the Head

Start Act” and inserting “education performance standards in effect under section 641A(a)(1)(B) of the Head Start Act”.

(b) EARLY LEARNING OPPORTUNITIES ACT.—Section 810(b)(1) of the Early Learning Opportunities Act (20 U.S.C. 9409(b)(1)) is amended by striking “entities funded under section 640(a)(5) of the Head Start Act (42 U.S.C. 9835(a)(5))” and inserting “entities funded under section 640(a)(2)(B)(vi) of the Head Start Act (42 U.S.C. 9835(a)(2)(B)(vi))”.

(c) RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT.—

(1) Section 9(b)(12)(A)(iii) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(12)(A)(iii)) is amended by striking “the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))” and inserting “the child meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B))”.

(2) Section 17(c)(5) of such Act (42 U.S.C. 1766(c)(5)) is amended by striking “the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))” and inserting “the child meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B))”.

Approved December 12, 2007.

LEGISLATIVE HISTORY—H.R. 1429 (S. 556):

HOUSE REPORTS: Nos. 110–67 (Comm. on Education and Labor) and 110–439 (Comm. of Conference).

SENATE REPORTS: No. 110–49 accompanying S. 556 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 153 (2007):

May 2, considered and passed House.

June 19, considered and passed Senate, amended.

Nov. 14, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Dec. 12, Presidential statement.



Public Law 110–135
110th Congress

An Act

Dec. 13, 2007
[H.R. 4343]

Fair Treatment
for Experienced
Pilots Act.
49 USC 40101
note.

To amend title 49, United States Code, to modify age standards for pilots engaged in commercial aviation operations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fair Treatment for Experienced Pilots Act”.

SEC. 2. AGE STANDARDS FOR PILOTS.

(a) IN GENERAL.—Chapter 447 of title 49, United States Code, is amended by adding at the end the following:

“§ 44729. Age standards for pilots

“(a) IN GENERAL.—Subject to the limitation in subsection (c), a pilot may serve in multicrew covered operations until attaining 65 years of age.

“(b) COVERED OPERATIONS DEFINED.—In this section, the term ‘covered operations’ means operations under part 121 of title 14, Code of Federal Regulations.

“(c) LIMITATION FOR INTERNATIONAL FLIGHTS.—

“(1) APPLICABILITY OF ICAO STANDARD.—A pilot who has attained 60 years of age may serve as pilot-in-command in covered operations between the United States and another country only if there is another pilot in the flight deck crew who has not yet attained 60 years of age.

“(2) SUNSET OF LIMITATION.—Paragraph (1) shall cease to be effective on such date as the Convention on International Civil Aviation provides that a pilot who has attained 60 years of age may serve as pilot-in-command in international commercial operations without regard to whether there is another pilot in the flight deck crew who has not attained age 60.

“(d) SUNSET OF AGE 60 RETIREMENT RULE.—On and after the date of enactment of this section, section 121.383(c) of title 14, Code of Federal Regulations, shall cease to be effective.

“(e) APPLICABILITY.—

“(1) NONRETROACTIVITY.—No person who has attained 60 years of age before the date of enactment of this section may serve as a pilot for an air carrier engaged in covered operations unless—

“(A) such person is in the employment of that air carrier in such operations on such date of enactment as a required flight deck crew member; or

“(B) such person is newly hired by an air carrier as a pilot on or after such date of enactment without credit for prior seniority or prior longevity for benefits or other terms related to length of service prior to the date of rehire under any labor agreement or employment policies of the air carrier.

“(2) PROTECTION FOR COMPLIANCE.—An action taken in conformance with this section, taken in conformance with a regulation issued to carry out this section, or taken prior to the date of enactment of this section in conformance with section 121.383(c) of title 14, Code of Federal Regulations (as in effect before such date of enactment), may not serve as a basis for liability or relief in a proceeding, brought under any employment law or regulation, before any court or agency of the United States or of any State or locality.

“(f) AMENDMENTS TO LABOR AGREEMENTS AND BENEFIT PLANS.—Any amendment to a labor agreement or benefit plan of an air carrier that is required to conform with the requirements of this section or a regulation issued to carry out this section, and is applicable to pilots represented for collective bargaining, shall be made by agreement of the air carrier and the designated bargaining representative of the pilots of the air carrier.

“(g) MEDICAL STANDARDS AND RECORDS.—

“(1) MEDICAL EXAMINATIONS AND STANDARDS.—Except as provided by paragraph (2), a person serving as a pilot for an air carrier engaged in covered operations shall not be subject to different medical standards, or different, greater, or more frequent medical examinations, on account of age unless the Secretary determines (based on data received or studies published after the date of enactment of this section) that different medical standards, or different, greater, or more frequent medical examinations, are needed to ensure an adequate level of safety in flight.

“(2) DURATION OF FIRST-CLASS MEDICAL CERTIFICATE.—No person who has attained 60 years of age may serve as a pilot of an air carrier engaged in covered operations unless the person has a first-class medical certificate. Such a certificate shall expire on the last day of the 6-month period following the date of examination shown on the certificate.

“(h) SAFETY.—

Deadlines.

“(1) TRAINING.—Each air carrier engaged in covered operations shall continue to use pilot training and qualification programs approved by the Federal Aviation Administration, with specific emphasis on initial and recurrent training and qualification of pilots who have attained 60 years of age, to ensure continued acceptable levels of pilot skill and judgment.

“(2) LINE EVALUATIONS.—Not later than 6 months after the date of enactment of this section, and every 6 months thereafter, an air carrier engaged in covered operations shall evaluate the performance of each pilot of the air carrier who has attained 60 years of age through a line check of such pilot. Notwithstanding the preceding sentence, an air carrier shall not be required to conduct for a 6-month period a line check under this paragraph of a pilot serving as second-in-command if the pilot has undergone a regularly scheduled simulator evaluation during that period.

“(3) GAO REPORT.—Not later than 24 months after the date of enactment of this section, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report concerning the effect, if any, on aviation safety of the modification to pilot age standards made by subsection (a).”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 447 of title 49, United States Code, is amended by adding at the end the following:

“44729. Age standards for pilots.”.

Approved December 13, 2007.

LEGISLATIVE HISTORY—H.R. 4343:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 11, considered and passed House.

Dec. 12, considered and passed Senate.



Public Law 110–136
110th Congress

An Act

To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through May 23, 2008, and for other purposes.

Dec. 14, 2007
[H.R. 4252]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION
OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND
THE SMALL BUSINESS INVESTMENT ACT OF 1958.**

(a) IN GENERAL.—Section 1 of the Act entitled “An Act to extend temporarily certain authorities of the Small Business Administration”, approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742), as most recently amended by section 1 of Public Law 110–57 (121 Stat. 560), is further amended by striking “December 15, 2007” each place it appears and inserting “May 23, 2008”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 15, 2007.

Approved December 14, 2007.

LEGISLATIVE HISTORY—H.R. 4252:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 5, considered and passed House.

Dec. 7, considered and passed Senate.



Public Law 110–137
110th Congress

Joint Resolution

Dec. 14, 2007
[H.J. Res. 69]

Making further continuing appropriations for the fiscal year 2008, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 110–92 is further amended by striking the date specified in section 106(3) and inserting “December 21, 2007”.
Ante, p. 1341.

Approved December 14, 2007.

LEGISLATIVE HISTORY—H.J. Res. 69:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 13, considered and passed House and Senate.



Public Law 110–138
110th Congress

An Act

To implement the United States-Peru Trade Promotion Agreement.

Dec. 14, 2007

[H.R. 3688]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “United States-Peru Trade Promotion Agreement Implementation Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

United States-
Peru Trade
Promotion
Agreement
Implementation
Act.
19 USC 3805
note.

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

Sec. 3. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

Sec. 101. Approval and entry into force of the Agreement.

Sec. 102. Relationship of the Agreement to United States and State law.

Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.

Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.

Sec. 105. Administration of dispute settlement proceedings.

Sec. 106. Arbitration of claims.

Sec. 107. Effective dates; effect of termination.

TITLE II—CUSTOMS PROVISIONS

Sec. 201. Tariff modifications.

Sec. 202. Additional duties on certain agricultural goods.

Sec. 203. Rules of origin.

Sec. 204. Customs user fees.

Sec. 205. Disclosure of incorrect information; false certifications of origin; denial of preferential tariff treatment.

Sec. 206. Reliquidation of entries.

Sec. 207. Recordkeeping requirements.

Sec. 208. Enforcement relating to trade in textile or apparel goods.

Sec. 209. Regulations.

TITLE III—RELIEF FROM IMPORTS

Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

Sec. 311. Commencing of action for relief.

Sec. 312. Commission action on petition.

Sec. 313. Provision of relief.

Sec. 314. Termination of relief authority.

Sec. 315. Compensation authority.

Sec. 316. Confidential business information.

Subtitle B—Textile and Apparel Safeguard Measures

Sec. 321. Commencement of action for relief.

Sec. 322. Determination and provision of relief.

- Sec. 323. Period of relief.
- Sec. 324. Articles exempt from relief.
- Sec. 325. Rate after termination of import relief.
- Sec. 326. Termination of relief authority.
- Sec. 327. Compensation authority.
- Sec. 328. Confidential business information.

Subtitle C—Cases Under Title II of the Trade Act of 1974

- Sec. 331. Findings and action on goods of Peru.

TITLE IV—PROCUREMENT

- Sec. 401. Eligible products.

TITLE V—TRADE IN TIMBER PRODUCTS OF PERU

- Sec. 501. Enforcement relating to trade in timber products of Peru.
- Sec. 502. Report to Congress.

TITLE VI—OFFSETS

- Sec. 601. Customs user fees.
- Sec. 602. Time for payment of corporate estimated taxes.

SEC. 2. PURPOSES.

The purposes of this Act are—

- (1) to approve and implement the free trade agreement between the United States and Peru entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));
- (2) to strengthen and develop economic relations between the United States and Peru for their mutual benefit;
- (3) to establish free trade between the United States and Peru through the reduction and elimination of barriers to trade in goods and services and to investment; and
- (4) to lay the foundation for further cooperation to expand and enhance the benefits of the Agreement.

SEC. 3. DEFINITIONS.

In this Act:

- (1) AGREEMENT.—The term “Agreement” means the United States-Peru Trade Promotion Agreement approved by Congress under section 101(a)(1).
- (2) COMMISSION.—The term “Commission” means the United States International Trade Commission.
- (3) HTS.—The term “HTS” means the Harmonized Tariff Schedule of the United States.
- (4) TEXTILE OR APPAREL GOOD.—The term “textile or apparel good” means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)), other than a good listed in Annex 3–C of the Agreement.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

(1) the United States-Peru Trade Promotion Agreement entered into on April 12, 2006, with the Government of Peru, as amended on June 24 and June 25, 2007, respectively, by the United States and Peru, and submitted to Congress on September 27, 2007; and

(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on September 27, 2007.

(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—

President.

At such time as the President determines that Peru has taken measures necessary to comply with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Peru providing for the entry into force, on or after January 1, 2008, of the Agreement with respect to the United States.

SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States,

or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term “State law” includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

(a) IMPLEMENTING ACTIONS.—

(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act—

(A) the President may proclaim such actions, and

(B) other appropriate officers of the United States

Government may issue such regulations, as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

(2) **EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.**—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

(3) **WAIVER OF 15-DAY RESTRICTION.**—The 15-day restriction contained in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

Deadlines.

(b) **INITIAL REGULATIONS.**—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

President.

SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

(B) the Commission;

Reports.

(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor; and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met, has expired; and

(4) the President has consulted with the committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).

SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

(a) **ESTABLISHMENT OR DESIGNATION OF OFFICE.**—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 21 of the Agreement. The office shall not be considered to be an agency for purposes of section 552 of title 5, United States Code. President.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for each fiscal year after fiscal year 2007 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 21 of the Agreement.

SEC. 106. ARBITRATION OF CLAIMS.

The United States is authorized to resolve any claim against the United States covered by article 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

(a) **EFFECTIVE DATES.**—Except as provided in subsection (b), this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force.

(b) **EXCEPTIONS.**—Sections 1 through 3 and this title take effect on the date of the enactment of this Act.

(c) **TERMINATION OF THE AGREEMENT.**—On the date on which the Agreement terminates, this Act (other than this subsection) and the amendments made by this Act shall cease to have effect.

TITLE II—CUSTOMS PROVISIONS

SEC. 201. TARIFF MODIFICATIONS.

(a) **TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.**—

(1) **PROCLAMATION AUTHORITY.**—The President may proclaim—

- (A) such modifications or continuation of any duty,
- (B) such continuation of duty-free or excise treatment,

or

- (C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, 3.3.13, and Annex 2.3 of the Agreement.

(2) **EFFECT ON GSP STATUS.**—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall, on the date on which the Agreement enters into force, terminate the designation of Peru as a beneficiary developing country for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

(b) **OTHER TARIFF MODIFICATIONS.**—Subject to the consultation and layover provisions of section 104, the President may proclaim—

- (1) such modifications or continuation of any duty,
- (2) such modifications as the United States may agree to with Peru regarding the staging of any duty treatment set forth in Annex 2.3 of the Agreement,

President.

- (3) such continuation of duty-free or excise treatment, or
- (4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Peru provided for by the Agreement.

(c) **CONVERSION TO AD VALOREM RATES.**—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 2.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

President.

(d) **TARIFF RATE QUOTAS.**—In implementing the tariff rate quotas set forth in Appendix I to the Schedule of the United States to Annex 2.3 of the Agreement, the President shall take such action as may be necessary to ensure that imports of agricultural goods do not disrupt the orderly marketing of commodities in the United States.

SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

(a) **DEFINITIONS.**—In this section:

(1) **APPLICABLE NTR (MFN) RATE OF DUTY.**—The term “applicable NTR (MFN) rate of duty” means, with respect to a safeguard good, a rate of duty equal to the lowest of—

(A) the base rate in the Schedule of the United States to Annex 2.3 of the Agreement;

(B) the column 1 general rate of duty that would, on the day before the date on which the Agreement enters into force, apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good; or

(C) the column 1 general rate of duty that would, at the time the additional duty is imposed under subsection (b), apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good.

(2) **SCHEDULE RATE OF DUTY.**—The term “schedule rate of duty” means, with respect to a safeguard good, the rate of duty for that good that is set forth in the Schedule of the United States to Annex 2.3 of the Agreement.

(3) **SAFEGUARD GOOD.**—The term “safeguard good” means a good—

(A) that is included in the Schedule of the United States to Annex 2.18 of the Agreement;

(B) that qualifies as an originating good under section 203, except that operations performed in or material obtained from the United States shall be considered as if the operations were performed in, and the material was obtained from, a country that is not a party to the Agreement; and

(C) for which a claim for preferential tariff treatment under the Agreement has been made.

(b) **ADDITIONAL DUTIES ON SAFEGUARD GOODS.**—

(1) **IN GENERAL.**—In addition to any duty proclaimed under subsection (a) or (b) of section 201, the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (2), on a safeguard good imported into the United States in a calendar year if the Secretary determines that, prior to such importation, the total volume of that safeguard good that is imported into the United States in that calendar year exceeds

130 percent of the volume that is provided for that safeguard good in the corresponding year in the applicable table contained in Appendix I of the General Notes to the Schedule of the United States to Annex 2.3 of the Agreement. For purposes of this subsection, year 1 in that table corresponds to the calendar year in which the Agreement enters into force.

(2) CALCULATION OF ADDITIONAL DUTY.—The additional duty on a safeguard good under this subsection shall be—

(A) in years 1 through 12, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(B) in years 13 through 16, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

(3) NOTICE.—Not later than 60 days after the Secretary of the Treasury first assesses an additional duty in a calendar year on a good under this subsection, the Secretary shall notify the Government of Peru in writing of such action and shall provide to that Government data supporting the assessment of the additional duty. Deadline.

(c) EXCEPTIONS.—No additional duty shall be assessed on a good under subsection (b) if, at the time of entry, the good is subject to import relief under—

(1) subtitle A of title III of this Act; or

(2) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

(d) TERMINATION.—The assessment of an additional duty on a good under subsection (b) shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 2.3 of the Agreement.

SEC. 203. RULES OF ORIGIN.

(a) APPLICATION AND INTERPRETATION.—In this section:

(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a chapter, heading, or subheading, such reference shall be a reference to a chapter, heading, or subheading of the HTS.

(3) COST OR VALUE.—Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Peru or the United States).

(b) ORIGINATING GOODS.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

(1) the good is a good wholly obtained or produced entirely in the territory of Peru, the United States, or both;

(2) the good—

(A) is produced entirely in the territory of Peru, the United States, or both, and—

(i) each of the nonoriginating materials used in the production of the good undergoes an applicable

change in tariff classification specified in Annex 3-A or Annex 4.1 of the Agreement; or

(ii) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 3-A or Annex 4.1 of the Agreement; and

(B) satisfies all other applicable requirements of this section; or

(3) the good is produced entirely in the territory of Peru, the United States, or both, exclusively from materials described in paragraph (1) or (2).

(c) REGIONAL VALUE-CONTENT.—

(1) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of a good referred to in Annex 4.1 of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3).

(2) BUILD-DOWN METHOD.—

(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$RVC = \frac{AV - VNM}{AV} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) RVC.—The term “RVC” means the regional value-content of the good, expressed as a percentage.

(ii) AV.—The term “AV” means the adjusted value of the good.

(iii) VNM.—The term “VNM” means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(3) BUILD-UP METHOD.—

(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$RVC = \frac{VOM}{AV} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) RVC.—The term “RVC” means the regional value-content of the good, expressed as a percentage.

(ii) AV.—The term “AV” means the adjusted value of the good.

(iii) VOM.—The term “VOM” means the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

(4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE GOODS.—

(A) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 4.1 of the Agreement shall be calculated by the importer, exporter, or producer of the good, on the basis of the following net cost method:

$$\text{RVC} = \frac{\text{NC} - \text{VNM}}{\text{NC}} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) AUTOMOTIVE GOOD.—The term “automotive good” means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or any of headings 8701 through 8708.

(ii) RVC.—The term “RVC” means the regional value-content of the automotive good, expressed as a percentage.

(iii) NC.—The term “NC” means the net cost of the automotive good.

(iv) VNM.—The term “VNM” means the value of nonoriginating materials that are acquired and used by the producer in the production of the automotive good, but does not include the value of a material that is self-produced.

(C) MOTOR VEHICLES.—

(i) BASIS OF CALCULATION.—For purposes of determining the regional value-content under subparagraph (A) for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula contained in subparagraph (A), over the producer’s fiscal year—

(I) with respect to all motor vehicles in any one of the categories described in clause (ii); or

(II) with respect to all motor vehicles in any such category that are exported to the territory of the United States or Peru.

(ii) CATEGORIES.—A category is described in this clause if it—

(I) is the same model line of motor vehicles, is in the same class of motor vehicles, and is produced in the same plant in the territory of Peru or the United States, as the good described in clause (i) for which regional value-content is being calculated;

(II) is the same class of motor vehicles, and is produced in the same plant in the territory of Peru or the United States, as the good described in clause (i) for which regional value-content is being calculated; or

(III) is the same model line of motor vehicles produced in the territory of Peru or the United States as the good described in clause (i) for which regional value-content is being calculated.

(D) OTHER AUTOMOTIVE GOODS.—For purposes of determining the regional value-content under subparagraph (A) for automotive materials provided for in any of subheadings 8407.31 through 8407.34, in subheading 8408.20, or in heading 8409, 8706, 8707, or 8708, that are produced in the same plant, an importer, exporter, or producer may—

(i) average the amounts calculated under the formula contained in subparagraph (A) over—

(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

(II) any quarter or month, or

(III) the fiscal year of the producer of such goods,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

(ii) determine the average referred to in clause

(i) separately for such goods sold to 1 or more motor vehicle producers; or

(iii) make a separate determination under clause (i) or (ii) for such goods that are exported to the territory of Peru or the United States.

(E) CALCULATING NET COST.—The importer, exporter, or producer of an automotive good shall, consistent with the provisions regarding allocation of costs provided for in generally accepted accounting principles, determine the net cost of the automotive good under subparagraph (B) by—

(i) calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

(iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

(d) VALUE OF MATERIALS.—

(1) IN GENERAL.—For the purpose of calculating the regional value-content of a good under subsection (c), and for purposes of applying the de minimis rules under subsection (f), the value of a material is—

(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

(B) in the case of a material acquired in the territory in which the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes, of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)), as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation by the producer; or

(C) in the case of a material that is self-produced, the sum of—

- (i) all expenses incurred in the production of the material, including general expenses; and
- (ii) an amount for profit equivalent to the profit added in the normal course of trade.

(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

(A) ORIGINATING MATERIAL.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Peru, the United States, or both, to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Peru, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(B) NONORIGINATING MATERIAL.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Peru, the United States, or both, to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Peru, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(iv) The cost of originating materials used in the production of the nonoriginating material in the territory of Peru, the United States, or both.

(e) ACCUMULATION.—

(1) ORIGINATING MATERIALS USED IN PRODUCTION OF GOODS OF ANOTHER COUNTRY.—Originating materials from the territory of Peru or the United States that are used in the production of a good in the territory of the other country shall be considered to originate in the territory of such other country.

(2) MULTIPLE PRODUCERS.—A good that is produced in the territory of Peru, the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

(f) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 4.1 of the Agreement is an originating good if—

(A)(i) the value of all nonoriginating materials that—
(I) are used in the production of the good, and
(II) do not undergo the applicable change in tariff classification (set forth in Annex 4.1 of the Agreement), does not exceed 10 percent of the adjusted value of the good;

(ii) the good meets all other applicable requirements of this section; and

(iii) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement for the good; or

(B) the good meets the requirements set forth in paragraph 2 of Annex 4.6 of the Agreement.

(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

(A) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, that is used in the production of a good provided for in chapter 4.

(B) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, that is used in the production of any of the following goods:

(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10.

(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20.

(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90.

(iv) Goods provided for in heading 2105.

(v) Beverages containing milk provided for in subheading 2202.90.

(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90.

(C) A nonoriginating material provided for in heading 0805, or any of subheadings 2009.11 through 2009.39, that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90.

(D) A nonoriginating material provided for in heading 0901 or 2101 that is used in the production of a good provided for in heading 0901 or 2101.

(E) A nonoriginating material provided for in chapter 15 that is used in the production of a good provided for

in any of headings 1501 through 1508, or any of headings 1511 through 1515.

(F) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

(G) A nonoriginating material provided for in chapter 17 that is used in the production of a good provided for in subheading 1806.10.

(H) Except as provided in subparagraphs (A) through (G) and Annex 4.1 of the Agreement, a nonoriginating material used in the production of a good provided for in any of chapters 1 through 24, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

(I) A nonoriginating material that is a textile or apparel good.

(3) TEXTILE OR APPAREL GOODS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification, set forth in Annex 3–A of the Agreement, shall be considered to be an originating good if—

(i) the total weight of all such fibers or yarns in that component is not more than 10 percent of the total weight of that component; or

(ii) the yarns are those described in section 204(b)(3)(B)(vi)(IV) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)(vi)(IV)) (as in effect on the date of the enactment of this Act).

(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Peru, the United States, or both.

(C) YARN, FABRIC, OR FIBER.—For purposes of this paragraph, in the case of a good that is a yarn, fabric, or fiber, the term “component of the good that determines the tariff classification of the good” means all of the fibers in the good.

(g) FUNGIBLE GOODS AND MATERIALS.—

(1) IN GENERAL.—

(A) CLAIM FOR PREFERENTIAL TARIFF TREATMENT.—A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term “inventory management method” means—

(i) averaging;

(ii) “last-in, first-out”;

(iii) “first-in, first-out”; or

(iv) any other method—

(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Peru or the United States); or

(II) otherwise accepted by that country.

(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for a particular fungible good or fungible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of such person.

(h) ACCESSORIES, SPARE PARTS, OR TOOLS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools shall—

(A) be treated as originating goods if the good is an originating good; and

(B) be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set forth in Annex 4.1 of the Agreement.

(2) CONDITIONS.—Paragraph (1) shall apply only if—

(A) the accessories, spare parts, or tools are classified with and not invoiced separately from the good, regardless of whether such accessories, spare parts, or tools are specified or are separately identified in the invoice for the good; and

(B) the quantities and value of the accessories, spare parts, or tools are customary for the good.

(3) REGIONAL VALUE-CONTENT.—If the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set forth in Annex 3-A or Annex 4.1 of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether a good is an originating good.

(k) INDIRECT MATERIALS.—An indirect material shall be treated as an originating material without regard to where it is produced.

(l) TRANSIT AND TRANSHIPMENT.—A good that has undergone production necessary to qualify as an originating good under subsection (b) shall not be considered to be an originating good if, subsequent to that production, the good—

(1) undergoes further production or any other operation outside the territory of Peru or the United States, other than

unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of Peru or the United States; or

(2) does not remain under the control of customs authorities in the territory of a country other than Peru or the United States.

(m) GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—Notwithstanding the rules set forth in Annex 3-A and Annex 4.1 of the Agreement, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless—

(1) each of the goods in the set is an originating good;

or

(2) the total value of the nonoriginating goods in the set does not exceed—

(A) in the case of textile or apparel goods, 10 percent of the adjusted value of the set; or

(B) in the case of a good, other than a textile or apparel good, 15 percent of the adjusted value of the set.

(n) DEFINITIONS.—In this section:

(1) ADJUSTED VALUE.—The term “adjusted value” means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes, of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)), adjusted, if necessary, to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

(2) CLASS OF MOTOR VEHICLES.—The term “class of motor vehicles” means any one of the following categories of motor vehicles:

(A) Motor vehicles provided for in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

(D) Motor vehicles provided for in any of subheadings 8703.21 through 8703.90.

(3) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term “fungible good” or “fungible material” means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

(4) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term “generally accepted accounting principles” means the recognized consensus or substantial authoritative support in the territory of Peru or the United States, as the case may be, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the

preparation of financial statements. The principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

(5) GOOD WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF PERU, THE UNITED STATES, OR BOTH.—The term “good wholly obtained or produced entirely in the territory of Peru, the United States, or both” means any of the following:

(A) Plants and plant products harvested or gathered in the territory of Peru, the United States, or both.

(B) Live animals born and raised in the territory of Peru, the United States, or both.

(C) Goods obtained in the territory of Peru, the United States, or both from live animals.

(D) Goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of Peru, the United States, or both.

(E) Minerals and other natural resources not included in subparagraphs (A) through (D) that are extracted or taken from the territory of Peru, the United States, or both.

(F) Fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of Peru or the United States by—

(i) a vessel that is registered or recorded with Peru and flying the flag of Peru; or

(ii) a vessel that is documented under the laws of the United States.

(G) Goods produced on board a factory ship from goods referred to in subparagraph (F), if such factory ship—

(i) is registered or recorded with Peru and flies the flag of Peru; or

(ii) is a vessel that is documented under the laws of the United States.

(H)(i) Goods taken by Peru or a person of Peru from the seabed or subsoil outside the territorial waters of Peru, if Peru has rights to exploit such seabed or subsoil.

(ii) Goods taken by the United States or a person of the United States from the seabed or subsoil outside the territorial waters of the United States, if the United States has rights to exploit such seabed or subsoil.

(I) Goods taken from outer space, if the goods are obtained by Peru or the United States or a person of Peru or the United States and not processed in the territory of a country other than Peru or the United States.

(J) Waste and scrap derived from—

(i) manufacturing or processing operations in the territory of Peru, the United States, or both; or

(ii) used goods collected in the territory of Peru, the United States, or both, if such goods are fit only for the recovery of raw materials.

(K) Recovered goods derived in the territory of Peru, the United States, or both, from used goods, and used in the territory of Peru, the United States, or both, in the production of remanufactured goods.

(L) Goods, at any stage of production, produced in the territory of Peru, the United States, or both, exclusively from—

(i) goods referred to in any of subparagraphs (A) through (J), or

(ii) the derivatives of goods referred to in clause (i).

(6) IDENTICAL GOODS.—The term “identical goods” means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods.

(7) INDIRECT MATERIAL.—The term “indirect material” means a good used in the production, testing, or inspection of another good but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of another good, including—

(A) fuel and energy;

(B) tools, dies, and molds;

(C) spare parts and materials used in the maintenance of equipment or buildings;

(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

(F) equipment, devices, and supplies used for testing or inspecting the good;

(G) catalysts and solvents; and

(H) any other goods that are not incorporated into the other good but the use of which in the production of the other good can reasonably be demonstrated to be a part of that production.

(8) MATERIAL.—The term “material” means a good that is used in the production of another good, including a part or an ingredient.

(9) MATERIAL THAT IS SELF-PRODUCED.—The term “material that is self-produced” means an originating material that is produced by a producer of a good and used in the production of that good.

(10) MODEL LINE OF MOTOR VEHICLES.—The term “model line of motor vehicles” means a group of motor vehicles having the same platform or model name.

(11) NET COST.—The term “net cost” means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost.

(12) NONALLOWABLE INTEREST COSTS.—The term “nonallowable interest costs” means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country in which the producer is located.

(13) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The terms “nonoriginating good” and “nonoriginating material” mean a good or material, as the case may be, that does not qualify as originating under this section.

(14) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—The term “packing materials and containers for shipment” means goods used to protect another good during its transportation and does not include the packaging materials and containers in which the other good is packaged for retail sale.

(15) **PREFERENTIAL TARIFF TREATMENT.**—The term “preferential tariff treatment” means the customs duty rate, and the treatment under article 2.10.4 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

(16) **PRODUCER.**—The term “producer” means a person who engages in the production of a good in the territory of Peru or the United States.

(17) **PRODUCTION.**—The term “production” means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

(18) **REASONABLY ALLOCATE.**—The term “reasonably allocate” means to apportion in a manner that would be appropriate under generally accepted accounting principles.

(19) **RECOVERED GOODS.**—The term “recovered goods” means materials in the form of individual parts that are the result of—

(A) the disassembly of used goods into individual parts;

and

(B) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

(20) **REMANUFACTURED GOOD.**—The term “remanufactured good” means an industrial good assembled in the territory of Peru or the United States, or both, that is classified under chapter 84, 85, 87, or 90 or heading 9402, other than a good classified under heading 8418 or 8516, and that—

(A) is entirely or partially comprised of recovered goods;

and

(B) has a similar life expectancy and enjoys a factory warranty similar to such a good that is new.

(21) **TOTAL COST.**—

(A) **IN GENERAL.**—The term “total cost”—

(i) means all product costs, period costs, and other costs for a good incurred in the territory of Peru, the United States, or both; and

(ii) does not include profits that are earned by the producer, regardless of whether they are retained by the producer or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes.

(B) **OTHER DEFINITIONS.**—In this paragraph:

(i) **PRODUCT COSTS.**—The term “product costs” means costs that are associated with the production of a good and include the value of materials, direct labor costs, and direct overhead.

(ii) **PERIOD COSTS.**—The term “period costs” means costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses.

(iii) **OTHER COSTS.**—The term “other costs” means all costs recorded on the books of the producer that are not product costs or period costs, such as interest.

(22) **USED.**—The term “used” means utilized or consumed in the production of goods.

(o) **PRESIDENTIAL PROCLAMATION AUTHORITY.**—

(1) **IN GENERAL.**—The President is authorized to proclaim, as part of the HTS—

(A) the provisions set forth in Annex 3-A and Annex 4.1 of the Agreement; and

(B) any additional subordinate category that is necessary to carry out this title consistent with the Agreement.

(2) FABRICS AND YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE UNITED STATES.—The President is authorized to proclaim that a fabric or yarn is added to the list in Annex 3-B of the Agreement in an unrestricted quantity, as provided in article 3.3.5(e) of the Agreement.

(3) MODIFICATIONS.—

(A) IN GENERAL.—Subject to the consultation and lay-over provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 (as included in Annex 3-A of the Agreement).

(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and lay-over provisions of section 104, the President may proclaim before the end of the 1-year period beginning on the date of the enactment of this Act, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 (as included in Annex 3-A of the Agreement). Deadline.

(4) FABRICS, YARNS, OR FIBERS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN PERU AND THE UNITED STATES.—

(A) IN GENERAL.—Notwithstanding paragraph (3)(A), the list of fabrics, yarns, and fibers set forth in Annex 3-B of the Agreement may be modified as provided for in this paragraph.

(B) DEFINITIONS.—In this paragraph:

(i) The term “interested entity” means the Government of Peru, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good.

(ii) All references to “day” and “days” exclude Saturdays, Sundays, and legal holidays observed by the Government of the United States.

(C) REQUESTS TO ADD FABRICS, YARNS, OR FIBERS.—

(i) An interested entity may request the President to determine that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Peru and the United States and to add that fabric, yarn, or fiber to the list in Annex 3-B of the Agreement in a restricted or unrestricted quantity.

(ii) After receiving a request under clause (i), the President may determine whether—

(I) the fabric, yarn, or fiber is available in commercial quantities in a timely manner in Peru or the United States; or

(II) any interested entity objects to the request.

(iii) The President may, within the time periods specified in clause (iv), proclaim that the fabric, yarn, or fiber that is the subject of the request is added to the list in Annex 3-B of the Agreement in an unrestricted quantity,

or in any restricted quantity that the President may establish, if the President has determined under clause (ii) that—

(I) the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Peru and the United States; or

(II) no interested entity has objected to the request.

Deadlines. (iv) The time periods within which the President may issue a proclamation under clause (iii) are—

(I) not later than 30 days after the date on which a request is submitted under clause (i); or

(II) not later than 44 days after the request is submitted, if the President determines, within 30 days after the date on which the request is submitted, that the President does not have sufficient information to make a determination under clause (ii).

Effective date. (v) Notwithstanding section 103(a)(2), a proclamation made under clause (iii) shall take effect on the date on which the text of the proclamation is published in the Federal Register.

Deadline. (vi) Not later than 6 months after proclaiming under clause (iii) that a fabric, yarn, or fiber is added to the list in Annex 3-B of the Agreement in a restricted quantity, the President may eliminate the restriction if the President determines that the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Peru and the United States.

Effective date. (D) DEEMED APPROVAL OF REQUEST.—If, after an interested entity submits a request under subparagraph (C)(i), the President does not, within the applicable time period specified in subparagraph (C)(iv), make a determination under subparagraph (C)(ii) regarding the request, the fabric, yarn, or fiber that is the subject of the request shall be considered to be added, in an unrestricted quantity, to the list in Annex 3-B of the Agreement beginning—

(i) 45 days after the date on which the request was submitted; or

(ii) 60 days after the date on which the request was submitted, if the President made a determination under subparagraph (C)(iv)(II).

(E) REQUESTS TO RESTRICT OR REMOVE FABRICS, YARNS, OR FIBERS.—(i) Subject to clause (ii), an interested entity may request the President to restrict the quantity of, or remove from the list in Annex 3-B of the Agreement, any fabric, yarn, or fiber—

(I) that has been added to that list in an unrestricted quantity pursuant to paragraph (2) or subparagraph (C)(iii) or (D) of this paragraph; or

(II) with respect to which the President has eliminated a restriction under subparagraph (C)(vi).

Submission period. (ii) An interested entity may submit a request under clause (i) at any time beginning 6 months after the date of the action described in subclause (I) or (II) of that clause.

Deadline. (iii) Not later than 30 days after the date on which a request under clause (i) is submitted, the President may proclaim an action provided for under clause (i) if the

President determines that the fabric, yarn, or fiber that is the subject of the request is available in commercial quantities in a timely manner in Peru or the United States.

(iv) A proclamation under clause (iii) shall take effect no earlier than the date that is 6 months after the date on which the text of the proclamation is published in the Federal Register.

Effective date.

(F) PROCEDURES.—The President shall establish procedures—

President.

(i) governing the submission of a request under subparagraphs (C) and (E); and

(ii) providing an opportunity for interested entities to submit comments and supporting evidence before the President makes a determination under subparagraph (C) (ii) or (vi) or (E)(iii).

SEC. 204. CUSTOMS USER FEES.

Section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended by adding after paragraph (17) the following:

“(18) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Peru Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.”.

SEC. 205. DISCLOSURE OF INCORRECT INFORMATION; FALSE CERTIFICATIONS OF ORIGIN; DENIAL OF PREFERENTIAL TARIFF TREATMENT.

(a) DISCLOSURE OF INCORRECT INFORMATION.—Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended—

(1) in subsection (c)—

(A) by redesignating paragraph (10) as paragraph (11); and

(B) by inserting after paragraph (9) the following new paragraph:

“(10) PRIOR DISCLOSURE REGARDING CLAIMS UNDER THE UNITED STATES-PERU TRADE PROMOTION AGREEMENT.—An importer shall not be subject to penalties under subsection (a) for making an incorrect claim that a good qualifies as an originating good under section 203 of the United States-Peru Trade Promotion Agreement Implementation Act if the importer, in accordance with regulations issued by the Secretary of the Treasury, promptly and voluntarily makes a corrected declaration and pays any duties owing with respect to that good.”; and

(2) by adding at the end the following new subsection:

“(i) FALSE CERTIFICATIONS OF ORIGIN UNDER THE UNITED STATES-PERU TRADE PROMOTION AGREEMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), it is unlawful for any person to certify falsely, by fraud, gross negligence, or negligence, in a PTPA certification of origin (as defined in section 508(h)(1)(B) of this Act) that a good exported from the United States qualifies as an originating good under the rules of origin provided for in section 203 of the United States-Peru Trade Promotion Agreement Implementation Act. The

Applicability.

procedures and penalties of this section that apply to a violation of subsection (a) also apply to a violation of this subsection.

“(2) **PROMPT AND VOLUNTARY DISCLOSURE OF INCORRECT INFORMATION.**—No penalty shall be imposed under this subsection if, promptly after an exporter or producer that issued a PTPA certification of origin has reason to believe that such certification contains or is based on incorrect information, the exporter or producer voluntarily provides written notice of such incorrect information to every person to whom the certification was issued.

“(3) **EXCEPTION.**—A person shall not be considered to have violated paragraph (1) if—

“(A) the information was correct at the time it was provided in a PTPA certification of origin but was later rendered incorrect due to a change in circumstances; and

“(B) the person promptly and voluntarily provides written notice of the change in circumstances to all persons to whom the person provided the certification.”.

(b) **DENIAL OF PREFERENTIAL TARIFF TREATMENT.**—Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended by adding at the end the following new subsection:

“(i) **DENIAL OF PREFERENTIAL TARIFF TREATMENT UNDER THE UNITED STATES-PERU TRADE PROMOTION AGREEMENT.**—If U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement of the Department of Homeland Security finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin provided for in section 203 of the United States-Peru Trade Promotion Agreement Implementation Act, U.S. Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may suspend preferential tariff treatment under the United States-Peru Trade Promotion Agreement to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until U.S. Customs and Border Protection determines that representations of that person are in conformity with such section 203.”.

SEC. 206. RELIQUIDATION OF ENTRIES.

Subsection (d) of section 520 of the Tariff Act of 1930 (19 U.S.C. 1520(d)) is amended in the matter preceding paragraph (1)—

(1) by striking “or”; and

(2) by striking “for which” and inserting “, or section 203 of the United States-Peru Trade Promotion Agreement Implementation Act for which”.

SEC. 207. RECORDKEEPING REQUIREMENTS.

Section 508 of the Tariff Act of 1930 (19 U.S.C. 1508) is amended—

(1) by redesignating subsection (h) as subsection (i);

(2) by inserting after subsection (g) the following new subsection:

“(h) **CERTIFICATIONS OF ORIGIN FOR GOODS EXPORTED UNDER THE UNITED STATES-PERU TRADE PROMOTION AGREEMENT.**—

“(1) **DEFINITIONS.**—In this subsection:

“(A) **RECORDS AND SUPPORTING DOCUMENTS.**—The term ‘records and supporting documents’ means, with respect

to an exported good under paragraph (2), records and documents related to the origin of the good, including—

“(i) the purchase, cost, and value of, and payment for, the good;

“(ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

“(iii) the production of the good in the form in which it was exported.

“(B) PTPA CERTIFICATION OF ORIGIN.—The term ‘PTPA certification of origin’ means the certification established under article 4.15 of the United States-Peru Trade Promotion Agreement that a good qualifies as an originating good under such Agreement.

“(2) EXPORTS TO PERU.—Any person who completes and issues a PTPA certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

“(3) RETENTION PERIOD.—The person who issues a PTPA certification of origin shall keep the records and supporting documents relating to that certification of origin for a period of at least 5 years after the date on which the certification is issued.”; and

(3) in subsection (i), as so redesignated—

(A) by striking “(f) or (g)” and inserting “(f), (g), or (h)”; and

(B) by striking “either such subsection” and inserting “any such subsection”.

SEC. 208. ENFORCEMENT RELATING TO TRADE IN TEXTILE OR APPAREL GOODS.

(a) ACTION DURING VERIFICATION.—

(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Peru to conduct a verification pursuant to article 3.2 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

(2) DETERMINATION.—A determination under this paragraph is a determination of the Secretary that—

(A) an exporter or producer in Peru is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods; or

(B) a claim that a textile or apparel good exported or produced by such exporter or producer—

(i) qualifies as an originating good under section 203, or

(ii) is a good of Peru,
is accurate.

(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

(1) suspension of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that there is insufficient information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to support that claim;

(2) denial of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that the person has provided incorrect information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that a person has provided incorrect information to support that claim;

(3) detention of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to determine the country of origin of any such good; and

(4) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that the person has provided incorrect information as to the country of origin of any such good.

(c) ACTION ON COMPLETION OF A VERIFICATION.—On completion of a verification under subsection (a), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make the determination under subsection (a)(2) or until such earlier date as the President may direct.

(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (c) includes—

(1) denial of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that there is insufficient information to support, or that the person has provided incorrect information to support, any claim

for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to support, or that a person has provided incorrect information to support, that claim; and

(2) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to determine, or that the person has provided incorrect information as to, the country of origin of any such good.

(e) PUBLICATION OF NAME OF PERSON.—In accordance with article 3.2.6 of the Agreement, the Secretary may publish the name of any person that the Secretary has determined—

(1) is engaged in circumvention of applicable laws, regulations, or procedures affecting trade in textile or apparel goods; or

(2) has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods.

SEC. 209. REGULATIONS.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

(1) subsections (a) through (n) of section 203;

(2) the amendment made by section 204; and

(3) any proclamation issued under section 203(o).

TITLE III—RELIEF FROM IMPORTS

SEC. 301. DEFINITIONS.

In this title:

(1) PERUVIAN ARTICLE.—The term “Peruvian article” means an article that qualifies as an originating good under section 203(b).

(2) PERUVIAN TEXTILE OR APPAREL ARTICLE.—The term “Peruvian textile or apparel article” means a textile or apparel good (as defined in section 3(4)) that is a Peruvian article.

Subtitle A—Relief From Imports Benefiting From the Agreement

SEC. 311. COMMENCING OF ACTION FOR RELIEF.

(a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any

Records.

petition filed under this subsection to the United States Trade Representative.

(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Peruvian article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Peruvian article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

- (1) Paragraphs (1)(B) and (3) of subsection (b).
- (2) Subsection (c).
- (3) Subsection (i).

(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Peruvian article if, after the date on which the Agreement enters into force, import relief has been provided with respect to that Peruvian article under this subtitle.

SEC. 312. COMMISSION ACTION ON PETITION.

Deadline.

(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d) (1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—

(1) IN GENERAL.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

(2) LIMITATION ON RELIEF.—The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c).

(3) VOTING; SEPARATE VIEWS.—Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the

Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

(d) **REPORT TO PRESIDENT.**—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

(1) the determination made under subsection (a) and an explanation of the basis for the determination;

(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination referred to in paragraph (1) and any finding or recommendation referred to in paragraph (2).

(e) **PUBLIC NOTICE.**—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public the report (with the exception of information which the Commission determines to be confidential) and shall publish a summary of the report in the Federal Register.

Federal Register,
publication.

SEC. 313. PROVISION OF RELIEF.

President.

(a) **IN GENERAL.**—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

Deadline.

(b) **EXCEPTION.**—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) **NATURE OF RELIEF.**—

(1) **IN GENERAL.**—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

(A) The suspension of any further reduction provided for under Annex 2.3 of the Agreement in the duty imposed on the article.

(B) An increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 8.2.2 of the Agreement) of such relief at regular intervals during the period of its application.

(d) PERIOD OF RELIEF.—

(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not be in effect for more than 2 years.

(2) EXTENSION.—

(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section by up to 2 years, if the President determines that—

(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

(ii) there is evidence that the industry is making a positive adjustment to import competition.

(B) ACTION BY COMMISSION.—

(i) INVESTIGATION.—Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date that is 9 months, and not later than the date that is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

(ii) NOTICE AND HEARING.—The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

(iii) REPORT.—The Commission shall submit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

(C) PERIOD OF IMPORT RELIEF.—Any import relief provided under this section, including any extensions thereof, may not, in the aggregate, be in effect for more than 4 years.

(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article—

Filing period.

Federal Register,
publication.

(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States to Annex 2.3 of the Agreement, would have been in effect 1 year after the provision of relief under subsection (a); and

(2) the rate of duty for that article after December 31 of the year in which such termination occurs shall be, at the discretion of the President, either—

(A) the applicable rate of duty for that article set forth in the Schedule of the United States to Annex 2.3 of the Agreement; or

(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set forth in the Schedule of the United States to Annex 2.3 of the Agreement for the elimination of the tariff.

(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on—

(1) any article that is subject to import relief under—

(A) subtitle B; or

(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); or

(2) any article on which an additional duty assessed under section 202(b) is in effect.

SEC. 314. TERMINATION OF RELIEF AUTHORITY.

(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force.

(b) EXCEPTION.—If an article for which relief is provided under this subtitle is an article for which the period for tariff elimination, set forth in the Schedule of the United States to Annex 2.3 of the Agreement, is greater than 10 years, no relief under this subtitle may be provided for that article after the date on which that period ends.

SEC. 315. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence—

(1) by striking “and”; and

(2) by inserting before the period at the end “, and title III of the United States-Peru Trade Promotion Agreement Implementation Act”.

Subtitle B—Textile and Apparel Safeguard Measures

SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

President.

(a) IN GENERAL.—A request for action under this subtitle for the purpose of adjusting to the obligations of the United States

under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

Federal Register,
publication.

(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall publish in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

President.

SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

(a) DETERMINATION.—

(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the elimination of a duty under the Agreement, a Peruvian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits and losses, and investment, no one of which is necessarily decisive; and

(B) shall not consider changes in consumer preference or changes in technology in the United States as factors supporting a determination of serious damage or actual threat thereof.

(b) PROVISION OF RELIEF.—

(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

SEC. 323. PERIOD OF RELIEF.

(a) IN GENERAL.—Subject to subsection (b), the import relief that the President provides under section 322(b) may not be in effect for more than 2 years.

(b) EXTENSION.—

(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle for a period of not more than 1 year, if the President determines that—

(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

(B) there is evidence that the industry is making a positive adjustment to import competition.

(2) LIMITATION.—Any relief provided under this subtitle, including any extensions thereof, may not, in the aggregate, be in effect for more than 3 years.

SEC. 324. ARTICLES EXEMPT FROM RELIEF.

The President may not provide import relief under this subtitle with respect to an article if—

(1) import relief previously has been provided under this subtitle with respect to that article; or

(2) the article is subject to import relief under—

(A) subtitle A; or

(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

On the date on which import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief.

SEC. 326. TERMINATION OF RELIEF AUTHORITY.

No import relief may be provided under this subtitle with respect to any article after the date that is 5 years after the date on which the Agreement enters into force.

SEC. 327. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.

The President may not release information received in connection with an investigation or determination under this subtitle which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information, the party shall also provide a nonconfidential version of the information in which the confidential business information is summarized or, if necessary, deleted.

Subtitle C—Cases Under Title II of the Trade Act of 1974

SEC. 331. FINDINGS AND ACTION ON GOODS OF PERU.

Reports.

(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article of Peru that qualify as originating goods under section 203(b) are a substantial cause of serious injury or threat thereof.

(b) PRESIDENTIAL DETERMINATION REGARDING IMPORTS OF PERU.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the President may exclude from the action goods of Peru with respect to which the Commission has made a negative finding under subsection (a).

TITLE IV—PROCUREMENT

SEC. 401. ELIGIBLE PRODUCTS.

Section 308(4)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)(A)) is amended—

- (1) by striking “or” at the end of clause (v);
- (2) by striking the period at the end of clause (vi) and inserting “; or”; and
- (3) by adding at the end the following new clause:

“(vii) a party to the United States-Peru Trade Promotion Agreement, a product or service of that country or instrumentality which is covered under that agreement for procurement by the United States.”.

TITLE V—TRADE IN TIMBER PRODUCTS OF PERU

SEC. 501. ENFORCEMENT RELATING TO TRADE IN TIMBER PRODUCTS OF PERU.

Deadline.
President.

(a) ESTABLISHMENT OF INTERAGENCY COMMITTEE.—Not later than 90 days after the date on which the Agreement enters into force, the President shall establish an Interagency Committee (in this section referred to as the “Committee”). The Committee shall be responsible for overseeing the implementation of Annex 18.3.4 of the Agreement, including by undertaking such actions and making such determinations provided for in this section that are not otherwise authorized under law.

(b) AUDIT.—The Committee may request that the Government of Peru conduct an audit, pursuant to paragraph 6(b) of Annex 18.3.4 of the Agreement, to determine whether a particular producer

or exporter in Peru is complying with all applicable laws, regulations, and other measures of Peru governing the harvest of, and trade in, timber products.

(c) VERIFICATION.—

(1) IN GENERAL.—The Committee may request the Government of Peru to conduct a verification, pursuant to paragraph 7 of Annex 18.3.4 of the Agreement, for the purpose of determining whether, with respect to a particular shipment of timber products from Peru to the United States, the producer or exporter of the products has complied with applicable laws, regulations, and other measures of Peru governing the harvest of, and trade in, the products.

(2) ACTIONS OF COMMITTEE.—If the Committee requests a verification under paragraph (1), the Committee shall—

(A) to the extent authorized under law, provide the Government of Peru with trade and transit documents and other information to assist Peru in conducting the verification; and

(B) direct U.S. Customs and Border Protection to take any appropriate action described in paragraph (4).

(3) REQUEST TO PARTICIPATE IN VERIFICATION VISIT.—The Committee may request the Government of Peru to permit officials of any agency represented on the Committee to participate in any visit conducted by Peru of the premises of a person that is the subject of the verification requested under paragraph (1) (in this section referred to as a “verification visit”). Such request shall be submitted in writing not later than 10 days before any scheduled verification visit and shall identify the names and titles of the officials intending to participate.

Deadline.

(4) APPROPRIATE ACTION PENDING THE RESULTS OF VERIFICATION.—While the results of a verification requested under paragraph (1) are pending, the Committee may direct U.S. Customs and Border Protection to—

(A) detain the shipment that is the subject of the verification; or

(B) if the Committee has requested under paragraph (3) to have an official of any agency represented on the Committee participate in the verification visit and the Government of Peru has denied the request, deny entry to the shipment that is the subject of the verification.

(5) DETERMINATION UPON RECEIPT OF REPORT.—

(A) IN GENERAL.—Within a reasonable time after the Government of Peru provides a report to the Committee describing the results of a verification requested under paragraph (1), the Committee shall determine whether any action is appropriate.

(B) DETERMINATION OF APPROPRIATE ACTION.—In determining the appropriate action to take and the duration of the action, the Committee shall consider any relevant factors, including—

(i) the verification report issued by the Government of Peru;

(ii) any information that officials of the United States have obtained regarding the shipment or person that is the subject of the verification; and

(iii) any information that officials of the United States have obtained during a verification visit.

(6) NOTIFICATION.—Before directing that action be taken under paragraph (7), the Committee shall notify the Government of Peru in writing of the action that will be taken and the duration of the action.

(7) APPROPRIATE ACTION.—If the Committee makes an affirmative determination under paragraph (5), it may take any action with respect to the shipment that was the subject of the verification, or the products of the relevant producer or exporter, that the Committee considers appropriate, including directing U.S. Customs and Border Protection to—

(A) deny entry to the shipment;

(B) if a determination has been made that a producer or exporter has knowingly provided false information to officials of Peru or the United States regarding a shipment, deny entry to products of that producer or exporter derived from any tree species listed in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington March 3, 1973 (27 UST 1087; TIAS 8249); or

(C) take any other action the Committee determines to be appropriate.

Deadline.

(8) TERMINATION OF APPROPRIATE ACTION.—Any action under paragraph (7)(B) shall terminate not later than the later of—

(A) the end of the period specified in the written notification pursuant to paragraph (6); or

(B) 15 days after the date on which the Government of Peru submits to the United States the results of an audit under paragraph 6 of Annex 18.3.4 of the Agreement that concludes that the person has complied with all applicable laws, regulations, and other measures of Peru governing the harvest of, and trade in, timber products.

(9) FAILURE TO PROVIDE VERIFICATION REPORT.—If the Committee determines that the Government of Peru has failed to provide a verification report, as required by paragraph 12 of Annex 18.3.4 of the Agreement, the Committee may take such action with respect to the relevant exporter's timber products as the Committee considers appropriate, including any action described in paragraph (7).

(d) CONFIDENTIALITY OF INFORMATION.—The Committee and any agency represented on the Committee shall not disclose to the public, except with the specific permission of the Government of Peru, any documents or information received in the course of an audit under subsection (b) or in the course of a verification under subsection (c).

(e) PUBLICLY AVAILABLE INFORMATION.—The Committee shall make any information exchanged with Peru under paragraph 17 of Annex 18.3.4 of the Agreement publicly available in a timely manner, in accordance with paragraph 18 of Annex 18.3.4 of the Agreement.

(f) COORDINATION WITH OTHER LAWS.—

(1) ENDANGERED SPECIES ACT; LACEY ACT.—In implementing this section, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Homeland Security, and the Secretary of the Treasury shall provide for appropriate coordination with the administration of the Endangered Species

Act of 1973 (16 U.S.C. 1531 et seq.) and the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(2) OTHER LAWS.—Nothing in this section supersedes or limits in any manner the functions or authority of the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Homeland Security, or the Secretary of the Treasury under any other law, including laws relating to prohibited or restricted importations or possession of animals, plants, or other articles.

(3) EFFECT OF DETERMINATION.—No determination under this section shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any law administered by the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Homeland Security, or the Secretary of the Treasury.

(g) FURTHER IMPLEMENTATION.—The Secretary of Agriculture, the Secretary of the Interior, the Secretary of Homeland Security, and the Secretary of the Treasury, in consultation with the Committee, shall prescribe such regulations as are necessary to carry out this section.

Regulations.

(h) RESOURCES FOR IMPLEMENTATION.—Not later than 90 days after the date on which the Agreement enters into force, and as appropriate thereafter, the President shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the resources, including staffing, needed to implement Annex 18.3.4 of the Agreement.

Deadline.
President.

SEC. 502. REPORT TO CONGRESS.

(a) IN GENERAL.—The United States Trade Representative, in consultation with the appropriate agencies, including U.S. Customs and Border Protection, the United States Fish and Wildlife Service, the Animal and Plant Health Inspection Service, the Forest Service, and the Department of State, shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on—

(1) steps the United States and Peru have taken to carry out Annex 18.3.4 of the Agreement; and

(2) activities related to forest sector governance carried out under the Environmental Cooperation Agreement entered into between the United States and Peru on July 24, 2006.

(b) TIMING OF REPORT.—The United States Trade Representative shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives under subsection (a)—

(1) not later than 1 year after the date on which the Agreement enters into force;

(2) not later than 2 years after the date on which the Agreement enters into force; and

(3) periodically thereafter.

TITLE VI—OFFSETS

SEC. 601. CUSTOMS USER FEES.

(a) Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A)) is amended by striking “October 21, 2014” and inserting “December 13, 2014”.

(b) Section 13031(j)(3)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(B)(i)) is amended by striking “October 7, 2014” and inserting “December 13, 2014”.

SEC. 602. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 (26 U.S.C. 6655 note) is amended by striking “115 percent” and inserting “115.75 percent”.

Approved December 14, 2007.

LEGISLATIVE HISTORY—H.R. 3688 (S. 2113):

HOUSE REPORTS: No. 110–421 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Nov. 7, 8, considered and passed House.

Dec. 3, 4, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Dec. 14, Presidential remarks.



Public Law 110–139
110th Congress

An Act

To provide that the great hall of the Capitol Visitor Center shall be known as
Emancipation Hall.

Dec. 18, 2007
[H.R. 3315]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF GREAT HALL OF THE CAPITOL VISITOR
CENTER AS EMANCIPATION HALL.**

40 USC 5101
note.

(a) IN GENERAL.—The great hall of the Capitol Visitor Center shall be known and designated as “Emancipation Hall”, and any reference to the great hall in any law, rule, or regulation shall be deemed to be a reference to Emancipation Hall.

(b) EFFECTIVE DATE.—This section shall apply on and after the date of the enactment of this Act.

Approved December 18, 2007.

LEGISLATIVE HISTORY—H.R. 3315:

HOUSE REPORTS: No. 110–436 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Nov. 13, considered and passed House.

Dec. 6, considered and passed Senate.



Public Law 110–140
110th Congress

An Act

Dec. 19, 2007
[H.R. 6]

Energy
Independence
and Security Act
of 2007.
42 USC 17001
note.

To move the United States toward greater energy independence and security, to increase the production of clean renewable fuels, to protect consumers, to increase the efficiency of products, buildings, and vehicles, to promote research on and deploy greenhouse gas capture and storage options, and to improve the energy performance of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Energy Independence and Security Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Relationship to other law.

TITLE I—ENERGY SECURITY THROUGH IMPROVED VEHICLE FUEL ECONOMY

Subtitle A—Increased Corporate Average Fuel Economy Standards

- Sec. 101. Short title.
- Sec. 102. Average fuel economy standards for automobiles and certain other vehicles.
- Sec. 103. Definitions.
- Sec. 104. Credit trading program.
- Sec. 105. Consumer information.
- Sec. 106. Continued applicability of existing standards.
- Sec. 107. National Academy of Sciences studies.
- Sec. 108. National Academy of Sciences study of medium-duty and heavy-duty truck fuel economy.
- Sec. 109. Extension of flexible fuel vehicle credit program.
- Sec. 110. Periodic review of accuracy of fuel economy labeling procedures.
- Sec. 111. Consumer tire information.
- Sec. 112. Use of civil penalties for research and development.
- Sec. 113. Exemption from separate calculation requirement.

Subtitle B—Improved Vehicle Technology

- Sec. 131. Transportation electrification.
- Sec. 132. Domestic manufacturing conversion grant program.
- Sec. 133. Inclusion of electric drive in Energy Policy Act of 1992.
- Sec. 134. Loan guarantees for fuel-efficient automobile parts manufacturers.
- Sec. 135. Advanced battery loan guarantee program.
- Sec. 136. Advanced technology vehicles manufacturing incentive program.

Subtitle C—Federal Vehicle Fleets

- Sec. 141. Federal vehicle fleets.
- Sec. 142. Federal fleet conservation requirements.

TITLE II—ENERGY SECURITY THROUGH INCREASED PRODUCTION OF
BIOFUELS

Subtitle A—Renewable Fuel Standard

- Sec. 201. Definitions.
- Sec. 202. Renewable fuel standard.
- Sec. 203. Study of impact of Renewable Fuel Standard.
- Sec. 204. Environmental and resource conservation impacts.
- Sec. 205. Biomass based diesel and biodiesel labeling.
- Sec. 206. Study of credits for use of renewable electricity in electric vehicles.
- Sec. 207. Grants for production of advanced biofuels.
- Sec. 208. Integrated consideration of water quality in determinations on fuels and fuel additives.
- Sec. 209. Anti-backsliding.
- Sec. 210. Effective date, savings provision, and transition rules.

Subtitle B—Biofuels Research and Development

- Sec. 221. Biodiesel.
- Sec. 222. Biogas.
- Sec. 223. Grants for biofuel production research and development in certain States.
- Sec. 224. Biorefinery energy efficiency.
- Sec. 225. Study of optimization of flexible fueled vehicles to use E–85 fuel.
- Sec. 226. Study of engine durability and performance associated with the use of biodiesel.
- Sec. 227. Study of optimization of biogas used in natural gas vehicles.
- Sec. 228. Algal biomass.
- Sec. 229. Biofuels and biorefinery information center.
- Sec. 230. Cellulosic ethanol and biofuels research.
- Sec. 231. Bioenergy research and development, authorization of appropriation.
- Sec. 232. Environmental research and development.
- Sec. 233. Bioenergy research centers.
- Sec. 234. University based research and development grant program.

Subtitle C—Biofuels Infrastructure

- Sec. 241. Prohibition on franchise agreement restrictions related to renewable fuel infrastructure.
- Sec. 242. Renewable fuel dispenser requirements.
- Sec. 243. Ethanol pipeline feasibility study.
- Sec. 244. Renewable fuel infrastructure grants.
- Sec. 245. Study of the adequacy of transportation of domestically-produced renewable fuel by railroads and other modes of transportation.
- Sec. 246. Federal fleet fueling centers.
- Sec. 247. Standard specifications for biodiesel.
- Sec. 248. Biofuels distribution and advanced biofuels infrastructure.

Subtitle D—Environmental Safeguards

- Sec. 251. Waiver for fuel or fuel additives.

TITLE III—ENERGY SAVINGS THROUGH IMPROVED STANDARDS FOR
APPLIANCE AND LIGHTING

Subtitle A—Appliance Energy Efficiency

- Sec. 301. External power supply efficiency standards.
- Sec. 302. Updating appliance test procedures.
- Sec. 303. Residential boilers.
- Sec. 304. Furnace fan standard process.
- Sec. 305. Improving schedule for standards updating and clarifying State authority.
- Sec. 306. Regional standards for furnaces, central air conditioners, and heat pumps.
- Sec. 307. Procedure for prescribing new or amended standards.
- Sec. 308. Expedited rulemakings.
- Sec. 309. Battery chargers.
- Sec. 310. Standby mode.
- Sec. 311. Energy standards for home appliances.
- Sec. 312. Walk-in coolers and walk-in freezers.
- Sec. 313. Electric motor efficiency standards.
- Sec. 314. Standards for single package vertical air conditioners and heat pumps.
- Sec. 315. Improved energy efficiency for appliances and buildings in cold climates.
- Sec. 316. Technical corrections.

Subtitle B—Lighting Energy Efficiency

- Sec. 321. Efficient light bulbs.

- Sec. 322. Incandescent reflector lamp efficiency standards.
- Sec. 323. Public building energy efficient and renewable energy systems.
- Sec. 324. Metal halide lamp fixtures.
- Sec. 325. Energy efficiency labeling for consumer electronic products.

TITLE IV—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY

- Sec. 401. Definitions.

Subtitle A—Residential Building Efficiency

- Sec. 411. Reauthorization of weatherization assistance program.
- Sec. 412. Study of renewable energy rebate programs.
- Sec. 413. Energy code improvements applicable to manufactured housing.

Subtitle B—High-Performance Commercial Buildings

- Sec. 421. Commercial high-performance green buildings.
- Sec. 422. Zero Net Energy Commercial Buildings Initiative.
- Sec. 423. Public outreach.

Subtitle C—High-Performance Federal Buildings

- Sec. 431. Energy reduction goals for Federal buildings.
- Sec. 432. Management of energy and water efficiency in Federal buildings.
- Sec. 433. Federal building energy efficiency performance standards.
- Sec. 434. Management of Federal building efficiency.
- Sec. 435. Leasing.
- Sec. 436. High-performance green Federal buildings.
- Sec. 437. Federal green building performance.
- Sec. 438. Storm water runoff requirements for Federal development projects.
- Sec. 439. Cost-effective technology acceleration program.
- Sec. 440. Authorization of appropriations.
- Sec. 441. Public building life-cycle costs.

Subtitle D—Industrial Energy Efficiency

- Sec. 451. Industrial energy efficiency.
- Sec. 452. Energy-intensive industries program.
- Sec. 453. Energy efficiency for data center buildings.

Subtitle E—Healthy High-Performance Schools

- Sec. 461. Healthy high-performance schools.
- Sec. 462. Study on indoor environmental quality in schools.

Subtitle F—Institutional Entities

- Sec. 471. Energy sustainability and efficiency grants and loans for institutions.

Subtitle G—Public and Assisted Housing

- Sec. 481. Application of International Energy Conservation Code to public and assisted housing.

Subtitle H—General Provisions

- Sec. 491. Demonstration project.
- Sec. 492. Research and development.
- Sec. 493. Environmental Protection Agency demonstration grant program for local governments.
- Sec. 494. Green Building Advisory Committee.
- Sec. 495. Advisory Committee on Energy Efficiency Finance.

TITLE V—ENERGY SAVINGS IN GOVERNMENT AND PUBLIC INSTITUTIONS

Subtitle A—United States Capitol Complex

- Sec. 501. Capitol complex photovoltaic roof feasibility studies.
- Sec. 502. Capitol complex E–85 refueling station.
- Sec. 503. Energy and environmental measures in Capitol complex master plan.
- Sec. 504. Promoting maximum efficiency in operation of Capitol power plant.
- Sec. 505. Capitol power plant carbon dioxide emissions feasibility study and demonstration projects.

Subtitle B—Energy Savings Performance Contracting

- Sec. 511. Authority to enter into contracts; reports.
- Sec. 512. Financing flexibility.
- Sec. 513. Promoting long-term energy savings performance contracts and verifying savings.

- Sec. 514. Permanent reauthorization.
- Sec. 515. Definition of energy savings.
- Sec. 516. Retention of savings.
- Sec. 517. Training Federal contracting officers to negotiate energy efficiency contracts.
- Sec. 518. Study of energy and cost savings in nonbuilding applications.

Subtitle C—Energy Efficiency in Federal Agencies

- Sec. 521. Installation of photovoltaic system at Department of Energy headquarters building.
- Sec. 522. Prohibition on incandescent lamps by Coast Guard.
- Sec. 523. Standard relating to solar hot water heaters.
- Sec. 524. Federally-procured appliances with standby power.
- Sec. 525. Federal procurement of energy efficient products.
- Sec. 526. Procurement and acquisition of alternative fuels.
- Sec. 527. Government efficiency status reports.
- Sec. 528. OMB government efficiency reports and scorecards.
- Sec. 529. Electricity sector demand response.

Subtitle D—Energy Efficiency of Public Institutions

- Sec. 531. Reauthorization of State energy programs.
- Sec. 532. Utility energy efficiency programs.

Subtitle E—Energy Efficiency and Conservation Block Grants

- Sec. 541. Definitions.
- Sec. 542. Energy Efficiency and Conservation Block Grant Program.
- Sec. 543. Allocation of funds.
- Sec. 544. Use of funds.
- Sec. 545. Requirements for eligible entities.
- Sec. 546. Competitive grants.
- Sec. 547. Review and evaluation.
- Sec. 548. Funding.

TITLE VI—ACCELERATED RESEARCH AND DEVELOPMENT

Subtitle A—Solar Energy

- Sec. 601. Short title.
- Sec. 602. Thermal energy storage research and development program.
- Sec. 603. Concentrating solar power commercial application studies.
- Sec. 604. Solar energy curriculum development and certification grants.
- Sec. 605. Daylighting systems and direct solar light pipe technology.
- Sec. 606. Solar Air Conditioning Research and Development Program.
- Sec. 607. Photovoltaic demonstration program.

Subtitle B—Geothermal Energy

- Sec. 611. Short title.
- Sec. 612. Definitions.
- Sec. 613. Hydrothermal research and development.
- Sec. 614. General geothermal systems research and development.
- Sec. 615. Enhanced geothermal systems research and development.
- Sec. 616. Geothermal energy production from oil and gas fields and recovery and production of geopressured gas resources.
- Sec. 617. Cost sharing and proposal evaluation.
- Sec. 618. Center for geothermal technology transfer.
- Sec. 619. GeoPowering America.
- Sec. 620. Educational pilot program.
- Sec. 621. Reports.
- Sec. 622. Applicability of other laws.
- Sec. 623. Authorization of appropriations.
- Sec. 624. International geothermal energy development.
- Sec. 625. High cost region geothermal energy grant program.

Subtitle C—Marine and Hydrokinetic Renewable Energy Technologies

- Sec. 631. Short title.
- Sec. 632. Definition.
- Sec. 633. Marine and hydrokinetic renewable energy research and development.
- Sec. 634. National Marine Renewable Energy Research, Development, and Demonstration Centers.
- Sec. 635. Applicability of other laws.
- Sec. 636. Authorization of appropriations.

Subtitle D—Energy Storage for Transportation and Electric Power

Sec. 641. Energy storage competitiveness.

Subtitle E—Miscellaneous Provisions

Sec. 651. Lightweight materials research and development.

Sec. 652. Commercial insulation demonstration program.

Sec. 653. Technical criteria for clean coal power Initiative.

Sec. 654. H-Prize.

Sec. 655. Bright Tomorrow Lighting Prizes.

Sec. 656. Renewable Energy innovation manufacturing partnership.

TITLE VII—CARBON CAPTURE AND SEQUESTRATION

Subtitle A—Carbon Capture and Sequestration Research, Development, and Demonstration

Sec. 701. Short title.

Sec. 702. Carbon capture and sequestration research, development, and demonstration program.

Sec. 703. Carbon capture.

Sec. 704. Review of large-scale programs.

Sec. 705. Geologic sequestration training and research.

Sec. 706. Relation to Safe Drinking Water Act.

Sec. 707. Safety research.

Sec. 708. University based research and development grant program.

Subtitle B—Carbon Capture and Sequestration Assessment and Framework

Sec. 711. Carbon dioxide sequestration capacity assessment.

Sec. 712. Assessment of carbon sequestration and methane and nitrous oxide emissions from ecosystems.

Sec. 713. Carbon dioxide sequestration inventory.

Sec. 714. Framework for geological carbon sequestration on public land.

TITLE VIII—IMPROVED MANAGEMENT OF ENERGY POLICY

Subtitle A—Management Improvements

Sec. 801. National media campaign.

Sec. 802. Alaska Natural Gas Pipeline administration.

Sec. 803. Renewable energy deployment.

Sec. 804. Coordination of planned refinery outages.

Sec. 805. Assessment of resources.

Sec. 806. Sense of Congress relating to the use of renewable resources to generate energy.

Sec. 807. Geothermal assessment, exploration information, and priority activities.

Subtitle B—Prohibitions on Market Manipulation and False Information

Sec. 811. Prohibition on market manipulation.

Sec. 812. Prohibition on false information.

Sec. 813. Enforcement by the Federal Trade Commission.

Sec. 814. Penalties.

Sec. 815. Effect on other laws.

TITLE IX—INTERNATIONAL ENERGY PROGRAMS

Sec. 901. Definitions.

Subtitle A—Assistance to Promote Clean and Efficient Energy Technologies in Foreign Countries

Sec. 911. United States assistance for developing countries.

Sec. 912. United States exports and outreach programs for India, China, and other countries.

Sec. 913. United States trade missions to encourage private sector trade and investment.

Sec. 914. Actions by Overseas Private Investment Corporation.

Sec. 915. Actions by United States Trade and Development Agency.

Sec. 916. Deployment of international clean and efficient energy technologies and investment in global energy markets.

Sec. 917. United States-Israel energy cooperation.

Subtitle B—International Clean Energy Foundation

Sec. 921. Definitions.

- Sec. 922. Establishment and management of Foundation.
- Sec. 923. Duties of Foundation.
- Sec. 924. Annual report.
- Sec. 925. Powers of the Foundation; related provisions.
- Sec. 926. General personnel authorities.
- Sec. 927. Authorization of appropriations.

Subtitle C—Miscellaneous Provisions

- Sec. 931. Energy diplomacy and security within the Department of State.
- Sec. 932. National Security Council reorganization.
- Sec. 933. Annual national energy security strategy report.
- Sec. 934. Convention on Supplementary Compensation for Nuclear Damage contingent cost allocation.
- Sec. 935. Transparency in extractive industries resource payments.

TITLE X—GREEN JOBS

- Sec. 1001. Short title.
- Sec. 1002. Energy efficiency and renewable energy worker training program.

TITLE XI—ENERGY TRANSPORTATION AND INFRASTRUCTURE

Subtitle A—Department of Transportation

- Sec. 1101. Office of Climate Change and Environment.

Subtitle B—Railroads

- Sec. 1111. Advanced technology locomotive grant pilot program.
- Sec. 1112. Capital grants for class II and class III railroads.

Subtitle C—Marine Transportation

- Sec. 1121. Short sea transportation initiative.
- Sec. 1122. Short sea shipping eligibility for capital construction fund.
- Sec. 1123. Short sea transportation report.

Subtitle D—Highways

- Sec. 1131. Increased Federal share for CMAQ projects.
- Sec. 1132. Distribution of rescissions.
- Sec. 1133. Sense of Congress regarding use of complete streets design techniques.

TITLE XII—SMALL BUSINESS ENERGY PROGRAMS

- Sec. 1201. Express loans for renewable energy and energy efficiency.
- Sec. 1202. Pilot program for reduced 7(a) fees for purchase of energy efficient technologies.
- Sec. 1203. Small business energy efficiency.
- Sec. 1204. Larger 504 loan limits to help business develop energy efficient technologies and purchases.
- Sec. 1205. Energy saving debentures.
- Sec. 1206. Investments in energy saving small businesses.
- Sec. 1207. Renewable fuel capital investment company.
- Sec. 1208. Study and report.

TITLE XIII—SMART GRID

- Sec. 1301. Statement of policy on modernization of electricity grid.
- Sec. 1302. Smart grid system report.
- Sec. 1303. Smart grid advisory committee and smart grid task force.
- Sec. 1304. Smart grid technology research, development, and demonstration.
- Sec. 1305. Smart grid interoperability framework.
- Sec. 1306. Federal matching fund for smart grid investment costs.
- Sec. 1307. State consideration of smart grid.
- Sec. 1308. Study of the effect of private wire laws on the development of combined heat and power facilities.
- Sec. 1309. DOE study of security attributes of smart grid systems.

TITLE XIV—POOL AND SPA SAFETY

- Sec. 1401. Short title.
- Sec. 1402. Findings.
- Sec. 1403. Definitions.
- Sec. 1404. Federal swimming pool and spa drain cover standard.
- Sec. 1405. State swimming pool safety grant program.
- Sec. 1406. Minimum State law requirements.
- Sec. 1407. Education program.

Sec. 1408. CPSC report.

TITLE XV—REVENUE PROVISIONS

Sec. 1500. Amendment of 1986 Code.

Sec. 1501. Extension of additional 0.2 percent FUTA surtax.

Sec. 1502. 7-year amortization of geological and geophysical expenditures for certain major integrated oil companies.

TITLE XVI—EFFECTIVE DATE

Sec. 1601. Effective date.

42 USC 17001.

SEC. 2. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—The term “Department” means the Department of Energy.

(2) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) SECRETARY.—The term “Secretary” means the Secretary of Energy.

42 USC 17002.

SEC. 3. RELATIONSHIP TO OTHER LAW.

Except to the extent expressly provided in this Act or an amendment made by this Act, nothing in this Act or an amendment made by this Act supersedes, limits the authority provided or responsibility conferred by, or authorizes any violation of any provision of law (including a regulation), including any energy or environmental law or regulation.

TITLE I—ENERGY SECURITY THROUGH IMPROVED VEHICLE FUEL ECONOMY

Ten-in-Ten Fuel
Economy Act.

Subtitle A—Increased Corporate Average Fuel Economy Standards

42 USC 30101
note.

SEC. 101. SHORT TITLE.

This subtitle may be cited as the “Ten-in-Ten Fuel Economy Act”.

SEC. 102. AVERAGE FUEL ECONOMY STANDARDS FOR AUTOMOBILES AND CERTAIN OTHER VEHICLES.

(a) INCREASED STANDARDS.—Section 32902 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “NON-PASSENGER AUTOMOBILES.—” and inserting “PRESCRIPTION OF STANDARDS BY REGULATION.—”;

(B) by striking “(except passenger automobiles)” in subsection (a); and

(C) by striking the last sentence;

(2) by striking subsection (b) and inserting the following:

“(b) STANDARDS FOR AUTOMOBILES AND CERTAIN OTHER VEHICLES.—

“(1) IN GENERAL.—The Secretary of Transportation, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall prescribe separate average fuel economy standards for—

“(A) passenger automobiles manufactured by manufacturers in each model year beginning with model year 2011 in accordance with this subsection;

“(B) non-passenger automobiles manufactured by manufacturers in each model year beginning with model year 2011 in accordance with this subsection; and

“(C) work trucks and commercial medium-duty or heavy-duty on-highway vehicles in accordance with subsection (k).

“(2) FUEL ECONOMY STANDARDS FOR AUTOMOBILES.—

“(A) AUTOMOBILE FUEL ECONOMY AVERAGE FOR MODEL YEARS 2011 THROUGH 2020.—The Secretary shall prescribe a separate average fuel economy standard for passenger automobiles and a separate average fuel economy standard for non-passenger automobiles for each model year beginning with model year 2011 to achieve a combined fuel economy average for model year 2020 of at least 35 miles per gallon for the total fleet of passenger and non-passenger automobiles manufactured for sale in the United States for that model year.

“(B) AUTOMOBILE FUEL ECONOMY AVERAGE FOR MODEL YEARS 2021 THROUGH 2030.—For model years 2021 through 2030, the average fuel economy required to be attained by each fleet of passenger and non-passenger automobiles manufactured for sale in the United States shall be the maximum feasible average fuel economy standard for each fleet for that model year.

“(C) PROGRESS TOWARD STANDARD REQUIRED.—In prescribing average fuel economy standards under subparagraph (A), the Secretary shall prescribe annual fuel economy standard increases that increase the applicable average fuel economy standard ratably beginning with model year 2011 and ending with model year 2020.

“(3) AUTHORITY OF THE SECRETARY.—The Secretary shall—

Regulations.

“(A) prescribe by regulation separate average fuel economy standards for passenger and non-passenger automobiles based on 1 or more vehicle attributes related to fuel economy and express each standard in the form of a mathematical function; and

“(B) issue regulations under this title prescribing average fuel economy standards for at least 1, but not more than 5, model years.

“(4) MINIMUM STANDARD.—In addition to any standard prescribed pursuant to paragraph (3), each manufacturer shall also meet the minimum standard for domestically manufactured passenger automobiles, which shall be the greater of—

“(A) 27.5 miles per gallon; or

“(B) 92 percent of the average fuel economy projected by the Secretary for the combined domestic and non-domestic passenger automobile fleets manufactured for sale in the United States by all manufacturers in the model year, which projection shall be published in the Federal

Federal Register,
publication.

Register when the standard for that model year is promulgated in accordance with this section.”; and

(3) in subsection (c)—

(A) by striking “(1) Subject to paragraph (2) of this subsection, the” and inserting “The”; and

(B) by striking paragraph (2).

(b) FUEL ECONOMY STANDARD FOR COMMERCIAL MEDIUM-DUTY AND HEAVY-DUTY ON-HIGHWAY VEHICLES AND WORK TRUCKS.—Section 32902 of title 49, United States Code, is amended by adding at the end the following:

“(k) COMMERCIAL MEDIUM- AND HEAVY-DUTY ON-HIGHWAY VEHICLES AND WORK TRUCKS.—

“(1) STUDY.—Not later than 1 year after the National Academy of Sciences publishes the results of its study under section 108 of the Ten-in-Ten Fuel Economy Act, the Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall examine the fuel efficiency of commercial medium- and heavy-duty on-highway vehicles and work trucks and determine—

“(A) the appropriate test procedures and methodologies for measuring the fuel efficiency of such vehicles and work trucks;

“(B) the appropriate metric for measuring and expressing commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency performance, taking into consideration, among other things, the work performed by such on-highway vehicles and work trucks and types of operations in which they are used;

“(C) the range of factors, including, without limitation, design, functionality, use, duty cycle, infrastructure, and total overall energy consumption and operating costs that affect commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency; and

“(D) such other factors and conditions that could have an impact on a program to improve commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency.

Deadline.

“(2) RULEMAKING.—Not later than 24 months after completion of the study required under paragraph (1), the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, by regulation, shall determine in a rulemaking proceeding how to implement a commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency improvement program designed to achieve the maximum feasible improvement, and shall adopt and implement appropriate test methods, measurement metrics, fuel economy standards, and compliance and enforcement protocols that are appropriate, cost-effective, and technologically feasible for commercial medium- and heavy-duty on-highway vehicles and work trucks. The Secretary may prescribe separate standards for different classes of vehicles under this subsection.

“(3) LEAD-TIME; REGULATORY STABILITY.—The commercial medium- and heavy-duty on-highway vehicle and work truck fuel economy standard adopted pursuant to this subsection shall provide not less than—

- “(A) 4 full model years of regulatory lead-time; and
- “(B) 3 full model years of regulatory stability.”.

SEC. 103. DEFINITIONS.

(a) IN GENERAL.—Section 32901(a) of title 49, United States Code, is amended—

(1) by striking paragraph (3) and inserting the following:
“(3) except as provided in section 32908 of this title, ‘automobile’ means a 4-wheeled vehicle that is propelled by fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways and rated at less than 10,000 pounds gross vehicle weight, except—

“(A) a vehicle operated only on a rail line;

“(B) a vehicle manufactured in different stages by 2 or more manufacturers, if no intermediate or final-stage manufacturer of that vehicle manufactures more than 10,000 multi-stage vehicles per year; or

“(C) a work truck.”;

(2) by redesignating paragraphs (7) through (16) as paragraphs (8) through (17), respectively;

(3) by inserting after paragraph (6) the following:

“(7) ‘commercial medium- and heavy-duty on-highway vehicle’ means an on-highway vehicle with a gross vehicle weight rating of 10,000 pounds or more.”;

(4) in paragraph (9)(A), as redesignated, by inserting “or a mixture of biodiesel and diesel fuel meeting the standard established by the American Society for Testing and Materials or under section 211(u) of the Clean Air Act (42 U.S.C. 7545(u)) for fuel containing 20 percent biodiesel (commonly known as ‘B20’)” after “alternative fuel”;

(5) by redesignating paragraph (17), as redesignated, as paragraph (18);

(6) by inserting after paragraph (16), as redesignated, the following:

“(17) ‘non-passenger automobile’ means an automobile that is not a passenger automobile or a work truck.”; and

(7) by adding at the end the following:

“(19) ‘work truck’ means a vehicle that—

“(A) is rated at between 8,500 and 10,000 pounds gross vehicle weight; and

“(B) is not a medium-duty passenger vehicle (as defined in section 86.1803-01 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of the Ten-in-Ten Fuel Economy Act).”.

SEC. 104. CREDIT TRADING PROGRAM.

(a) IN GENERAL.—Section 32903 of title 49, United States Code, is amended—

(1) by striking “section 32902(b)–(d) of this title” each place it appears and inserting “subsections (a) through (d) of section 32902”;

(2) in subsection (a)(2)—

(A) by striking “3 consecutive model years” and inserting “5 consecutive model years”;

(B) by striking “clause (1) of this subsection,” and inserting “paragraph (1)”;

(3) by redesignating subsection (f) as subsection (h); and

(4) by inserting after subsection (e) the following:

“(f) CREDIT TRADING AMONG MANUFACTURERS.—

“(1) IN GENERAL.—The Secretary of Transportation may establish, by regulation, a fuel economy credit trading program to allow manufacturers whose automobiles exceed the average fuel economy standards prescribed under section 32902 to earn credits to be sold to manufacturers whose automobiles fail to achieve the prescribed standards such that the total oil savings associated with manufacturers that exceed the prescribed standards are preserved when trading credits to manufacturers that fail to achieve the prescribed standards.

“(2) LIMITATION.—The trading of credits by a manufacturer to the category of passenger automobiles manufactured domestically is limited to the extent that the fuel economy level of such automobiles shall comply with the requirements of section 32902(b)(4), without regard to any trading of credits from other manufacturers.

“(g) CREDIT TRANSFERRING WITHIN A MANUFACTURER’S FLEET.—

Regulations.

“(1) IN GENERAL.—The Secretary of Transportation shall establish by regulation a fuel economy credit transferring program to allow any manufacturer whose automobiles exceed any of the average fuel economy standards prescribed under section 32902 to transfer the credits earned under this section and to apply such credits within that manufacturer’s fleet to a compliance category of automobiles that fails to achieve the prescribed standards.

“(2) YEARS FOR WHICH USED.—Credits transferred under this subsection are available to be used in the same model years that the manufacturer could have applied such credits under subsections (a), (b), (d), and (e), as well as for the model year in which the manufacturer earned such credits.

“(3) MAXIMUM INCREASE.—The maximum increase in any compliance category attributable to transferred credits is—

“(A) for model years 2011 through 2013, 1.0 mile per gallon;

“(B) for model years 2014 through 2017, 1.5 miles per gallon; and

“(C) for model year 2018 and subsequent model years, 2.0 miles per gallon.

“(4) LIMITATION.—The transfer of credits by a manufacturer to the category of passenger automobiles manufactured domestically is limited to the extent that the fuel economy level of such automobiles shall comply with the requirements under section 32904(b)(4), without regard to any transfer of credits from other categories of automobiles described in paragraph (6)(B).

“(5) YEARS AVAILABLE.—A credit may be transferred under this subsection only if it is earned after model year 2010.

“(6) DEFINITIONS.—In this subsection:

“(A) FLEET.—The term ‘fleet’ means all automobiles manufactured by a manufacturer in a particular model year.

“(B) COMPLIANCE CATEGORY OF AUTOMOBILES.—The term ‘compliance category of automobiles’ means any of the following 3 categories of automobiles for which compliance is separately calculated under this chapter:

“(i) Passenger automobiles manufactured domestically.

“(ii) Passenger automobiles not manufactured domestically.

“(iii) Non-passenger automobiles.”.

(b) CONFORMING AMENDMENTS.—

(1) LIMITATIONS.—Section 32902(h) of title 49, United States Code, is amended—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(3) may not consider, when prescribing a fuel economy standard, the trading, transferring, or availability of credits under section 32903.”.

(2) SEPARATE CALCULATIONS.—Section 32904(b)(1)(B) is amended by striking “chapter.” and inserting “chapter, except for the purposes of section 32903.”.

SEC. 105. CONSUMER INFORMATION.

Section 32908 of title 49, United States Code, is amended by adding at the end the following:

“(g) CONSUMER INFORMATION.—

Regulations.

“(1) PROGRAM.—The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement by rule a program to require manufacturers—

“(A) to label new automobiles sold in the United States with—

“(i) information reflecting an automobile’s performance on the basis of criteria that the Administrator shall develop, not later than 18 months after the date of the enactment of the Ten-in-Ten Fuel Economy Act, to reflect fuel economy and greenhouse gas and other emissions over the useful life of the automobile;

Criteria.
Deadline.

“(ii) a rating system that would make it easy for consumers to compare the fuel economy and greenhouse gas and other emissions of automobiles at the point of purchase, including a designation of automobiles—

“(I) with the lowest greenhouse gas emissions over the useful life of the vehicles; and

“(II) the highest fuel economy; and

“(iii) a permanent and prominent display that an automobile is capable of operating on an alternative fuel; and

“(B) to include in the owner’s manual for vehicles capable of operating on alternative fuels information that describes that capability and the benefits of using alternative fuels, including the renewable nature and environmental benefits of using alternative fuels.

“(2) CONSUMER EDUCATION.—

“(A) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement by rule a consumer education program to improve consumer understanding of automobile

performance described in paragraph (1)(A)(i) and to inform consumers of the benefits of using alternative fuel in automobiles and the location of stations with alternative fuel capacity.

“(B) FUEL SAVINGS EDUCATION CAMPAIGN.—The Secretary of Transportation shall establish a consumer education campaign on the fuel savings that would be recognized from the purchase of vehicles equipped with thermal management technologies, including energy efficient air conditioning systems and glass.

“(3) FUEL TANK LABELS FOR ALTERNATIVE FUEL AUTOMOBILES.—The Secretary of Transportation shall by rule require a label to be attached to the fuel compartment of vehicles capable of operating on alternative fuels, with the form of alternative fuel stated on the label. A label attached in compliance with the requirements of section 32905(h) is deemed to meet the requirements of this paragraph.

“(4) RULEMAKING DEADLINE.—The Secretary of Transportation shall issue a final rule under this subsection not later than 42 months after the date of the enactment of the Ten-in-Ten Fuel Economy Act.”.

49 USC 32902
note.

SEC. 106. CONTINUED APPLICABILITY OF EXISTING STANDARDS.

Nothing in this subtitle, or the amendments made by this subtitle, shall be construed to affect the application of section 32902 of title 49, United States Code, to passenger automobiles or non-passenger automobiles manufactured before model year 2011.

49 USC 32902
note.
Contracts.

SEC. 107. NATIONAL ACADEMY OF SCIENCES STUDIES.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Transportation shall execute an agreement with the National Academy of Sciences to develop a report evaluating vehicle fuel economy standards, including—

(1) an assessment of automotive technologies and costs to reflect developments since the Academy’s 2002 report evaluating the corporate average fuel economy standards was conducted;

(2) an analysis of existing and potential technologies that may be used practically to improve automobile and medium-duty and heavy-duty truck fuel economy;

(3) an analysis of how such technologies may be practically integrated into the automotive and medium-duty and heavy-duty truck manufacturing process; and

(4) an assessment of how such technologies may be used to meet the new fuel economy standards under chapter 329 of title 49, United States Code, as amended by this subtitle.

(b) REPORT.—The Academy shall submit the report to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with its findings and recommendations not later than 5 years after the date on which the Secretary executes the agreement with the Academy.

(c) QUINQUENNIAL UPDATES.—After submitting the initial report, the Academy shall update the report at 5 year intervals thereafter through 2025.

SEC. 108. NATIONAL ACADEMY OF SCIENCES STUDY OF MEDIUM-DUTY AND HEAVY-DUTY TRUCK FUEL ECONOMY.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Transportation shall execute an agreement with the National Academy of Sciences to develop a report evaluating medium-duty and heavy-duty truck fuel economy standards, including—

Contracts.

(1) an assessment of technologies and costs to evaluate fuel economy for medium-duty and heavy-duty trucks;

(2) an analysis of existing and potential technologies that may be used practically to improve medium-duty and heavy-duty truck fuel economy;

(3) an analysis of how such technologies may be practically integrated into the medium-duty and heavy-duty truck manufacturing process;

(4) an assessment of how such technologies may be used to meet fuel economy standards to be prescribed under section 32902(k) of title 49, United States Code, as amended by this subtitle; and

(5) associated costs and other impacts on the operation of medium-duty and heavy-duty trucks, including congestion.

(b) REPORT.—The Academy shall submit the report to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with its findings and recommendations not later than 1 year after the date on which the Secretary executes the agreement with the Academy.

SEC. 109. EXTENSION OF FLEXIBLE FUEL VEHICLE CREDIT PROGRAM.

(a) IN GENERAL.—Section 32906 of title 49, United States Code, is amended to read as follows:

“§ 32906. Maximum fuel economy increase for alternative fuel automobiles

“(a) IN GENERAL.—For each of model years 1993 through 2019 for each category of automobile (except an electric automobile), the maximum increase in average fuel economy for a manufacturer attributable to dual fueled automobiles is—

“(1) 1.2 miles a gallon for each of model years 1993 through 2014;

“(2) 1.0 miles per gallon for model year 2015;

“(3) 0.8 miles per gallon for model year 2016;

“(4) 0.6 miles per gallon for model year 2017;

“(5) 0.4 miles per gallon for model year 2018;

“(6) 0.2 miles per gallon for model year 2019; and

“(7) 0 miles per gallon for model years after 2019.

“(b) CALCULATION.—In applying subsection (a), the Administrator of the Environmental Protection Agency shall determine the increase in a manufacturer’s average fuel economy attributable to dual fueled automobiles by subtracting from the manufacturer’s average fuel economy calculated under section 32905(e) the number equal to what the manufacturer’s average fuel economy would be if it were calculated by the formula under section 32904(a)(1) by including as the denominator for each model of dual fueled automobiles the fuel economy when the automobiles are operated on gasoline or diesel fuel.”.

(b) CONFORMING AMENDMENTS.—Section 32905 of title 49, United States Code, is amended—

(1) in subsection (b), by striking “1993–2010,” and inserting “1993 through 2019,”;

(2) in subsection (d), by striking “1993–2010,” and inserting “1993 through 2019,”;

(3) by striking subsections (f) and (g); and

(4) by redesignating subsection (h) as subsection (f).

(c) B20 BIODIESEL FLEXIBLE FUEL CREDIT.—Section 32905(b)(2) of title 49, United States Code, is amended to read as follows:

“(2) .5 divided by the fuel economy—

“(A) measured under subsection (a) when operating the model on alternative fuel; or

“(B) measured based on the fuel content of B20 when operating the model on B20, which is deemed to contain 0.15 gallon of fuel.”.

42 USC 32908
note.

Effective date.
Deadlines.

SEC. 110. PERIODIC REVIEW OF ACCURACY OF FUEL ECONOMY LABELING PROCEDURES.

Beginning in December 2009, and not less often than every 5 years thereafter, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall—

(1) reevaluate the fuel economy labeling procedures described in the final rule published in the Federal Register on December 27, 2006 (71 Fed. Reg. 77,872; 40 CFR parts 86 and 600) to determine whether changes in the factors used to establish the labeling procedures warrant a revision of that process; and

Reports.

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that describes the results of the reevaluation process.

SEC. 111. CONSUMER TIRE INFORMATION.

(a) IN GENERAL.—Chapter 323 of title 49, United States Code, is amended by inserting after section 32304 the following:

“§ 32304A. Consumer tire information

“(a) RULEMAKING.—

Deadline.

“(1) IN GENERAL.—Not later than 24 months after the date of enactment of the Ten-in-Ten Fuel Economy Act, the Secretary of Transportation shall, after notice and opportunity for comment, promulgate rules establishing a national tire fuel efficiency consumer information program for replacement tires designed for use on motor vehicles to educate consumers about the effect of tires on automobile fuel efficiency, safety, and durability.

“(2) ITEMS INCLUDED IN RULE.—The rulemaking shall include—

“(A) a national tire fuel efficiency rating system for motor vehicle replacement tires to assist consumers in making more educated tire purchasing decisions;

“(B) requirements for providing information to consumers, including information at the point of sale and other potential information dissemination methods, including the Internet;

“(C) specifications for test methods for manufacturers to use in assessing and rating tires to avoid variation among test equipment and manufacturers; and

“(D) a national tire maintenance consumer education program including, information on tire inflation pressure, alignment, rotation, and tread wear to maximize fuel efficiency, safety, and durability of replacement tires.

“(3) APPLICABILITY.—This section shall apply only to replacement tires covered under section 575.104(c) of title 49, Code of Federal Regulations, in effect on the date of the enactment of the Ten-in-Ten Fuel Economy Act.

“(b) CONSULTATION.—The Secretary shall consult with the Secretary of Energy and the Administrator of the Environmental Protection Agency on the means of conveying tire fuel efficiency consumer information.

“(c) REPORT TO CONGRESS.—The Secretary shall conduct periodic assessments of the rules promulgated under this section to determine the utility of such rules to consumers, the level of cooperation by industry, and the contribution to national goals pertaining to energy consumption. The Secretary shall transmit periodic reports detailing the findings of such assessments to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

“(d) TIRE MARKING.—The Secretary shall not require permanent labeling of any kind on a tire for the purpose of tire fuel efficiency information.

“(e) APPLICATION WITH STATE AND LOCAL LAWS AND REGULATIONS.—Nothing in this section prohibits a State or political subdivision thereof from enforcing a law or regulation on tire fuel efficiency consumer information that was in effect on January 1, 2006. After a requirement promulgated under this section is in effect, a State or political subdivision thereof may adopt or enforce a law or regulation on tire fuel efficiency consumer information enacted or promulgated after January 1, 2006, if the requirements of that law or regulation are identical to the requirement promulgated under this section. Nothing in this section shall be construed to preempt a State or political subdivision thereof from regulating the fuel efficiency of tires (including establishing testing methods for determining compliance with such standards) not otherwise preempted under this chapter.”.

(b) ENFORCEMENT.—Section 32308 of title 49, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

“(c) SECTION 32304A.—Any person who fails to comply with the national tire fuel efficiency information program under section 32304A is liable to the United States Government for a civil penalty of not more than \$50,000 for each violation.”.

Penalties.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 323 of title 49, United States Code, is amended by inserting after the item relating to section 32304 the following:

“32304A. Consumer tire information”.

SEC. 112. USE OF CIVIL PENALTIES FOR RESEARCH AND DEVELOPMENT.

Section 32912 of title 49, United States Code, is amended by adding at the end the following:

“(e) **USE OF CIVIL PENALTIES.**—For fiscal year 2008 and each fiscal year thereafter, from the total amount deposited in the general fund of the Treasury during the preceding fiscal year from fines, penalties, and other funds obtained through enforcement actions conducted pursuant to this section (including funds obtained under consent decrees), the Secretary of the Treasury, subject to the availability of appropriations, shall—

“(1) transfer 50 percent of such total amount to the account providing appropriations to the Secretary of Transportation for the administration of this chapter, which shall be used by the Secretary to support rulemaking under this chapter; and

“(2) transfer 50 percent of such total amount to the account providing appropriations to the Secretary of Transportation for the administration of this chapter, which shall be used by the Secretary to carry out a program to make grants to manufacturers for retooling, reequipping, or expanding existing manufacturing facilities in the United States to produce advanced technology vehicles and components.”.

SEC. 113. EXEMPTION FROM SEPARATE CALCULATION REQUIREMENT.

(a) **REPEAL.**—Paragraphs (6), (7), and (8) of section 32904(b) of title 49, United States Code, are repealed.

49 USC 32904
note.

(b) **EFFECT OF REPEAL ON EXISTING EXEMPTIONS.**—Any exemption granted under section 32904(b)(6) of title 49, United States Code, prior to the date of the enactment of this Act shall remain in effect subject to its terms through model year 2013.

(c) **ACCRUAL AND USE OF CREDITS.**—Any manufacturer holding an exemption under section 32904(b)(6) of title 49, United States Code, prior to the date of the enactment of this Act may accrue and use credits under sections 32903 and 32905 of such title beginning with model year 2011.

Subtitle B—Improved Vehicle Technology

42 USC 17011.

SEC. 131. TRANSPORTATION ELECTRIFICATION.

(a) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) **BATTERY.**—The term “battery” means an electrochemical energy storage system powered directly by electrical current.

(3) **ELECTRIC TRANSPORTATION TECHNOLOGY.**—The term “electric transportation technology” means—

(A) technology used in vehicles that use an electric motor for all or part of the motive power of the vehicles, including battery electric, hybrid electric, plug-in hybrid electric, fuel cell, and plug-in fuel cell vehicles, or rail transportation; or

(B) equipment relating to transportation or mobile sources of air pollution that use an electric motor to replace an internal combustion engine for all or part of the work of the equipment, including—

(i) corded electric equipment linked to transportation or mobile sources of air pollution; and

(ii) electrification technologies at airports, ports, truck stops, and material-handling facilities.

(4) NONROAD VEHICLE.—The term “nonroad vehicle” means a vehicle—

(A) powered—

(i) by a nonroad engine, as that term is defined in section 216 of the Clean Air Act (42 U.S.C. 7550); or

(ii) fully or partially by an electric motor powered by a fuel cell, a battery, or an off-board source of electricity; and

(B) that is not a motor vehicle or a vehicle used solely for competition.

(5) PLUG-IN ELECTRIC DRIVE VEHICLE.—The term “plug-in electric drive vehicle” means a vehicle that—

(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

(C) is a light-, medium-, or heavy-duty motor vehicle or nonroad vehicle (as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550)).

(6) QUALIFIED ELECTRIC TRANSPORTATION PROJECT.—The term “qualified electric transportation project” means an electric transportation technology project that would significantly reduce emissions of criteria pollutants, greenhouse gas emissions, and petroleum, including—

(A) shipside or shoreside electrification for vessels;

(B) truck-stop electrification;

(C) electric truck refrigeration units;

(D) battery-powered auxiliary power units for trucks;

(E) electric airport ground support equipment;

(F) electric material and cargo handling equipment;

(G) electric or dual-mode electric rail;

(H) any distribution upgrades needed to supply electricity to the project; and

(I) any ancillary infrastructure, including panel upgrades, battery chargers, in-situ transformers, and trenching.

(b) PLUG-IN ELECTRIC DRIVE VEHICLE PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a competitive program to provide grants on a cost-shared basis to State governments, local governments, metropolitan transportation authorities, air pollution control districts, private or nonprofit entities, or combinations of those governments, authorities, districts, and entities, to carry out one or more projects to encourage the use of plug-in electric drive vehicles or other emerging electric vehicle technologies, as determined by the Secretary.

(2) ADMINISTRATION.—The Secretary shall, in consultation with the Secretary of Transportation and the Administrator, establish requirements for applications for grants under this section, including reporting of data to be summarized for dissemination to grantees and the public, including safety,

Grants.

vehicle, and component performance, and vehicle and component life cycle costs.

(3) PRIORITY.—In making awards under this subsection, the Secretary shall—

(A) give priority consideration to applications that—

(i) encourage early widespread use of vehicles described in paragraph (1); and

(ii) are likely to make a significant contribution to the advancement of the production of the vehicles in the United States; and

(B) ensure, to the maximum extent practicable, that the program established under this subsection includes a variety of applications, manufacturers, and end-uses.

(4) REPORTING.—The Secretary shall require a grant recipient under this subsection to submit to the Secretary, on an annual basis, data relating to safety, vehicle performance, life cycle costs, and emissions of vehicles demonstrated under the grant, including emissions of greenhouse gases.

Applicability.

(5) COST SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to a grant made under this subsection.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$90,000,000 for each of fiscal years 2008 through 2012, of which not less than $\frac{1}{3}$ of the total amount appropriated shall be available each fiscal year to make grants to local and municipal governments.

Grants.

(c) NEAR-TERM TRANSPORTATION SECTOR ELECTRIFICATION PROGRAM.—

Deadline.

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation and the Administrator, shall establish a program to provide grants for the conduct of qualified electric transportation projects.

(2) PRIORITY.—In providing grants under this subsection, the Secretary shall give priority to large-scale projects and large-scale aggregators of projects.

Applicability.

(3) COST SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to a grant made under this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$95,000,000 for each of fiscal years 2008 through 2013.

(d) EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary shall develop a nationwide electric drive transportation technology education program under which the Secretary shall provide—

(A) teaching materials to secondary schools and high schools; and

(B) assistance for programs relating to electric drive system and component engineering to institutions of higher education.

(2) ELECTRIC VEHICLE COMPETITION.—The program established under paragraph (1) shall include a plug-in hybrid electric vehicle competition for institutions of higher education, which shall be known as the “Dr. Andrew Frank Plug-In Electric Vehicle Competition”.

(3) ENGINEERS.—In carrying out the program established under paragraph (1), the Secretary shall provide financial assistance to institutions of higher education to create new, or support existing, degree programs to ensure the availability of trained electrical and mechanical engineers with the skills necessary for the advancement of—

(A) plug-in electric drive vehicles; and

(B) other forms of electric drive transportation technology vehicles.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SEC. 132. DOMESTIC MANUFACTURING CONVERSION GRANT PROGRAM.

Section 712 of the Energy Policy Act of 2005 (42 U.S.C. 16062) is amended to read as follows:

“SEC. 712. DOMESTIC MANUFACTURING CONVERSION GRANT PROGRAM.

“(a) PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish a program to encourage domestic production and sales of efficient hybrid and advanced diesel vehicles and components of those vehicles.

“(2) INCLUSIONS.—The program shall include grants to automobile manufacturers and suppliers and hybrid component manufacturers to encourage domestic production of efficient hybrid, plug-in electric hybrid, plug-in electric drive, and advanced diesel vehicles.

“(3) PRIORITY.—Priority shall be given to the refurbishment or retooling of manufacturing facilities that have recently ceased operation or will cease operation in the near future.

“(b) COORDINATION WITH STATE AND LOCAL PROGRAMS.—The Secretary may coordinate implementation of this section with State and local programs designed to accomplish similar goals, including the retention and retraining of skilled workers from the manufacturing facilities, including by establishing matching grant arrangements.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.”.

SEC. 133. INCLUSION OF ELECTRIC DRIVE IN ENERGY POLICY ACT OF 1992.

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended—

(1) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively;

(2) by inserting before subsection (b) the following:

“(a) DEFINITIONS.—In this section:

“(1) FUEL CELL ELECTRIC VEHICLE.—The term ‘fuel cell electric vehicle’ means an on-road or non-road vehicle that uses a fuel cell (as defined in section 803 of the Spark M. Matsunaga Hydrogen Act of 2005 (42 U.S.C. 16152)).

“(2) HYBRID ELECTRIC VEHICLE.—The term ‘hybrid electric vehicle’ means a new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of the Internal Revenue Code of 1986).

“(3) MEDIUM- OR HEAVY-DUTY ELECTRIC VEHICLE.—The term ‘medium- or heavy-duty electric vehicle’ means an electric, hybrid electric, or plug-in hybrid electric vehicle with a gross vehicle weight of more than 8,501 pounds.

“(4) NEIGHBORHOOD ELECTRIC VEHICLE.—The term ‘neighborhood electric vehicle’ means a 4-wheeled on-road or nonroad vehicle that—

“(A) has a top attainable speed in 1 mile of more than 20 mph and not more than 25 mph on a paved level surface; and

“(B) is propelled by an electric motor and on-board, rechargeable energy storage system that is rechargeable using an off-board source of electricity.

“(5) PLUG-IN ELECTRIC DRIVE VEHICLE.—The term ‘plug-in electric drive vehicle’ means a vehicle that—

“(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

“(B) can be recharged from an external source of electricity for motive power; and

“(C) is a light-, medium-, or heavy duty motor vehicle or nonroad vehicle (as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550)).”;

(3) in subsection (b) (as redesignated by paragraph (1))—

(A) by striking “The Secretary” and inserting the following:

“(1) ALLOCATION.—The Secretary”; and

(B) by adding at the end the following:

“(2) ELECTRIC VEHICLES.—Not later than January 31, 2009, the Secretary shall—

“(A) allocate credit in an amount to be determined by the Secretary for—

“(i) acquisition of—

“(I) a hybrid electric vehicle;

“(II) a plug-in electric drive vehicle;

“(III) a fuel cell electric vehicle;

“(IV) a neighborhood electric vehicle; or

“(V) a medium- or heavy-duty electric vehicle;

and

“(ii) investment in qualified alternative fuel infrastructure or nonroad equipment, as determined by the Secretary; and

“(B) allocate more than 1, but not to exceed 5, credits for investment in an emerging technology relating to any vehicle described in subparagraph (A) to encourage—

“(i) a reduction in petroleum demand;

“(ii) technological advancement; and

“(iii) a reduction in vehicle emissions.”;

(4) in subsection (c) (as redesignated by paragraph (1)), by striking “subsection (a)” and inserting “subsection (b)”; and

(5) by adding at the end the following:

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2013.”.

Deadline.

SEC. 134. LOAN GUARANTEES FOR FUEL-EFFICIENT AUTOMOBILE PARTS MANUFACTURERS.

(a) IN GENERAL.—Section 712(a)(2) of the Energy Policy Act of 2005 (42 U.S.C. 16062(a)(2)) (as amended by section 132) is amended by inserting “and loan guarantees under section 1703” after “grants”.

(b) CONFORMING AMENDMENT.—Section 1703(b) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)) is amended by striking paragraph (8) and inserting the following:

“(8) Production facilities for the manufacture of fuel efficient vehicles or parts of those vehicles, including electric drive vehicles and advanced diesel vehicles.”.

SEC. 135. ADVANCED BATTERY LOAN GUARANTEE PROGRAM.

42 USC 17012.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the manufacture of advanced vehicle batteries and battery systems that are developed and produced in the United States, including advanced lithium ion batteries and hybrid electrical system and component manufacturers and software designers.

(b) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (a) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (a);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(c) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility.

(d) MATURITY.—A loan guaranteed under subsection (a) shall have a maturity of not more than 20 years.

(e) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (a) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(f) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (a) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(g) **GUARANTEE FEE.**—The recipient of a loan guarantee under subsection (a) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(h) **FULL FAITH AND CREDIT.**—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(i) **REPORTS.**—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

(k) **TERMINATION OF AUTHORITY.**—The authority of the Secretary to issue a loan guarantee under subsection (a) terminates on the date that is 10 years after the date of enactment of this Act.

42 USC 17013.

SEC. 136. ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.

(a) **DEFINITIONS.**—In this section:

(1) **ADVANCED TECHNOLOGY VEHICLE.**—The term “advanced technology vehicle” means a light duty vehicle that meets—

(A) the Bin 5 Tier II emission standard established in regulations issued by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)), or a lower-numbered Bin emission standard;

(B) any new emission standard in effect for fine particulate matter prescribed by the Administrator under that Act (42 U.S.C. 7401 et seq.); and

(C) at least 125 percent of the average base year combined fuel economy for vehicles with substantially similar attributes.

(2) **COMBINED FUEL ECONOMY.**—The term “combined fuel economy” means—

(A) the combined city/highway miles per gallon values, as reported in accordance with section 32904 of title 49, United States Code; and

(B) in the case of an electric drive vehicle with the ability to recharge from an off-board source, the reported mileage, as determined in a manner consistent with the Society of Automotive Engineers recommended practice for that configuration or a similar practice recommended by the Secretary.

(3) **ENGINEERING INTEGRATION COSTS.**—The term “engineering integration costs” includes the cost of engineering tasks relating to—

(A) incorporating qualifying components into the design of advanced technology vehicles; and

(B) designing tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced technology vehicles.

(4) QUALIFYING COMPONENTS.—The term “qualifying components” means components that the Secretary determines to be—

(A) designed for advanced technology vehicles; and

(B) installed for the purpose of meeting the performance requirements of advanced technology vehicles.

(b) ADVANCED VEHICLES MANUFACTURING FACILITY.—The Secretary shall provide facility funding awards under this section to automobile manufacturers and component suppliers to pay not more than 30 percent of the cost of—

Awards.

(1) reequipping, expanding, or establishing a manufacturing facility in the United States to produce—

(A) qualifying advanced technology vehicles; or

(B) qualifying components; and

(2) engineering integration performed in the United States of qualifying vehicles and qualifying components.

(c) PERIOD OF AVAILABILITY.—An award under subsection (b) shall apply to—

Applicability.

(1) facilities and equipment placed in service before December 30, 2020; and

(2) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(d) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and subject to the availability of appropriated funds, the Secretary shall carry out a program to provide a total of not more than \$25,000,000,000 in loans to eligible individuals and entities (as determined by the Secretary) for the costs of activities described in subsection (b).

Deadline.

(2) APPLICATION.—An applicant for a loan under this subsection shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a written assurance that—

(A) all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a loan under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40, United States Code; and

(B) the Secretary of Labor shall, with respect to the labor standards described in this paragraph, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40, United States Code.

(3) SELECTION OF ELIGIBLE PROJECTS.—The Secretary shall select eligible projects to receive loans under this subsection in cases in which, as determined by the Secretary, the award recipient—

(A) is financially viable without the receipt of additional Federal funding associated with the proposed project;

(B) will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(C) has met such other criteria as may be established and published by the Secretary.

(4) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; and

(ii) 25 years;

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary; and

(D) shall be made by the Federal Financing Bank.

Regulations.

(e) IMPROVEMENT.—The Secretary shall issue regulations that require that, in order for an automobile manufacturer to be eligible for an award or loan under this section during a particular year, the adjusted average fuel economy of the manufacturer for light duty vehicles produced by the manufacturer during the most recent year for which data are available shall be not less than the average fuel economy for all light duty vehicles of the manufacturer for model year 2005. In order to determine fuel economy baselines for eligibility of a new manufacturer or a manufacturer that has not produced previously produced equivalent vehicles, the Secretary may substitute industry averages.

(f) FEES.—Administrative costs shall be no more than \$100,000 or 10 basis point of the loan.

(g) PRIORITY.—The Secretary shall, in making awards or loans to those manufacturers that have existing facilities, give priority to those facilities that are oldest or have been in existence for at least 20 years. Such facilities can currently be sitting idle.

(h) SET ASIDE FOR SMALL AUTOMOBILE MANUFACTURERS AND COMPONENT SUPPLIERS.—

(1) DEFINITION OF COVERED FIRM.—In this subsection, the term “covered firm” means a firm that—

(A) employs less than 500 individuals; and

(B) manufactures automobiles or components of automobiles.

(2) SET ASIDE.—Of the amount of funds that are used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

Subtitle C—Federal Vehicle Fleets

SEC. 141. FEDERAL VEHICLE FLEETS.

Section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) is amended—

- (1) by redesignating subsection (f) as subsection (g); and
- (2) by inserting after subsection (e) the following new subsection:

section:

“(f) VEHICLE EMISSION REQUIREMENTS.—

“(1) DEFINITIONS.—In this subsection:

“(A) FEDERAL AGENCY.—The term ‘Federal agency’ does not include any office of the legislative branch, except that it does include the House of Representatives with respect to an acquisition described in paragraph (2)(C).

“(B) MEDIUM DUTY PASSENGER VEHICLE.—The term ‘medium duty passenger vehicle’ has the meaning given that term section 523.2 of title 49 of the Code of Federal Regulations, as in effect on the date of enactment of this paragraph.

“(C) MEMBER’S REPRESENTATIONAL ALLOWANCE.—The term ‘Member’s Representational Allowance’ means the allowance described in section 101(a) of the House of Representatives Administrative Reform Technical Corrections Act (2 U.S.C. 57b(a)).

“(2) PROHIBITION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no Federal agency shall acquire a light duty motor vehicle or medium duty passenger vehicle that is not a low greenhouse gas emitting vehicle.

“(B) EXCEPTION.—The prohibition in subparagraph (A) shall not apply to acquisition of a vehicle if the head of the agency certifies in writing, in a separate certification for each individual vehicle purchased, either—

Certification.

“(i) that no low greenhouse gas emitting vehicle is available to meet the functional needs of the agency and details in writing the functional needs that could not be met with a low greenhouse gas emitting vehicle; or

“(ii) that the agency has taken specific alternative more cost-effective measures to reduce petroleum consumption that—

“(I) have reduced a measured and verified quantity of greenhouse gas emissions equal to or greater than the quantity of greenhouse gas reductions that would have been achieved through acquisition of a low greenhouse gas emitting vehicle over the lifetime of the vehicle; or

“(II) will reduce each year a measured and verified quantity of greenhouse gas emissions equal to or greater than the quantity of greenhouse gas reductions that would have been achieved each year through acquisition of a low greenhouse gas emitting vehicle.

“(C) SPECIAL RULE FOR VEHICLES PROVIDED BY FUNDS CONTAINED IN MEMBERS’ REPRESENTATIONAL ALLOWANCE.—This paragraph shall apply to the acquisition of a light

Applicability.

duty motor vehicle or medium duty passenger vehicle using any portion of a Member's Representational Allowance, including an acquisition under a long-term lease.

“(3) GUIDANCE.—

“(A) IN GENERAL.—Each year, the Administrator of the Environmental Protection Agency shall issue guidance identifying the makes and model numbers of vehicles that are low greenhouse gas emitting vehicles.

“(B) CONSIDERATION.—In identifying vehicles under subparagraph (A), the Administrator shall take into account the most stringent standards for vehicle greenhouse gas emissions applicable to and enforceable against motor vehicle manufacturers for vehicles sold anywhere in the United States.

“(C) REQUIREMENT.—The Administrator shall not identify any vehicle as a low greenhouse gas emitting vehicle if the vehicle emits greenhouse gases at a higher rate than such standards allow for the manufacturer's fleet average grams per mile of carbon dioxide-equivalent emissions for that class of vehicle, taking into account any emissions allowances and adjustment factors such standards provide.”.

SEC. 142. FEDERAL FLEET CONSERVATION REQUIREMENTS.

Part J of title III of the Energy Policy and Conservation Act (42 U.S.C. 6374 et seq.) is amended by adding at the end the following:

42 USC 6374e.

“SEC. 400FF. FEDERAL FLEET CONSERVATION REQUIREMENTS.

Deadline.
Regulations.

“(a) MANDATORY REDUCTION IN PETROLEUM CONSUMPTION.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall issue regulations for Federal fleets subject to section 400AA to require that, beginning in fiscal year 2010, each Federal agency shall reduce petroleum consumption and increase alternative fuel consumption each year by an amount necessary to meet the goals described in paragraph (2).

Deadline.

“(2) GOALS.—The goals of the requirements under paragraph (1) are that not later than October 1, 2015, and for each year thereafter, each Federal agency shall achieve at least a 20 percent reduction in annual petroleum consumption and a 10 percent increase in annual alternative fuel consumption, as calculated from the baseline established by the Secretary for fiscal year 2005.

“(3) MILESTONES.—The Secretary shall include in the regulations described in paragraph (1)—

“(A) interim numeric milestones to assess annual agency progress towards accomplishing the goals described in that paragraph; and

“(B) a requirement that agencies annually report on progress towards meeting each of the milestones and the 2015 goals.

“(b) PLAN.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—The regulations under subsection (a) shall require each Federal agency to develop a plan, and implement the measures specified in the plan by dates

specified in the plan, to meet the required petroleum reduction levels and the alternative fuel consumption increases, including the milestones specified by the Secretary.

“(B) INCLUSIONS.—The plan shall—

“(i) identify the specific measures the agency will use to meet the requirements of subsection (a)(2); and

“(ii) quantify the reductions in petroleum consumption or increases in alternative fuel consumption projected to be achieved by each measure each year.

“(2) MEASURES.—The plan may allow an agency to meet the required petroleum reduction level through—

“(A) the use of alternative fuels;

“(B) the acquisition of vehicles with higher fuel economy, including hybrid vehicles, neighborhood electric vehicles, electric vehicles, and plug-in hybrid vehicles if the vehicles are commercially available;

“(C) the substitution of cars for light trucks;

“(D) an increase in vehicle load factors;

“(E) a decrease in vehicle miles traveled;

“(F) a decrease in fleet size; and

“(G) other measures.”.

TITLE II—ENERGY SECURITY THROUGH INCREASED PRODUCTION OF BIOFUELS

Subtitle A—Renewable Fuel Standard

SEC. 201. DEFINITIONS.

Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)) is amended to read as follows:

“(1) DEFINITIONS.—In this section:

“(A) ADDITIONAL RENEWABLE FUEL.—The term ‘additional renewable fuel’ means fuel that is produced from renewable biomass and that is used to replace or reduce the quantity of fossil fuel present in home heating oil or jet fuel.

“(B) ADVANCED BIOFUEL.—

“(i) IN GENERAL.—The term ‘advanced biofuel’ means renewable fuel, other than ethanol derived from corn starch, that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 50 percent less than baseline lifecycle greenhouse gas emissions.

“(ii) INCLUSIONS.—The types of fuels eligible for consideration as ‘advanced biofuel’ may include any of the following:

“(I) Ethanol derived from cellulose, hemicellulose, or lignin.

“(II) Ethanol derived from sugar or starch (other than corn starch).

“(III) Ethanol derived from waste material, including crop residue, other vegetative waste material, animal waste, and food waste and yard waste.

“(IV) Biomass-based diesel.

“(V) Biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass.

“(VI) Butanol or other alcohols produced through the conversion of organic matter from renewable biomass.

“(VII) Other fuel derived from cellulosic biomass.

“(C) BASELINE LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term ‘baseline lifecycle greenhouse gas emissions’ means the average lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, for gasoline or diesel (which ever is being replaced by the renewable fuel) sold or distributed as transportation fuel in 2005.

Notice.

“(D) BIOMASS-BASED DIESEL.—The term ‘biomass-based diesel’ means renewable fuel that is biodiesel as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)) and that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 50 percent less than the baseline lifecycle greenhouse gas emissions. Notwithstanding the preceding sentence, renewable fuel derived from co-processing biomass with a petroleum feedstock shall be advanced biofuel if it meets the requirements of subparagraph (B), but is not biomass-based diesel.

“(E) CELLULOSIC BIOFUEL.—The term ‘cellulosic biofuel’ means renewable fuel derived from any cellulose, hemicellulose, or lignin that is derived from renewable biomass and that has lifecycle greenhouse gas emissions, as determined by the Administrator, that are at least 60 percent less than the baseline lifecycle greenhouse gas emissions.

“(F) CONVENTIONAL BIOFUEL.—The term ‘conventional biofuel’ means renewable fuel that is ethanol derived from corn starch.

“(G) GREENHOUSE GAS.—The term ‘greenhouse gas’ means carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, sulfur hexafluoride. The Administrator may include any other anthropogenically-emitted gas that is determined by the Administrator, after notice and comment, to contribute to global warming.

“(H) LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term ‘lifecycle greenhouse gas emissions’ means the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions such as significant emissions from land use changes), as determined by the Administrator, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

“(I) RENEWABLE BIOMASS.—The term ‘renewable biomass’ means each of the following:

“(i) Planted crops and crop residue harvested from agricultural land cleared or cultivated at any time prior to the enactment of this sentence that is either actively managed or fallow, and nonforested.

“(ii) Planted trees and tree residue from actively managed tree plantations on non-federal land cleared at any time prior to enactment of this sentence, including land belonging to an Indian tribe or an Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States.

“(iii) Animal waste material and animal byproducts.

“(iv) Slash and pre-commercial thinnings that are from non-federal forestlands, including forestlands belonging to an Indian tribe or an Indian individual, that are held in trust by the United States or subject to a restriction against alienation imposed by the United States, but not forests or forestlands that are ecological communities with a global or State ranking of critically imperiled, imperiled, or rare pursuant to a State Natural Heritage Program, old growth forest, or late successional forest.

“(v) Biomass obtained from the immediate vicinity of buildings and other areas regularly occupied by people, or of public infrastructure, at risk from wildfire.

“(vi) Algae.

“(vii) Separated yard waste or food waste, including recycled cooking and trap grease.

“(J) RENEWABLE FUEL.—The term ‘renewable fuel’ means fuel that is produced from renewable biomass and that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel.

“(K) SMALL REFINERY.—The term ‘small refinery’ means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

“(L) TRANSPORTATION FUEL.—The term ‘transportation fuel’ means fuel for use in motor vehicles, motor vehicle engines, nonroad vehicles, or nonroad engines (except for ocean-going vessels).”.

SEC. 202. RENEWABLE FUEL STANDARD.

(a) RENEWABLE FUEL PROGRAM.—Paragraph (2) of section 211(o) (42 U.S.C. 7545(o)(2)) of the Clean Air Act is amended as follows:

(1) REGULATIONS.—Clause (i) of subparagraph (A) is amended by adding the following at the end thereof: “Not later than 1 year after the date of enactment of this sentence, the Administrator shall revise the regulations under this paragraph to ensure that transportation fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains at least the applicable volume of renewable fuel, advanced biofuel, cellulosic biofuel, and biomass-based diesel, determined

Deadline.

in accordance with subparagraph (B) and, in the case of any such renewable fuel produced from new facilities that commence construction after the date of enactment of this sentence, achieves at least a 20 percent reduction in lifecycle greenhouse gas emissions compared to baseline lifecycle greenhouse gas emissions.”.

(2) APPLICABLE VOLUMES OF RENEWABLE FUEL.—Subparagraph (B) is amended to read as follows:

“(B) APPLICABLE VOLUMES.—

“(i) CALENDAR YEARS AFTER 2005.—

“(I) RENEWABLE FUEL.—For the purpose of subparagraph (A), the applicable volume of renewable fuel for the calendar years 2006 through 2022 shall be determined in accordance with the following table:

“Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2006	4.0
2007	4.7
2008	9.0
2009	11.1
2010	12.95
2011	13.95
2012	15.2
2013	16.55
2014	18.15
2015	20.5
2016	22.25
2017	24.0
2018	26.0
2019	28.0
2020	30.0
2021	33.0
2022	36.0

“(II) ADVANCED BIOFUEL.—For the purpose of subparagraph (A), of the volume of renewable fuel required under subclause (I), the applicable volume of advanced biofuel for the calendar years 2009 through 2022 shall be determined in accordance with the following table:

“Calendar year:	Applicable volume of advanced biofuel (in billions of gallons):
2009	0.6
2010	0.95
2011	1.35
2012	2.0
2013	2.75
2014	3.75
2015	5.5
2016	7.25
2017	9.0
2018	11.0
2019	13.0
2020	15.0
2021	18.0
2022	21.0

“(III) CELLULOSIC BIOFUEL.—For the purpose of subparagraph (A), of the volume of advanced biofuel required under subclause (II), the applicable volume of cellulosic biofuel for the calendar years 2010 through 2022 shall be determined in accordance with the following table:

“Calendar year:	Applicable volume of cellulosic biofuel (in billions of gallons):
2010	0.1
2011	0.25
2012	0.5
2013	1.0
2014	1.75
2015	3.0
2016	4.25
2017	5.5
2018	7.0
2019	8.5
2020	10.5
2021	13.5
2022	16.0

“(IV) BIOMASS-BASED DIESEL.—For the purpose of subparagraph (A), of the volume of advanced biofuel required under subclause (II), the applicable volume of biomass-based diesel for the calendar years 2009 through 2012 shall be determined in accordance with the following table:

“Calendar year:	Applicable volume of biomass- based diesel (in billions of gallons):
2009	0.5
2010	0.65
2011	0.80
2012	1.0

“(ii) OTHER CALENDAR YEARS.—For the purposes of subparagraph (A), the applicable volumes of each fuel specified in the tables in clause (i) for calendar years after the calendar years specified in the tables shall be determined by the Administrator, in coordination with the Secretary of Energy and the Secretary of Agriculture, based on a review of the implementation of the program during calendar years specified in the tables, and an analysis of—

“(I) the impact of the production and use of renewable fuels on the environment, including on air quality, climate change, conversion of wetlands, ecosystems, wildlife habitat, water quality, and water supply;

“(II) the impact of renewable fuels on the energy security of the United States;

“(III) the expected annual rate of future commercial production of renewable fuels, including advanced biofuels in each category (cellulosic biofuel and biomass-based diesel);

“(IV) the impact of renewable fuels on the infrastructure of the United States, including deliverability of materials, goods, and products other than renewable fuel, and the sufficiency of infrastructure to deliver and use renewable fuel;

“(V) the impact of the use of renewable fuels on the cost to consumers of transportation fuel and on the cost to transport goods; and

“(VI) the impact of the use of renewable fuels on other factors, including job creation, the price and supply of agricultural commodities, rural economic development, and food prices.

Regulations.
Deadline.

The Administrator shall promulgate rules establishing the applicable volumes under this clause no later than 14 months before the first year for which such applicable volume will apply.

“(iii) APPLICABLE VOLUME OF ADVANCED BIOFUEL.—For the purpose of making the determinations in clause (ii), for each calendar year, the applicable volume of advanced biofuel shall be at least the same percentage of the applicable volume of renewable fuel as in calendar year 2022.

“(iv) APPLICABLE VOLUME OF CELLULOSIC BIOFUEL.—For the purpose of making the determinations in clause (ii), for each calendar year, the applicable volume of cellulosic biofuel established by the Administrator shall be based on the assumption that the Administrator will not need to issue a waiver for such years under paragraph (7)(D).

“(v) MINIMUM APPLICABLE VOLUME OF BIOMASS-BASED DIESEL.—For the purpose of making the determinations in clause (ii), the applicable volume of biomass-based diesel shall not be less than the applicable volume listed in clause (i)(IV) for calendar year 2012.”.

(b) APPLICABLE PERCENTAGES.—Paragraph (3) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(3)) is amended as follows:

(1) In subparagraph (A), by striking “2011” and inserting “2021”.

(2) In subparagraph (A), by striking “gasoline” and inserting “transportation fuel, biomass-based diesel, and cellulosic biofuel”.

(3) In subparagraph (B), by striking “2012” and inserting “2021” in clause (i).

(4) In subparagraph (B), by striking “gasoline” and inserting “transportation fuel” in clause (ii)(II).

(c) MODIFICATION OF GREENHOUSE GAS PERCENTAGES.—Paragraph (4) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(4)) is amended to read as follows:

“(4) MODIFICATION OF GREENHOUSE GAS REDUCTION PERCENTAGES.—

“(A) IN GENERAL.—The Administrator may, in the regulations under the last sentence of paragraph (2)(A)(i), adjust the 20 percent, 50 percent, and 60 percent reductions in lifecycle greenhouse gas emissions specified in paragraphs (2)(A)(i) (relating to renewable fuel), (1)(D) (relating to biomass-based diesel), (1)(B)(i) (relating to advanced biofuel),

and (1)(E) (relating to cellulosic biofuel) to a lower percentage. For the 50 and 60 percent reductions, the Administrator may make such an adjustment only if he determines that generally such reduction is not commercially feasible for fuels made using a variety of feedstocks, technologies, and processes to meet the applicable reduction.

“(B) AMOUNT OF ADJUSTMENT.—In promulgating regulations under this paragraph, the specified 50 percent reduction in greenhouse gas emissions from advanced biofuel and in biomass-based diesel may not be reduced below 40 percent. The specified 20 percent reduction in greenhouse gas emissions from renewable fuel may not be reduced below 10 percent, and the specified 60 percent reduction in greenhouse gas emissions from cellulosic biofuel may not be reduced below 50 percent.

“(C) ADJUSTED REDUCTION LEVELS.—An adjustment under this paragraph to a percent less than the specified 20 percent greenhouse gas reduction for renewable fuel shall be the minimum possible adjustment, and the adjusted greenhouse gas reduction shall be established by the Administrator at the maximum achievable level, taking cost in consideration, for natural gas fired corn-based ethanol plants, allowing for the use of a variety of technologies and processes. An adjustment in the 50 or 60 percent greenhouse gas levels shall be the minimum possible adjustment for the fuel or fuels concerned, and the adjusted greenhouse gas reduction shall be established at the maximum achievable level, taking cost in consideration, allowing for the use of a variety of feedstocks, technologies, and processes.

“(D) 5-YEAR REVIEW.—Whenever the Administrator makes any adjustment under this paragraph, not later than 5 years thereafter he shall review and revise (based upon the same criteria and standards as required for the initial adjustment) the regulations establishing the adjusted level.

Deadline.

“(E) SUBSEQUENT ADJUSTMENTS.—After the Administrator has promulgated a final rule under the last sentence of paragraph (2)(A)(i) with respect to the method of determining lifecycle greenhouse gas emissions, except as provided in subparagraph (D), the Administrator may not adjust the percent greenhouse gas reduction levels unless he determines that there has been a significant change in the analytical methodology used for determining the lifecycle greenhouse gas emissions. If he makes such determination, he may adjust the 20, 50, or 60 percent reduction levels through rulemaking using the criteria and standards set forth in this paragraph.

“(F) LIMIT ON UPWARD ADJUSTMENTS.—If, under subparagraph (D) or (E), the Administrator revises a percent level adjusted as provided in subparagraphs (A), (B), and (C) to a higher percent, such higher percent may not exceed the applicable percent specified in paragraph (2)(A)(i), (1)(D), (1)(B)(i), or (1)(E).

“(G) APPLICABILITY OF ADJUSTMENTS.—If the Administrator adjusts, or revises, a percent level referred to in

this paragraph or makes a change in the analytical methodology used for determining the lifecycle greenhouse gas emissions, such adjustment, revision, or change (or any combination thereof) shall only apply to renewable fuel from new facilities that commence construction after the effective date of such adjustment, revision, or change.”.

(d) CREDITS FOR ADDITIONAL RENEWABLE FUEL.—Paragraph (5) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(5)) is amended by adding the following new subparagraph at the end thereof:

“(E) CREDITS FOR ADDITIONAL RENEWABLE FUEL.—The Administrator may issue regulations providing: (i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports additional renewable fuels specified by the Administrator; and (ii) for the use of such credits by the generator, or the transfer of all or a portion of the credits to another person, for the purpose of complying with paragraph (2).”.

(e) WAIVERS.—

(1) IN GENERAL.—Paragraph (7)(A) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(7)(A)) is amended by inserting “, by any person subject to the requirements of this subsection, or by the Administrator on his own motion” after “one or more States” in subparagraph (A) and by striking out “State” in subparagraph (B).

(2) CELLULOSIC BIOFUEL.—Paragraph (7) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(7)) is amended by adding the following at the end thereof:

Deadline.

“(D) CELLULOSIC BIOFUEL.—(i) For any calendar year for which the projected volume of cellulosic biofuel production is less than the minimum applicable volume established under paragraph (2)(B), as determined by the Administrator based on the estimate provided under paragraph (3)(A), not later than November 30 of the preceding calendar year, the Administrator shall reduce the applicable volume of cellulosic biofuel required under paragraph (2)(B) to the projected volume available during that calendar year. For any calendar year in which the Administrator makes such a reduction, the Administrator may also reduce the applicable volume of renewable fuel and advanced biofuels requirement established under paragraph (2)(B) by the same or a lesser volume.

“(ii) Whenever the Administrator reduces the minimum cellulosic biofuel volume under this subparagraph, the Administrator shall make available for sale cellulosic biofuel credits at the higher of \$0.25 per gallon or the amount by which \$3.00 per gallon exceeds the average wholesale price of a gallon of gasoline in the United States. Such amounts shall be adjusted for inflation by the Administrator for years after 2008.

Deadline.
Regulations.

“(iii) Eighteen months after the date of enactment of this subparagraph, the Administrator shall promulgate regulations to govern the issuance of credits under this subparagraph. The regulations shall set forth the method for determining the exact price of credits in the event of a waiver. The price of such credits shall not be changed more frequently than once each quarter. These regulations

shall include such provisions, including limiting the credits' uses and useful life, as the Administrator deems appropriate to assist market liquidity and transparency, to provide appropriate certainty for regulated entities and renewable fuel producers, and to limit any potential misuse of cellulosic biofuel credits to reduce the use of other renewable fuels, and for such other purposes as the Administrator determines will help achieve the goals of this subsection. The regulations shall limit the number of cellulosic biofuel credits for any calendar year to the minimum applicable volume (as reduced under this subparagraph) of cellulosic biofuel for that year.”.

(3) BIOMASS-BASED DIESEL.—Paragraph (7) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)(7)) is amended by adding the following at the end thereof:

“(E) BIOMASS-BASED DIESEL.—

“(i) MARKET EVALUATION.—The Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, shall periodically evaluate the impact of the biomass-based diesel requirements established under this paragraph on the price of diesel fuel.

“(ii) WAIVER.—If the Administrator determines that there is a significant renewable feedstock disruption or other market circumstances that would make the price of biomass-based diesel fuel increase significantly, the Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, shall issue an order to reduce, for up to a 60-day period, the quantity of biomass-based diesel required under subparagraph (A) by an appropriate quantity that does not exceed 15 percent of the applicable annual requirement for biomass-based diesel. For any calendar year in which the Administrator makes a reduction under this subparagraph, the Administrator may also reduce the applicable volume of renewable fuel and advanced biofuels requirement established under paragraph (2)(B) by the same or a lesser volume.

“(iii) EXTENSIONS.—If the Administrator determines that the feedstock disruption or circumstances described in clause (ii) is continuing beyond the 60-day period described in clause (ii) or this clause, the Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, may issue an order to reduce, for up to an additional 60-day period, the quantity of biomass-based diesel required under subparagraph (A) by an appropriate quantity that does not exceed an additional 15 percent of the applicable annual requirement for biomass-based diesel.

“(F) MODIFICATION OF APPLICABLE VOLUMES.—For any of the tables in paragraph (2)(B), if the Administrator waives—

Regulations.
Deadline.

“(i) at least 20 percent of the applicable volume requirement set forth in any such table for 2 consecutive years; or

“(ii) at least 50 percent of such volume requirement for a single year, the Administrator shall promulgate a rule (within 1 year after issuing such waiver) that modifies the applicable volumes set forth in the table concerned for all years following the final year to which the waiver applies, except that no such modification in applicable volumes shall be made for any year before 2016. In promulgating such a rule, the Administrator shall comply with the processes, criteria, and standards set forth in paragraph (2)(B)(ii).”.

SEC. 203. STUDY OF IMPACT OF RENEWABLE FUEL STANDARD.

Contracts.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study to assess the impact of the requirements described in section 211(o) of the Clean Air Act on each industry relating to the production of feed grains, livestock, food, forest products, and energy.

(b) PARTICIPATION.—In conducting the study under this section, the National Academy of Sciences shall seek the participation, and consider the input, of—

- (1) producers of feed grains;
- (2) producers of livestock, poultry, and pork products;
- (3) producers of food and food products;
- (4) producers of energy;
- (5) individuals and entities interested in issues relating to conservation, the environment, and nutrition;
- (6) users and consumers of renewable fuels;
- (7) producers and users of biomass feedstocks; and
- (8) land grant universities.

(c) CONSIDERATIONS.—In conducting the study, the National Academy of Sciences shall consider—

- (1) the likely impact on domestic animal agriculture feedstocks that, in any crop year, are significantly below current projections;
- (2) policy options to alleviate the impact on domestic animal agriculture feedstocks that are significantly below current projections; and
- (3) policy options to maintain regional agricultural and silvicultural capability.

(d) COMPONENTS.—The study shall include—

- (1) a description of the conditions under which the requirements described in section 211(o) of the Clean Air Act should be suspended or reduced to prevent adverse impacts to domestic animal agriculture feedstocks described in subsection (c)(2) or regional agricultural and silvicultural capability described in subsection (c)(3); and

- (2) recommendations for the means by which the Federal Government could prevent or minimize adverse economic hardships and impacts.

Reports.

(e) DEADLINE FOR COMPLETION OF STUDY.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study under this section.

(f) PERIODIC REVIEWS.—Section 211(o) of the Clean Air Act 42 USC 7545.
is amended by adding the following at the end thereof:

“(11) PERIODIC REVIEWS.—To allow for the appropriate adjustment of the requirements described in subparagraph (B) of paragraph (2), the Administrator shall conduct periodic reviews of—

“(A) existing technologies;

“(B) the feasibility of achieving compliance with the requirements; and

“(C) the impacts of the requirements described in subsection (a)(2) on each individual and entity described in paragraph (2).”.

SEC. 204. ENVIRONMENTAL AND RESOURCE CONSERVATION IMPACTS.

42 USC 7545
note.
Deadlines.
Reports.

(a) IN GENERAL.—Not later than 3 years after the enactment of this section and every 3 years thereafter, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall assess and report to Congress on the impacts to date and likely future impacts of the requirements of section 211(o) of the Clean Air Act on the following:

(1) Environmental issues, including air quality, effects on hypoxia, pesticides, sediment, nutrient and pathogen levels in waters, acreage and function of waters, and soil environmental quality.

(2) Resource conservation issues, including soil conservation, water availability, and ecosystem health and biodiversity, including impacts on forests, grasslands, and wetlands.

(3) The growth and use of cultivated invasive or noxious plants and their impacts on the environment and agriculture. In advance of preparing the report required by this subsection, the Administrator may seek the views of the National Academy of Sciences or another appropriate independent research institute. The report shall include the annual volume of imported renewable fuels and feedstocks for renewable fuels, and the environmental impacts outside the United States of producing such fuels and feedstocks. The report required by this subsection shall include recommendations for actions to address any adverse impacts found.

(b) EFFECT ON AIR QUALITY AND OTHER ENVIRONMENTAL REQUIREMENTS.—Except as provided in section 211(o)(12) of the Clean Air Act, nothing in the amendments made by this title to section 211(o) of the Clean Air Act shall be construed as superseding, or limiting, any more environmentally protective requirement under the Clean Air Act, or under any other provision of State or Federal law or regulation, including any environmental law or regulation.

SEC. 205. BIOMASS-BASED DIESEL AND BIODIESEL LABELING.

42 USC 17021.

(a) IN GENERAL.—Each retail diesel fuel pump shall be labeled in a manner that informs consumers of the percent of biomass-based diesel or biodiesel that is contained in the biomass-based diesel blend or biodiesel blend that is offered for sale, as determined by the Federal Trade Commission.

(b) LABELING REQUIREMENTS.—Not later than 180 days after the date of enactment of this section, the Federal Trade Commission shall promulgate biodiesel labeling requirements as follows:

Deadline.

(1) Biomass-based diesel blends or biodiesel blends that contain less than or equal to 5 percent biomass-based diesel

or biodiesel by volume and that meet ASTM D975 diesel specifications shall not require any additional labels.

(2) Biomass-based diesel blends or biodiesel blends that contain more than 5 percent biomass-based diesel or biodiesel by volume but not more than 20 percent by volume shall be labeled “contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent”.

(3) Biomass-based diesel or biodiesel blends that contain more than 20 percent biomass based or biodiesel by volume shall be labeled “contains more than 20 percent biomass-based diesel or biodiesel”.

(c) DEFINITIONS.—In this section:

(1) ASTM.—The term “ASTM” means the American Society of Testing and Materials.

(2) BIOMASS-BASED DIESEL.—The term “biomass-based diesel” means biodiesel as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)).

(3) BIODIESEL.—The term “biodiesel” means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet—

(A) the registration requirements for fuels and fuel additives under this section; and

(B) the requirements of ASTM standard D6751.

(4) BIOMASS-BASED DIESEL AND BIODIESEL BLENDS.—The terms “biomass-based diesel blend” and “biodiesel blend” means a blend of “biomass-based diesel” or “biodiesel” fuel that is blended with petroleum-based diesel fuel.

SEC. 206. STUDY OF CREDITS FOR USE OF RENEWABLE ELECTRICITY IN ELECTRIC VEHICLES.

(a) DEFINITION OF ELECTRIC VEHICLE.—In this section, the term “electric vehicle” means an electric motor vehicle (as defined in section 601 of the Energy Policy Act of 1992 (42 U.S.C. 13271)) for which the rechargeable storage battery—

(1) receives a charge directly from a source of electric current that is external to the vehicle; and

(2) provides a minimum of 80 percent of the motive power of the vehicle.

(b) STUDY.—The Administrator of the Environmental Protection Agency shall conduct a study on the feasibility of issuing credits under the program established under section 211(o) of the Clean Air Act to electric vehicles powered by electricity produced from renewable energy sources.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives a report that describes the results of the study, including a description of—

(1) existing programs and studies on the use of renewable electricity as a means of powering electric vehicles; and

(2) alternatives for—

(A) designing a pilot program to determine the feasibility of using renewable electricity to power electric vehicles as an adjunct to a renewable fuels mandate;

(B) allowing the use, under the pilot program designed under subparagraph (A), of electricity generated from nuclear energy as an additional source of supply;

(C) identifying the source of electricity used to power electric vehicles; and

(D) equating specific quantities of electricity to quantities of renewable fuel under section 211(o) of the Clean Air Act.

SEC. 207. GRANTS FOR PRODUCTION OF ADVANCED BIOFUELS.

42 USC 17022.

(a) IN GENERAL.—The Secretary of Energy shall establish a grant program to encourage the production of advanced biofuels.

(b) REQUIREMENTS AND PRIORITY.—In making grants under this section, the Secretary—

(1) shall make awards to the proposals for advanced biofuels with the greatest reduction in lifecycle greenhouse gas emissions compared to the comparable motor vehicle fuel lifecycle emissions during calendar year 2005; and

(2) shall not make an award to a project that does not achieve at least an 80 percent reduction in such lifecycle greenhouse gas emissions.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$500,000,000 for the period of fiscal years 2008 through 2015.

SEC. 208. INTEGRATED CONSIDERATION OF WATER QUALITY IN DETERMINATIONS ON FUELS AND FUEL ADDITIVES.

Section 211(c)(1) of the Clean Air Act (42 U.S.C. 7545(c)(1)) is amended as follows:

(1) By striking “nonroad vehicle (A) if in the judgment of the Administrator” and inserting “nonroad vehicle if, in the judgment of the Administrator, any fuel or fuel additive or”; and

(2) In subparagraph (A), by striking “air pollution which” and inserting “air pollution or water pollution (including any degradation in the quality of groundwater) that”.

SEC. 209. ANTI-BACKSLIDING.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

“(v) PREVENTION OF AIR QUALITY DETERIORATION.—

“(1) STUDY.—

“(A) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall complete a study to determine whether the renewable fuel volumes required by this section will adversely impact air quality as a result of changes in vehicle and engine emissions of air pollutants regulated under this Act.

“(B) CONSIDERATIONS.—The study shall include consideration of—

“(i) different blend levels, types of renewable fuels, and available vehicle technologies; and

“(ii) appropriate national, regional, and local air quality control measures.

“(2) REGULATIONS.—Not later than 3 years after the date of enactment of this subsection, the Administrator shall—

Deadline.

“(A) promulgate fuel regulations to implement appropriate measures to mitigate, to the greatest extent achievable, considering the results of the study under paragraph (1), any adverse impacts on air quality, as the result of the renewable volumes required by this section; or

“(B) make a determination that no such measures are necessary.”.

SEC. 210. EFFECTIVE DATE, SAVINGS PROVISION, AND TRANSITION RULES.

42 USC 7545
note.

(a) **TRANSITION RULES.**—(1) For calendar year 2008, transportation fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), that is produced from facilities that commence construction after the date of enactment of this Act shall be treated as renewable fuel within the meaning of section 211(o) of the Clean Air Act only if it achieves at least a 20 percent reduction in lifecycle greenhouse gas emissions compared to baseline lifecycle greenhouse gas emissions. For calendar years 2008 and 2009, any ethanol plant that is fired with natural gas, biomass, or any combination thereof is deemed to be in compliance with such 20 percent reduction requirement and with the 20 percent reduction requirement of section 211(o)(1) of the Clean Air Act. The terms used in this subsection shall have the same meaning as provided in the amendment made by this Act to section 211(o) of the Clean Air Act.

Termination
date.

(2) Until January 1, 2009, the Administrator of the Environmental Protection Agency shall implement section 211(o) of the Clean Air Act and the rules promulgated under that section in accordance with the provisions of that section as in effect before the enactment of this Act and in accordance with the rules promulgated before the enactment of this Act, except that for calendar year 2008, the number “9.0” shall be substituted for the number “5.4” in the table in section 211(o)(2)(B) and in the corresponding rules promulgated to carry out those provisions. The Administrator is authorized to take such other actions as may be necessary to carry out this paragraph notwithstanding any other provision of law.

(b) **SAVINGS CLAUSE.**—Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended by adding the following new paragraph at the end thereof:

“(12) **EFFECT ON OTHER PROVISIONS.**—Nothing in this subsection, or regulations issued pursuant to this subsection, shall affect or be construed to affect the regulatory status of carbon dioxide or any other greenhouse gas, or to expand or limit regulatory authority regarding carbon dioxide or any other greenhouse gas, for purposes of other provisions (including section 165) of this Act. The previous sentence shall not affect implementation and enforcement of this subsection.”.

Regulations.
Deadline.
42 USC 7545
note.

(c) **EFFECTIVE DATE.**—The amendments made by this title to section 211(o) of the Clean Air Act shall take effect January 1, 2009, except that the Administrator shall promulgate regulations to carry out such amendments not later than 1 year after the enactment of this Act.

Subtitle B—Biofuels Research and Development

SEC. 221. BIODIESEL.

42 USC 17031.

(a) BIODIESEL STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall submit to Congress a report on any research and development challenges inherent in increasing the proportion of diesel fuel sold in the United States that is biodiesel.

Reports.

(b) MATERIAL FOR THE ESTABLISHMENT OF STANDARDS.—The Director of the National Institute of Standards and Technology, in consultation with the Secretary, shall make publicly available the physical property data and characterization of biodiesel and other biofuels as appropriate.

Public information.

SEC. 222. BIOGAS.

Deadline.
Reports.

Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall submit to Congress a report on any research and development challenges inherent in increasing the amount of transportation fuels sold in the United States that are fuel with biogas or a blend of biogas and natural gas.

SEC. 223. GRANTS FOR BIOFUEL PRODUCTION RESEARCH AND DEVELOPMENT IN CERTAIN STATES.

42 USC 17032.

(a) IN GENERAL.—The Secretary shall provide grants to eligible entities for research, development, demonstration, and commercial application of biofuel production technologies in States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol, as determined by the Secretary.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

(1)(A) be an institution of higher education (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)), including tribally controlled colleges or universities, located in a State described in subsection (a); or

(B) be a consortium including at least 1 such institution of higher education and industry, State agencies, Indian tribal agencies, National Laboratories, or local government agencies located in the State; and

(2) have proven experience and capabilities with relevant technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section \$25,000,000 for each of fiscal years 2008 through 2010.

SEC. 224. BIOREFINERY ENERGY EFFICIENCY.

Section 932 of the Energy Policy Act of 2005 (42 U.S.C. 16232) is amended by adding at the end the following new subsections:

“(g) BIOREFINERY ENERGY EFFICIENCY.—The Secretary shall establish a program of research, development, demonstration, and commercial application for increasing energy efficiency and reducing energy consumption in the operation of biorefinery facilities.

“(h) RETROFIT TECHNOLOGIES FOR THE DEVELOPMENT OF ETHANOL FROM CELLULOSIC MATERIALS.—The Secretary shall establish

a program of research, development, demonstration, and commercial application on technologies and processes to enable biorefineries that exclusively use corn grain or corn starch as a feedstock to produce ethanol to be retrofitted to accept a range of biomass, including lignocellulosic feedstocks.”.

SEC. 225. STUDY OF OPTIMIZATION OF FLEXIBLE FUELED VEHICLES TO USE E-85 FUEL.

(a) **IN GENERAL.**—The Secretary, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall conduct a study of whether optimizing flexible fueled vehicles to operate using E-85 fuel would increase the fuel efficiency of flexible fueled vehicles.

(b) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Science and Technology and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Commerce, Science, and Transportation of the Senate, a report that describes the results of the study under this section, including any recommendations of the Secretary.

SEC. 226. STUDY OF ENGINE DURABILITY AND PERFORMANCE ASSOCIATED WITH THE USE OF BIODIESEL.

(a) **IN GENERAL.**—Not later than 30 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall initiate a study on the effects of the use of biodiesel on the performance and durability of engines and engine systems.

(b) **COMPONENTS.**—The study under this section shall include—

(1) an assessment of whether the use of biodiesel lessens the durability and performance of conventional diesel engines and engine systems; and

(2) an assessment of the effects referred to in subsection (a) with respect to biodiesel blends at varying concentrations, including the following percentage concentrations of biodiesel:

- (A) 5 percent biodiesel.
- (B) 10 percent biodiesel.
- (C) 20 percent biodiesel.
- (D) 30 percent biodiesel.
- (E) 100 percent biodiesel.

(c) **REPORT.**—Not later than 24 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Science and Technology and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate, a report that describes the results of the study under this section, including any recommendations of the Secretary.

SEC. 227. STUDY OF OPTIMIZATION OF BIOGAS USED IN NATURAL GAS VEHICLES.

(a) **IN GENERAL.**—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study of methods of increasing the fuel efficiency of vehicles using biogas by optimizing natural gas vehicle systems that can operate on biogas, including

the advancement of vehicle fuel systems and the combination of hybrid-electric and plug-in hybrid electric drive platforms with natural gas vehicle systems using biogas.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Commerce, Science, and Transportation of the Senate, and to the Committee on Science and Technology and the Committee on Energy and Commerce of the House of Representatives, a report that describes the results of the study, including any recommendations of the Secretary.

SEC. 228. ALGAL BIOMASS.

Deadline.
Reports.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report on the progress of the research and development that is being conducted on the use of algae as a feedstock for the production of biofuels.

(b) CONTENTS.—The report shall identify continuing research and development challenges and any regulatory or other barriers found by the Secretary that hinder the use of this resource, as well as recommendations on how to encourage and further its development as a viable transportation fuel.

SEC. 229. BIOFUELS AND BIOREFINERY INFORMATION CENTER.

Establishment.
42 USC 17033.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, shall establish a biofuels and biorefinery information center to make available to interested parties information on—

(1) renewable fuel feedstocks, including the varieties of fuel capable of being produced from various feedstocks;

(2) biorefinery processing techniques related to various renewable fuel feedstocks;

(3) the distribution, blending, storage, and retail dispensing infrastructure necessary for the transport and use of renewable fuels;

(4) Federal and State laws and incentives related to renewable fuel production and use;

(5) renewable fuel research and development advancements;

(6) renewable fuel development and biorefinery processes and technologies;

(7) renewable fuel resources, including information on programs and incentives for renewable fuels;

(8) renewable fuel producers;

(9) renewable fuel users; and

(10) potential renewable fuel users.

(b) ADMINISTRATION.—In administering the biofuels and biorefinery information center, the Secretary shall—

(1) continually update information provided by the center;

(2) make information available relating to processes and technologies for renewable fuel production;

(3) make information available to interested parties on the process for establishing a biorefinery; and

(4) make information and assistance provided by the center available through a toll-free telephone number and website.

(c) COORDINATION AND NONDUPLICATION.—To the maximum extent practicable, the Secretary shall ensure that the activities under this section are coordinated with, and do not duplicate the efforts of, centers at other government agencies.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

42 USC 17034.

SEC. 230. CELLULOSIC ETHANOL AND BIOFUELS RESEARCH.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term “eligible entity” means—

(1) an 1890 Institution (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7061));

(2) a part B institution (as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061)) (commonly referred to as “Historically Black Colleges and Universities”);

(3) a tribal college or university (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))); or

(4) a Hispanic-serving institution (as defined in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a))).

(b) GRANTS.—The Secretary shall make cellulosic ethanol and biofuels research and development grants to 10 eligible entities selected by the Secretary to receive a grant under this section through a peer-reviewed competitive process.

(c) COLLABORATION.—An eligible entity that is selected to receive a grant under subsection (b) shall collaborate with 1 of the Bioenergy Research Centers of the Office of Science of the Department.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to make grants described in subsection (b) \$50,000,000 for fiscal year 2008, to remain available until expended.

SEC. 231. BIOENERGY RESEARCH AND DEVELOPMENT, AUTHORIZATION OF APPROPRIATION.

Section 931 of the Energy Policy Act of 2005 (42 U.S.C. 16231) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) \$963,000,000 for fiscal year 2010.”; and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking “\$251,000,000” and inserting “\$377,000,000”; and

(ii) by striking “and” at the end;

(B) in paragraph (3)—

(i) by striking “\$274,000,000” and inserting “\$398,000,000”; and

(ii) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) \$419,000,000 for fiscal year 2010, of which \$150,000,000 shall be for section 932(d).”.

SEC. 232. ENVIRONMENTAL RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Section 977 of the Energy Policy Act of 2005 (42 U.S.C. 16317) is amended—

(1) in subsection (a)(1), by striking “and computational biology” and inserting “computational biology, and environmental science”; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting “in sustainable production systems that reduce greenhouse gas emissions” after “hydrogen”;

(B) in paragraph (3), by striking “and” at the end;

(C) by redesignating paragraph (4) as paragraph (5);

and

(D) by inserting after paragraph (3) the following:

“(4) develop cellulosic and other feedstocks that are less resource and land intensive and that promote sustainable use of resources, including soil, water, energy, forests, and land, and ensure protection of air, water, and soil quality; and”.

(b) TOOLS AND EVALUATION.—Section 307(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8606(d)) is amended—

(1) in paragraph (3)(E), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(5) the improvement and development of analytical tools to facilitate the analysis of life-cycle energy and greenhouse gas emissions, including emissions related to direct and indirect land use changes, attributable to all potential biofuel feedstocks and production processes; and

“(6) the systematic evaluation of the impact of expanded biofuel production on the environment, including forest lands, and on the food supply for humans and animals.”.

(c) SMALL-SCALE PRODUCTION AND USE OF BIOFUELS.—Section 307(e) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8606(e)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(4) to facilitate small-scale production, local, and on-farm use of biofuels, including the development of small-scale gasification technologies for production of biofuel from cellulosic feedstocks.”.

SEC. 233. BIOENERGY RESEARCH CENTERS.

Section 977 of the Energy Policy Act of 2005 (42 U.S.C. 16317) is amended by adding at the end the following:

“(f) BIOENERGY RESEARCH CENTERS.—

“(1) ESTABLISHMENT OF CENTERS.—In carrying out the program under subsection (a), the Secretary shall establish at least 7 bioenergy research centers, which may be of varying size.

“(2) GEOGRAPHIC DISTRIBUTION.—The Secretary shall establish at least 1 bioenergy research center in each Petroleum

Administration for Defense District or Subdistrict of a Petroleum Administration for Defense District.

“(3) GOALS.—The goals of the centers established under this subsection shall be to accelerate basic transformational research and development of biofuels, including biological processes.

“(4) SELECTION AND DURATION.—

“(A) IN GENERAL.—A center under this subsection shall be selected on a competitive basis for a period of 5 years.

“(B) REAPPLICATION.—After the end of the period described in subparagraph (A), a grantee may reapply for selection on a competitive basis.

“(5) INCLUSION.—A center that is in existence on the date of enactment of this subsection—

“(A) shall be counted towards the requirement for establishment of at least 7 bioenergy research centers; and

“(B) may continue to receive support for a period of 5 years beginning on the date of establishment of the center.”.

42 USC 17035.

SEC. 234. UNIVERSITY BASED RESEARCH AND DEVELOPMENT GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a competitive grant program, in a geographically diverse manner, for projects submitted for consideration by institutions of higher education to conduct research and development of renewable energy technologies. Each grant made shall not exceed \$2,000,000.

(b) ELIGIBILITY.—Priority shall be given to institutions of higher education with—

(1) established programs of research in renewable energy;

(2) locations that are low income or outside of an urbanized area;

(3) a joint venture with an Indian tribe; and

(4) proximity to trees dying of disease or insect infestation as a source of woody biomass.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$25,000,000 for carrying out this section.

(d) DEFINITIONS.—In this section:

(1) INDIAN TRIBE.—The term “Indian tribe” has the meaning as defined in section 126(c) of the Energy Policy Act of 2005.

(2) RENEWABLE ENERGY.—The term “renewable energy” has the meaning as defined in section 902 of the Energy Policy Act of 2005.

(3) URBANIZED AREA.—The term “urbanized area” has the meaning as defined by the U.S. Bureau of the Census.

Subtitle C—Biofuels Infrastructure

SEC. 241. PROHIBITION ON FRANCHISE AGREEMENT RESTRICTIONS RELATED TO RENEWABLE FUEL INFRASTRUCTURE.

(a) IN GENERAL.—Title I of the Petroleum Marketing Practices Act (15 U.S.C. 2801 et seq.) is amended by adding at the end the following:

“SEC. 107. PROHIBITION ON RESTRICTION OF INSTALLATION OF RENEWABLE FUEL PUMPS. 15 USC 2807.

“(a) DEFINITION.—In this section:

“(1) RENEWABLE FUEL.—The term ‘renewable fuel’ means any fuel—

“(A) at least 85 percent of the volume of which consists of ethanol; or

“(B) any mixture of biodiesel and diesel or renewable diesel (as defined in regulations adopted pursuant to section 211(o) of the Clean Air Act (40 CFR, part 80)), determined without regard to any use of kerosene and containing at least 20 percent biodiesel or renewable diesel.

“(2) FRANCHISE-RELATED DOCUMENT.—The term ‘franchise-related document’ means—

“(A) a franchise under this Act; and

“(B) any other contract or directive of a franchisor relating to terms or conditions of the sale of fuel by a franchisee.

“(b) PROHIBITIONS.—

“(1) IN GENERAL.—No franchise-related document entered into or renewed on or after the date of enactment of this section shall contain any provision allowing a franchisor to restrict the franchisee or any affiliate of the franchisee from—

“(A) installing on the marketing premises of the franchisee a renewable fuel pump or tank, except that the franchisee’s franchisor may restrict the installation of a tank on leased marketing premises of such franchisor;

“(B) converting an existing tank or pump on the marketing premises of the franchisee for renewable fuel use, so long as such tank or pump and the piping connecting them are either warranted by the manufacturer or certified by a recognized standards setting organization to be suitable for use with such renewable fuel;

“(C) advertising (including through the use of signage) the sale of any renewable fuel;

“(D) selling renewable fuel in any specified area on the marketing premises of the franchisee (including any area in which a name or logo of a franchisor or any other entity appears);

“(E) purchasing renewable fuel from sources other than the franchisor if the franchisor does not offer its own renewable fuel for sale by the franchisee;

“(F) listing renewable fuel availability or prices, including on service station signs, fuel dispensers, or light poles; or

“(G) allowing for payment of renewable fuel with a credit card,

so long as such activities described in subparagraphs (A) through (G) do not constitute mislabeling, misbranding, willful adulteration, or other trademark violations by the franchisee.

“(2) EFFECT OF PROVISION.—Nothing in this section shall be construed to preclude a franchisor from requiring the franchisee to obtain reasonable indemnification and insurance policies.

“(c) EXCEPTION TO 3-GRADE REQUIREMENT.—No franchise-related document that requires that 3 grades of gasoline be sold

by the applicable franchisee shall prevent the franchisee from selling a renewable fuel in lieu of 1, and only 1, grade of gasoline.”.

(b) ENFORCEMENT.—Section 105 of the Petroleum Marketing Practices Act (15 U.S.C. 2805) is amended by striking “102 or 103” each place it appears and inserting “102, 103, or 107”.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 101(13) of the Petroleum Marketing Practices Act (15 U.S.C. 2801(13)) is amended by aligning the margin of subparagraph (C) with subparagraph (B).

(2) TABLE OF CONTENTS.—The table of contents of the Petroleum Marketing Practices Act (15 U.S.C. 2801 note) is amended—

(A) by inserting after the item relating to section 106 the following:

“Sec. 107. Prohibition on restriction of installation of renewable fuel pumps.”;

and

(B) by striking the item relating to section 202 and inserting the following:

“Sec. 202. Automotive fuel rating testing and disclosure requirements.”.

42 USC 17051.

SEC. 242. RENEWABLE FUEL DISPENSER REQUIREMENTS.

(a) MARKET PENETRATION REPORTS.—The Secretary, in consultation with the Secretary of Transportation, shall determine and report to Congress annually on the market penetration for flexible-fuel vehicles in use within geographic regions to be established by the Secretary.

Reports.

(b) DISPENSER FEASIBILITY STUDY.—Not later than 24 months after the date of enactment of this Act, the Secretary, in consultation with the Department of Transportation, shall report to the Congress on the feasibility of requiring motor fuel retailers to install E-85 compatible dispensers and related systems at retail fuel facilities in regions where flexible-fuel vehicle market penetration has reached 15 percent of motor vehicles. In conducting such study, the Secretary shall consider and report on the following factors:

(1) The commercial availability of E-85 fuel and the number of competing E-85 wholesale suppliers in a given region.

(2) The level of financial assistance provided on an annual basis by the Federal Government, State governments, and non-profit entities for the installation of E-85 compatible infrastructure.

(3) The number of retailers whose retail locations are unable to support more than 2 underground storage tank dispensers.

(4) The expense incurred by retailers in the installation and sale of E-85 compatible dispensers and related systems and any potential effects on the price of motor vehicle fuel.

SEC. 243. ETHANOL PIPELINE FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary, in coordination with the Secretary of Transportation, shall conduct a study of the feasibility of the construction of pipelines dedicated to the transportation of ethanol.

(b) FACTORS FOR CONSIDERATION.—In conducting the study under subsection (a), the Secretary shall take into consideration—

(1) the quantity of ethanol production that would make dedicated pipelines economically viable;

(2) existing or potential barriers to the construction of pipelines dedicated to the transportation of ethanol, including technical, siting, financing, and regulatory barriers;

(3) market risk (including throughput risk) and means of mitigating the risk;

(4) regulatory, financing, and siting options that would mitigate the risk and help ensure the construction of 1 or more pipelines dedicated to the transportation of ethanol;

(5) financial incentives that may be necessary for the construction of pipelines dedicated to the transportation of ethanol, including the return on equity that sponsors of the initial dedicated ethanol pipelines will require to invest in the pipelines;

(6) technical factors that may compromise the safe transportation of ethanol in pipelines, including identification of remedial and preventive measures to ensure pipeline integrity; and

(7) such other factors as the Secretary considers to be appropriate.

(c) REPORT.—Not later than 15 months after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study conducted under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section \$1,000,000 for each of fiscal years 2008 and 2009, to remain available until expended.

SEC. 244. RENEWABLE FUEL INFRASTRUCTURE GRANTS.

42 USC 17052.

(a) DEFINITION OF RENEWABLE FUEL BLEND.—For purposes of this section, the term “renewable fuel blend” means a gasoline blend that contains not less than 11 percent, and not more than 85 percent, renewable fuel or diesel fuel that contains at least 10 percent renewable fuel.

(b) INFRASTRUCTURE DEVELOPMENT GRANTS.—

(1) ESTABLISHMENT.—The Secretary shall establish a program for making grants for providing assistance to retail and wholesale motor fuel dealers or other entities for the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure to be used exclusively to store and dispense renewable fuel blends.

(2) SELECTION CRITERIA.—Not later than 12 months after the date of enactment of this Act, the Secretary shall establish criteria for evaluating applications for grants under this subsection that will maximize the availability and use of renewable fuel blends, and that will ensure that renewable fuel blends are available across the country. Such criteria shall provide for—

Deadline.

(A) consideration of the public demand for each renewable fuel blend in a particular geographic area based on State registration records showing the number of flexible-fuel vehicles;

(B) consideration of the opportunity to create or expand corridors of renewable fuel blend stations along interstate or State highways;

(C) consideration of the experience of each applicant with previous, similar projects;

(D) consideration of population, number of flexible-fuel vehicles, number of retail fuel outlets, and saturation of flexible-fuel vehicles; and

(E) priority consideration to applications that—

(i) are most likely to maximize displacement of petroleum consumption, measured as a total quantity and a percentage;

(ii) are best able to incorporate existing infrastructure while maximizing, to the extent practicable, the use of renewable fuel blends; and

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this subsection is completed.

(3) LIMITATIONS.—Assistance provided under this subsection shall not exceed—

(A) 33 percent of the estimated cost of the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure; or

(B) \$180,000 for a combination of equipment at any one retail outlet location.

Regulations.

(4) OPERATION OF RENEWABLE FUEL BLEND STATIONS.—The Secretary shall establish rules that set forth requirements for grant recipients under this section that include providing to the public the renewable fuel blends, establishing a marketing plan that informs consumers of the price and availability of the renewable fuel blends, clearly labeling the dispensers and related equipment, and providing periodic reports on the status of the renewable fuel blend sales, the type and amount of the renewable fuel blends dispensed at each location, and the average price of such fuel.

Deadline.

(5) NOTIFICATION REQUIREMENTS.—Not later than the date on which each renewable fuel blend station begins to offer renewable fuel blends to the public, the grant recipient that used grant funds to construct or upgrade such station shall notify the Secretary of such opening. The Secretary shall add each new renewable fuel blend station to the renewable fuel blend station locator on its Website when it receives notification under this subsection.

Website.

(6) DOUBLE COUNTING.—No person that receives a credit under section 30C of the Internal Revenue Code of 1986 may receive assistance under this section.

(7) RESERVATION OF FUNDS.—The Secretary shall reserve funds appropriated for the renewable fuel blends infrastructure development grant program for technical and marketing assistance described in subsection (c).

Contracts.

(c) RETAIL TECHNICAL AND MARKETING ASSISTANCE.—The Secretary shall enter into contracts with entities with demonstrated experience in assisting retail fueling stations in installing refueling systems and marketing renewable fuel blends nationally, for the provision of technical and marketing assistance to recipients of grants under this section. Such assistance shall include—

(1) technical advice for compliance with applicable Federal and State environmental requirements;

(2) help in identifying supply sources and securing long-term contracts; and

(3) provision of public outreach, education, and labeling materials.

(d) REFUELING INFRASTRUCTURE CORRIDORS.—

Grants.

(1) IN GENERAL.—The Secretary shall establish a competitive grant pilot program (referred to in this subsection as the “pilot program”), to be administered through the Vehicle Technology Deployment Program of the Department, to provide not more than 10 geographically-dispersed project grants to State governments, Indian tribal governments, local governments, metropolitan transportation authorities, or partnerships of those entities to carry out 1 or more projects for the purposes described in paragraph (2).

(2) GRANT PURPOSES.—A grant under this subsection shall be used for the establishment of refueling infrastructure corridors, as designated by the Secretary, for renewable fuel blends, including—

(A) installation of infrastructure and equipment necessary to ensure adequate distribution of renewable fuel blends within the corridor;

(B) installation of infrastructure and equipment necessary to directly support vehicles powered by renewable fuel blends; and

(C) operation and maintenance of infrastructure and equipment installed as part of a project funded by the grant.

(3) APPLICATIONS.—

(A) REQUIREMENTS.—

(i) IN GENERAL.—Subject to clause (ii), not later than 90 days after the date of enactment of this Act, the Secretary shall issue requirements for use in applying for grants under the pilot program.

Deadline.

(ii) MINIMUM REQUIREMENTS.—At a minimum, the Secretary shall require that an application for a grant under this subsection—

(I) be submitted by—

(aa) the head of a State, tribal, or local government or a metropolitan transportation authority, or any combination of those entities; and

(bb) a registered participant in the Vehicle Technology Deployment Program of the Department; and

(II) include—

(aa) a description of the project proposed in the application, including the ways in which the project meets the requirements of this subsection;

(bb) an estimate of the degree of use of the project, including the estimated size of fleet of vehicles operated with renewable fuels blend available within the geographic region of the corridor, measured as a total quantity and a percentage;

(cc) an estimate of the potential petroleum displaced as a result of the project (measured

as a total quantity and a percentage), and a plan to collect and disseminate petroleum displacement and other relevant data relating to the project to be funded under the grant, over the expected life of the project;

(dd) a description of the means by which the project will be sustainable without Federal assistance after the completion of the term of the grant;

(ee) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project; and

(ff) a description of which costs of the project will be supported by Federal assistance under this subsection.

(B) PARTNERS.—An applicant under subparagraph (A) may carry out a project under the pilot program in partnership with public and private entities.

(4) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall—

(A) consider the experience of each applicant with previous, similar projects; and

(B) give priority consideration to applications that—

(i) are most likely to maximize displacement of petroleum consumption, measured as a total quantity and a percentage;

(ii) are best able to incorporate existing infrastructure while maximizing, to the extent practicable, the use of advanced biofuels;

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this subsection is completed;

(iv) represent a partnership of public and private entities; and

(v) exceed the minimum requirements of paragraph (3)(A)(ii).

(5) PILOT PROJECT REQUIREMENTS.—

(A) MAXIMUM AMOUNT.—The Secretary shall provide not more than \$20,000,000 in Federal assistance under the pilot program to any applicant.

(B) COST SHARING.—The non-Federal share of the cost of any activity relating to renewable fuel blend infrastructure development carried out using funds from a grant under this subsection shall be not less than 20 percent.

(C) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not provide funds to any applicant under the pilot program for more than 2 years.

(D) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of project sites funded by grants under this subsection.

(E) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the

pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(6) SCHEDULE.—

(A) INITIAL GRANTS.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and such other publications as the Secretary considers to be appropriate, a notice and request for applications to carry out projects under the pilot program.

(ii) DEADLINE.—An application described in clause (i) shall be submitted to the Secretary by not later than 180 days after the date of publication of the notice under that clause.

(iii) INITIAL SELECTION.—Not later than 90 days after the date by which applications for grants are due under clause (ii), the Secretary shall select by competitive, peer-reviewed proposal up to 5 applications for projects to be awarded a grant under the pilot program.

(B) ADDITIONAL GRANTS.—

(i) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and such other publications as the Secretary considers to be appropriate, a notice and request for additional applications to carry out projects under the pilot program that incorporate the information and knowledge obtained through the implementation of the first round of projects authorized under the pilot program.

(ii) DEADLINE.—An application described in clause (i) shall be submitted to the Secretary by not later than 180 days after the date of publication of the notice under that clause.

(iii) INITIAL SELECTION.—Not later than 90 days after the date by which applications for grants are due under clause (ii), the Secretary shall select by competitive, peer-reviewed proposal such additional applications for projects to be awarded a grant under the pilot program as the Secretary determines to be appropriate.

(7) REPORTS TO CONGRESS.—

(A) INITIAL REPORT.—Not later than 60 days after the date on which grants are awarded under this subsection, the Secretary shall submit to Congress a report containing—

(i) an identification of the grant recipients and a description of the projects to be funded under the pilot program;

(ii) an identification of other applicants that submitted applications for the pilot program but to which funding was not provided; and

(iii) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and

Deadlines.
Federal Register,
publication.
Publication.

to other interested parties, including other applicants that submitted applications.

(B) EVALUATION.—Not later than 2 years after the date of enactment of this Act, and annually thereafter until the termination of the pilot program, the Secretary shall submit to Congress a report containing an evaluation of the effectiveness of the pilot program, including an assessment of the petroleum displacement and benefits to the environment derived from the projects included in the pilot program.

(e) RESTRICTION.—No grant shall be provided under subsection (b) or (c) to a large, vertically integrated oil company.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section \$200,000,000 for each of the fiscal years 2008 through 2014.

SEC. 245. STUDY OF THE ADEQUACY OF TRANSPORTATION OF DOMESTICALLY-PRODUCED RENEWABLE FUEL BY RAILROADS AND OTHER MODES OF TRANSPORTATION.

(a) STUDY.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Transportation, shall jointly conduct a study of the adequacy of transportation of domestically-produced renewable fuels by railroad and other modes of transportation as designated by the Secretaries.

(2) COMPONENTS.—In conducting the study under paragraph (1), the Secretaries shall—

(A) consider the adequacy of existing railroad and other transportation and distribution infrastructure, equipment, service and capacity to move the necessary quantities of domestically-produced renewable fuel within the timeframes;

(B)(i) consider the projected costs of moving the domestically-produced renewable fuel by railroad and other modes of transportation; and

(ii) consider the impact of the projected costs on the marketability of the domestically-produced renewable fuel;

(C) identify current and potential impediments to the reliable transportation and distribution of adequate supplies of domestically-produced renewable fuel at reasonable prices, including practices currently utilized by domestic producers, shippers, and receivers of renewable fuels;

(D) consider whether adequate competition exists within and between modes of transportation for the transportation and distribution of domestically-produced renewable fuel and, whether inadequate competition leads to an unfair price for the transportation and distribution of domestically-produced renewable fuel or unacceptable service for transportation of domestically-produced renewable fuel;

(E) consider whether Federal agencies have adequate legal authority to address instances of inadequate competition when inadequate competition is found to prevent domestic producers for renewable fuels from obtaining a fair and reasonable transportation price or acceptable service for the transportation and distribution of domestically-produced renewable fuels;

(F) consider whether Federal agencies have adequate legal authority to address railroad and transportation service problems that may be resulting in inadequate supplies of domestically-produced renewable fuel in any area of the United States;

(G) consider what transportation infrastructure capital expenditures may be necessary to ensure the reliable transportation of adequate supplies of domestically-produced renewable fuel at reasonable prices within the United States and which public and private entities should be responsible for making such expenditures; and

(H) provide recommendations on ways to facilitate the reliable transportation of adequate supplies of domestically-produced renewable fuel at reasonable prices.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretaries shall jointly submit to the Committee on Commerce, Science and Transportation, the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives a report that describes the results of the study conducted under subsection (a).

SEC. 246. FEDERAL FLEET FUELING CENTERS.

42 USC 17053.

(a) IN GENERAL.—Not later than January 1, 2010, the head of each Federal agency shall install at least 1 renewable fuel pump at each Federal fleet fueling center in the United States under the jurisdiction of the head of the Federal agency.

Deadline.

(b) REPORT.—Not later than October 31 of the first calendar year beginning after the date of the enactment of this Act, and each October 31 thereafter, the President shall submit to Congress a report that describes the progress toward complying with subsection (a), including identifying—

(1) the number of Federal fleet fueling centers that contain at least 1 renewable fuel pump; and

(2) the number of Federal fleet fueling centers that do not contain any renewable fuel pumps.

(c) DEPARTMENT OF DEFENSE FACILITY.—This section shall not apply to a Department of Defense fueling center with a fuel turnover rate of less than 100,000 gallons of fuel per year.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 247. STANDARD SPECIFICATIONS FOR BIODIESEL.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by redesignating subsection (s) as subsection (t), redesignating subsection (r) (relating to conversion assistance for cellulosic biomass, waste-derived ethanol, approved renewable fuels) as subsection (s) and by adding the following new subsection at the end thereof:

“(u) STANDARD SPECIFICATIONS FOR BIODIESEL.—(1) Unless the American Society for Testing and Materials has adopted a standard for diesel fuel containing 20 percent biodiesel (commonly known as ‘B20’) within 1 year after the date of enactment of this subsection, the Administrator shall initiate a rulemaking to establish a uniform per gallon fuel standard for such fuel and designate an identification number so that vehicle manufacturers are able to design engines to use fuel meeting such standard.

Deadline.
Regulations.

“(2) Unless the American Society for Testing and Materials has adopted a standard for diesel fuel containing 5 percent biodiesel (commonly known as ‘B5’) within 1 year after the date of enactment of this subsection, the Administrator shall initiate a rulemaking to establish a uniform per gallon fuel standard for such fuel and designate an identification so that vehicle manufacturers are able to design engines to use fuel meeting such standard.

“(3) Whenever the Administrator is required to initiate a rulemaking under paragraph (1) or (2), the Administrator shall promulgate a final rule within 18 months after the date of the enactment of this subsection.

“(4) Not later than 180 days after the enactment of this subsection, the Administrator shall establish an annual inspection and enforcement program to ensure that diesel fuel containing biodiesel sold or distributed in interstate commerce meets the standards established under regulations under this section, including testing and certification for compliance with applicable standards of the American Society for Testing and Materials. There are authorized to be appropriated to carry out the inspection and enforcement program under this paragraph \$3,000,000 for each of fiscal years 2008 through 2010.

“(5) For purposes of this subsection, the term ‘biodiesel’ has the meaning provided by section 312(f) of Energy Policy Act of 1992 (42 U.S.C. 13220(f)).”.

Appropriation
authorization.

42 USC 17054.

SEC. 248. BIOFUELS DISTRIBUTION AND ADVANCED BIOFUELS INFRASTRUCTURE.

(a) **IN GENERAL.**—The Secretary, in coordination with the Secretary of Transportation and in consultation with the Administrator of the Environmental Protection Agency, shall carry out a program of research, development, and demonstration relating to existing transportation fuel distribution infrastructure and new alternative distribution infrastructure.

(b) **FOCUS.**—The program described in subsection (a) shall focus on the physical and chemical properties of biofuels and efforts to prevent or mitigate against adverse impacts of those properties in the areas of—

- (1) corrosion of metal, plastic, rubber, cork, fiberglass, glues, or any other material used in pipes and storage tanks;
- (2) dissolving of storage tank sediments;
- (3) clogging of filters;
- (4) contamination from water or other adulterants or pollutants;
- (5) poor flow properties related to low temperatures;
- (6) oxidative and thermal instability in long-term storage and uses;
- (7) microbial contamination;
- (8) problems associated with electrical conductivity; and
- (9) such other areas as the Secretary considers appropriate.

Subtitle D—Environmental Safeguards

SEC. 251. WAIVER FOR FUEL OR FUEL ADDITIVES.

Section 211(f)(4) of the Clean Air Act (42 U.S.C. 7545(f)) is amended to read as follows:

“(4) The Administrator, upon application of any manufacturer of any fuel or fuel additive, may waive the prohibitions established under paragraph (1) or (3) of this subsection or the limitation specified in paragraph (2) of this subsection, if he determines that the applicant has established that such fuel or fuel additive or a specified concentration thereof, and the emission products of such fuel or fuel additive or specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of the motor vehicle, motor vehicle engine, nonroad engine or nonroad vehicle in which such device or system is used) to achieve compliance by the vehicle or engine with the emission standards with respect to which it has been certified pursuant to sections 206 and 213(a). The Administrator shall take final action to grant or deny an application submitted under this paragraph, after public notice and comment, within 270 days of the receipt of such an application.”.

Notice.
Deadline.

TITLE III—ENERGY SAVINGS THROUGH IMPROVED STANDARDS FOR APPLI- ANCE AND LIGHTING

Subtitle A—Appliance Energy Efficiency

SEC. 301. EXTERNAL POWER SUPPLY EFFICIENCY STANDARDS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in paragraph (36)—

(A) by striking “(36) The” and inserting the following:

“(36) EXTERNAL POWER SUPPLY.—

“(A) IN GENERAL.—The”; and

(B) by adding at the end the following:

“(B) ACTIVE MODE.—The term ‘active mode’ means the mode of operation when an external power supply is connected to the main electricity supply and the output is connected to a load.

“(C) CLASS A EXTERNAL POWER SUPPLY.—

“(i) IN GENERAL.—The term ‘class A external power supply’ means a device that—

“(I) is designed to convert line voltage AC input into lower voltage AC or DC output;

“(II) is able to convert to only 1 AC or DC output voltage at a time;

“(III) is sold with, or intended to be used with, a separate end-use product that constitutes the primary load;

“(IV) is contained in a separate physical enclosure from the end-use product;

“(V) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and

“(VI) has nameplate output power that is less than or equal to 250 watts.

“(ii) EXCLUSIONS.—The term ‘class A external power supply’ does not include any device that—

“(I) requires Federal Food and Drug Administration listing and approval as a medical device in accordance with section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c); or

“(II) powers the charger of a detachable battery pack or charges the battery of a product that is fully or primarily motor operated.

“(D) NO-LOAD MODE.—The term ‘no-load mode’ means the mode of operation when an external power supply is connected to the main electricity supply and the output is not connected to a load.”; and

(2) by adding at the end the following:

“(52) DETACHABLE BATTERY.—The term ‘detachable battery’ means a battery that is—

“(A) contained in a separate enclosure from the product; and

“(B) intended to be removed or disconnected from the product for recharging.”.

(b) TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) is amended by adding at the end the following:

“(17) CLASS A EXTERNAL POWER SUPPLIES.—Test procedures for class A external power supplies shall be based on the ‘Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies’ published by the Environmental Protection Agency on August 11, 2004, except that the test voltage specified in section 4(d) of that test method shall be only 115 volts, 60 Hz.”.

(c) EFFICIENCY STANDARDS FOR CLASS A EXTERNAL POWER SUPPLIES.—Section 325(u) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)) is amended by adding at the end the following:

“(6) EFFICIENCY STANDARDS FOR CLASS A EXTERNAL POWER SUPPLIES.—

“(A) IN GENERAL.—Subject to subparagraphs (B) through (D), a class A external power supply manufactured on or after the later of July 1, 2008, or the date of enactment of this paragraph shall meet the following standards:

“Active Mode	
“Nameplate Output	Required Efficiency (decimal equivalent of a percent- age)
Less than 1 watt	0.5 times the Nameplate Output
From 1 watt to not more than 51 watts	The sum of 0.09 times the Natural Logarithm of the Nameplate Output and 0.5
Greater than 51 watts	0.85
“No-Load Mode	
“Nameplate Output	Maximum Consumption
Not more than 250 watts	0.5 watts

“(B) NONCOVERED SUPPLIES.—A class A external power supply shall not be subject to subparagraph (A) if the class A external power supply is—

“(i) manufactured during the period beginning on July 1, 2008, and ending on June 30, 2015; and

“(ii) made available by the manufacturer as a service part or a spare part for an end-use product—

“(I) that constitutes the primary load; and

“(II) was manufactured before July 1, 2008.

“(C) MARKING.—Any class A external power supply manufactured on or after the later of July 1, 2008 or the date of enactment of this paragraph shall be clearly and permanently marked in accordance with the External Power Supply International Efficiency Marking Protocol, as referenced in the ‘Energy Star Program Requirements for Single Voltage External AC–DC and AC–AC Power Supplies, version 1.1’ published by the Environmental Protection Agency.

“(D) AMENDMENT OF STANDARDS.—

“(i) FINAL RULE BY JULY 1, 2011.—

“(I) IN GENERAL.—Not later than July 1, 2011, the Secretary shall publish a final rule to determine whether the standards established under subparagraph (A) should be amended. Publication.

“(II) ADMINISTRATION.—The final rule shall— Applicability.

“(aa) contain any amended standards; and

“(bb) apply to products manufactured on or after July 1, 2013.

“(ii) FINAL RULE BY JULY 1, 2015.—

“(I) IN GENERAL.—Not later than July 1, 2015 the Secretary shall publish a final rule to determine whether the standards then in effect should be amended. Publication.

“(II) ADMINISTRATION.—The final rule shall— Applicability.

“(aa) contain any amended standards; and

“(bb) apply to products manufactured on or after July 1, 2017.

“(7) END-USE PRODUCTS.—An energy conservation standard for external power supplies shall not constitute an energy conservation standard for the separate end-use product to which the external power supplies is connected.”.

SEC. 302. UPDATING APPLIANCE TEST PROCEDURES.

(a) CONSUMER APPLIANCES.—Section 323(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)(1)) is amended by striking “(1)” and all that follows through the end of the paragraph and inserting the following:

“(1) TEST PROCEDURES.—

“(A) AMENDMENT.—At least once every 7 years, the Secretary shall review test procedures for all covered products and—

“(i) amend test procedures with respect to any covered product, if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3); or

Deadline.
Federal Register,
publication.

- “(ii) publish notice in the Federal Register of any determination not to amend a test procedure.”.
- 42 USC 6314. (b) INDUSTRIAL EQUIPMENT.—Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended by striking “(a)” and all that follows through the end of paragraph (1) and inserting the following:
- “(a) PRESCRIPTION BY SECRETARY; REQUIREMENTS.—
- “(1) TEST PROCEDURES.—
- “(A) AMENDMENT.—At least once every 7 years, the Secretary shall conduct an evaluation of each class of covered equipment and—
- “(i) if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraphs (2) and (3), shall prescribe test procedures for the class in accordance with this section; or
- “(ii) shall publish notice in the Federal Register of any determination not to amend a test procedure.”.

SEC. 303. RESIDENTIAL BOILERS.

Section 325(f) of the Energy Policy and Conservation Act (42 U.S.C. 6295(f)) is amended—

(1) in the subsection heading, by inserting “AND BOILERS” after “FURNACES”;

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

“(3) BOILERS.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), boilers manufactured on or after September 1, 2012, shall meet the following requirements:

Boiler Type	Minimum Annual Fuel Utilization Efficiency	Design Requirements
Gas Hot Water	82%	No Constant Burning Pilot, Automatic Means for Adjusting Water Temperature
Gas Steam	80%	No Constant Burning Pilot
Oil Hot Water	84%	Automatic Means for Adjusting Temperature
Oil Steam	82%	None
Electric Hot Water	None	Automatic Means for Adjusting Temperature
Electric Steam	None	None

“(B) AUTOMATIC MEANS FOR ADJUSTING WATER TEMPERATURE.—

“(i) IN GENERAL.—The manufacturer shall equip each gas, oil, and electric hot water boiler (other than a boiler equipped with a tankless domestic water heating coil) with automatic means for adjusting the temperature of the water supplied by the boiler to ensure that an incremental change in inferred heat

load produces a corresponding incremental change in the temperature of water supplied.

“(ii) SINGLE INPUT RATE.—For a boiler that fires at 1 input rate, the requirements of this subparagraph may be satisfied by providing an automatic means that allows the burner or heating element to fire only when the means has determined that the inferred heat load cannot be met by the residual heat of the water in the system.

“(iii) NO INFERRED HEAT LOAD.—When there is no inferred heat load with respect to a hot water boiler, the automatic means described in clauses (i) and (ii) shall limit the temperature of the water in the boiler to not more than 140 degrees Fahrenheit.

“(iv) OPERATION.—A boiler described in clause (i) or (ii) shall be operable only when the automatic means described in clauses (i), (ii), and (iii) is installed.

“(C) EXCEPTION.—A boiler that is manufactured to operate without any need for electricity or any electric connection, electric gauges, electric pumps, electric wires, or electric devices shall not be required to meet the requirements of this paragraph.”.

SEC. 304. FURNACE FAN STANDARD PROCESS.

Paragraph (4)(D) of section 325(f) of the Energy Policy and Conservation Act (42 U.S.C. 6295(f)) (as redesignated by section 303(4)) is amended by striking “the Secretary may” and inserting “not later than December 31, 2013, the Secretary shall”.

SEC. 305. IMPROVING SCHEDULE FOR STANDARDS UPDATING AND CLARIFYING STATE AUTHORITY.

(a) CONSUMER APPLIANCES.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by striking subsection (m) and inserting the following:

“(m) AMENDMENTS OF STANDARDS.—

“(1) IN GENERAL.—Not later than 6 years after issuance of any final rule establishing or amending a standard, as required for a product under this part, the Secretary shall publish—

Deadline.
Publication.
Notice.

“(A) a notice of the determination of the Secretary that standards for the product do not need to be amended, based on the criteria established under subsection (n)(2); or

“(B) a notice of proposed rulemaking including new proposed standards based on the criteria established under subsection (o) and the procedures established under subsection (p).

“(2) NOTICE.—If the Secretary publishes a notice under paragraph (1), the Secretary shall—

Public
information.

“(A) publish a notice stating that the analysis of the Department is publicly available; and

“(B) provide an opportunity for written comment.

“(3) AMENDMENT OF STANDARD; NEW DETERMINATION.—

Deadline.
Publication.

“(A) AMENDMENT OF STANDARD.—Not later than 2 years after a notice is issued under paragraph (1)(B), the Secretary shall publish a final rule amending the standard for the product.

“(B) NEW DETERMINATION.—Not later than 3 years after a determination under paragraph (1)(A), the Secretary shall make a new determination and publication under subparagraph (A) or (B) of paragraph (1).

“(4) APPLICATION TO PRODUCTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an amendment prescribed under this subsection shall apply to—

“(i) with respect to refrigerators, refrigerator-freezers, freezers, room air conditioners, dishwashers, clothes washers, clothes dryers, fluorescent lamp ballasts, and kitchen ranges and ovens, such a product that is manufactured after the date that is 3 years after publication of the final rule establishing an applicable standard; and

“(ii) with respect to central air conditioners, heat pumps, water heaters, pool heaters, direct heating equipment, and furnaces, such a product that is manufactured after the date that is 5 years after publication of the final rule establishing an applicable standard.

“(B) OTHER NEW STANDARDS.—A manufacturer shall not be required to apply new standards to a product with respect to which other new standards have been required during the prior 6-year period.

“(5) REPORTS.—The Secretary shall promptly submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate—

“(A) a progress report every 180 days on compliance with this section, including a specific plan to remedy any failures to comply with deadlines for action established under this section; and

“(B) all required reports to the Court or to any party to the Consent Decree in *State of New York v. Bodman*, Consolidated Civil Actions No. 05 Civ. 7807 and No. 05 Civ. 7808.”.

(b) INDUSTRIAL EQUIPMENT.—Section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking “(6)(A)(i)” and all that follows through the end of subparagraph (B) and inserting the following:

“(6) AMENDED ENERGY EFFICIENCY STANDARDS.—

“(A) IN GENERAL.—

“(i) ANALYSIS OF POTENTIAL ENERGY SAVINGS.—If ASHRAE/IES Standard 90.1 is amended with respect to any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks, not later than 180 days after the amendment of the standard, the Secretary shall publish in the Federal Register for public comment an analysis of the energy

Deadlines.

Federal Register,
publication.

savings potential of amended energy efficiency standards.

“(ii) AMENDED UNIFORM NATIONAL STANDARD FOR PRODUCTS.—

“(I) IN GENERAL.—Except as provided in subclause (II), not later than 18 months after the date of publication of the amendment to the ASHRAE/IES Standard 90.1 for a product described in clause (i), the Secretary shall establish an amended uniform national standard for the product at the minimum level specified in the amended ASHRAE/IES Standard 90.1.

“(II) MORE STRINGENT STANDARD.—Subclause (I) shall not apply if the Secretary determines, by rule published in the Federal Register, and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than the amended ASHRAE/IES Standard 90.1 for the product would result in significant additional conservation of energy and is technologically feasible and economically justified.

Federal Register,
publication.

“(B) RULE.—If the Secretary makes a determination described in clause (ii)(II) for a product described in clause (i), not later than 30 months after the date of publication of the amendment to the ASHRAE/IES Standard 90.1 for the product, the Secretary shall issue the rule establishing the amended standard.

“(C) AMENDMENT OF STANDARD.—

Publication.
Notice.

“(i) IN GENERAL.—Not later than 6 years after issuance of any final rule establishing or amending a standard, as required for a product under this part, the Secretary shall publish—

“(I) a notice of the determination of the Secretary that standards for the product do not need to be amended, based on the criteria established under subparagraph (A); or

“(II) a notice of proposed rulemaking including new proposed standards based on the criteria and procedures established under subparagraph (B).

“(ii) NOTICE.—If the Secretary publishes a notice under clause (i), the Secretary shall—

Public
information.

“(I) publish a notice stating that the analysis of the Department is publicly available; and

“(II) provide an opportunity for written comment.

“(iii) AMENDMENT OF STANDARD; NEW DETERMINATION.—

“(I) AMENDMENT OF STANDARD.—Not later than 2 years after a notice is issued under clause (i)(II), the Secretary shall publish a final rule amending the standard for the product.

“(II) NEW DETERMINATION.—Not later than 3 years after a determination under clause (i)(I), the Secretary shall make a new determination and publication under subclause (I) or (II) of clause (i).

“(iv) APPLICATION TO PRODUCTS.—An amendment prescribed under this subsection shall apply to products manufactured after a date that is the later of—

“(I) the date that is 3 years after publication of the final rule establishing a new standard; or

“(II) the date that is 6 years after the effective date of the current standard for a covered product.

“(v) REPORTS.—The Secretary shall promptly submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a progress report every 180 days on compliance with this subparagraph, including a specific plan to remedy any failures to comply with deadlines for action established under this subparagraph.”.

SEC. 306. REGIONAL STANDARDS FOR FURNACES, CENTRAL AIR CONDITIONERS, AND HEAT PUMPS.

(a) IN GENERAL.—Section 325(o) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)) is amended by adding at the end the following:

“(6) REGIONAL STANDARDS FOR FURNACES, CENTRAL AIR CONDITIONERS, AND HEAT PUMPS.—

“(A) IN GENERAL.—In any rulemaking to establish a new or amended standard, the Secretary may consider the establishment of separate standards by geographic region for furnaces (except boilers), central air conditioners, and heat pumps.

“(B) NATIONAL AND REGIONAL STANDARDS.—

“(i) NATIONAL STANDARD.—If the Secretary establishes a regional standard for a product, the Secretary shall establish a base national standard for the product.

“(ii) REGIONAL STANDARDS.—If the Secretary establishes a regional standard for a product, the Secretary may establish more restrictive standards for the product by geographic region as follows:

“(I) For furnaces, the Secretary may establish 1 additional standard that is applicable in a geographic region defined by the Secretary.

“(II) For any cooling product, the Secretary may establish 1 or 2 additional standards that are applicable in 1 or 2 geographic regions as may be defined by the Secretary.

“(C) BOUNDARIES OF GEOGRAPHIC REGIONS.—

“(i) IN GENERAL.—Subject to clause (ii), the boundaries of additional geographic regions established by the Secretary under this paragraph shall include only contiguous States.

“(ii) ALASKA AND HAWAII.—The States of Alaska and Hawaii may be included under this paragraph in a geographic region that the States are not contiguous to.

“(iii) INDIVIDUAL STATES.—Individual States shall be placed only into a single region under this paragraph.

“(D) PREREQUISITES.—In establishing additional regional standards under this paragraph, the Secretary shall—

“(i) establish additional regional standards only if the Secretary determines that—

“(I) the establishment of additional regional standards will produce significant energy savings in comparison to establishing only a single national standard; and

“(II) the additional regional standards are economically justified under this paragraph; and

“(ii) consider the impact of the additional regional standards on consumers, manufacturers, and other market participants, including product distributors, dealers, contractors, and installers.

“(E) APPLICATION; EFFECTIVE DATE.—

“(i) BASE NATIONAL STANDARD.—Any base national standard established for a product under this paragraph shall—

“(I) be the minimum standard for the product; and

“(II) apply to all products manufactured or imported into the United States on and after the effective date for the standard.

“(ii) REGIONAL STANDARDS.—Any additional and more restrictive regional standard established for a product under this paragraph shall apply to any such product installed on or after the effective date of the standard in States in which the Secretary has designated the standard to apply.

“(F) CONTINUATION OF REGIONAL STANDARDS.—

“(i) IN GENERAL.—In any subsequent rulemaking for any product for which a regional standard has been previously established, the Secretary shall determine whether to continue the establishment of separate regional standards for the product.

“(ii) REGIONAL STANDARD NO LONGER APPROPRIATE.—Except as provided in clause (iii), if the Secretary determines that regional standards are no longer appropriate for a product, beginning on the effective date of the amended standard for the product—

“(I) there shall be 1 base national standard for the product with Federal enforcement; and

“(II) State authority for enforcing a regional standard for the product shall terminate.

“(iii) REGIONAL STANDARD APPROPRIATE BUT STANDARD OR REGION CHANGED.—

“(I) STATE NO LONGER CONTAINED IN REGION.—Subject to subclause (III), if a State is no longer contained in a region in which a regional standard that is more stringent than the base national standard applies, the authority of the State to enforce the regional standard shall terminate.

“(II) STANDARD OR REGION REVISED SO THAT EXISTING REGIONAL STANDARD EQUALS BASE NATIONAL STANDARD.—If the Secretary revises a

base national standard for a product or the geographic definition of a region so that an existing regional standard for a State is equal to the revised base national standard—

“(aa) the authority of the State to enforce the regional standard shall terminate on the effective date of the revised base national standard; and

“(bb) the State shall be subject to the revised base national standard.

“(III) STANDARD OR REGION REVISED SO THAT EXISTING REGIONAL STANDARD EQUALS BASE NATIONAL STANDARD.—If the Secretary revises a base national standard for a product or the geographic definition of a region so that the standard for a State is lower than the previously approved regional standard, the State may continue to enforce the previously approved standard level.

“(iv) WAIVER OF FEDERAL PREEMPTION.—Nothing in this paragraph diminishes the authority of a State to enforce a State regulation for which a waiver of Federal preemption has been granted under section 327(d).

“(G) ENFORCEMENT.—

“(i) BASE NATIONAL STANDARD.—

“(I) IN GENERAL.—The Secretary shall enforce any base national standard.

“(II) TRADE ASSOCIATION CERTIFICATION PROGRAMS.—In enforcing the base national standard, the Secretary shall use, to the maximum extent practicable, national standard nationally recognized certification programs of trade associations.

“(ii) REGIONAL STANDARDS.—

“(I) ENFORCEMENT PLAN.—Not later than 90 days after the date of the issuance of a final rule that establishes a regional standard, the Secretary shall initiate a rulemaking to develop and implement an effective enforcement plan for regional standards for the products that are covered by the final rule.

“(II) RESPONSIBLE ENTITIES.—Any rules regarding enforcement of a regional standard shall clearly specify which entities are legally responsible for compliance with the standards and for making any required information or labeling disclosures.

“(III) FINAL RULE.—Not later than 15 months after the date of the issuance of a final rule that establishes a regional standard for a product, the Secretary shall promulgate a final rule covering enforcement of regional standards for the product.

“(IV) INCORPORATION BY STATES AND LOCALITIES.—A State or locality may incorporate any Federal regional standard into State or local building codes or State appliance standards.

Deadline.

Deadline.

“(V) STATE ENFORCEMENT.—A State agency may seek enforcement of a Federal regional standard in a Federal court of competent jurisdiction.

“(H) INFORMATION DISCLOSURE.—

“(i) IN GENERAL.—Not later than 90 days after the date of the publication of a final rule that establishes a regional standard for a product, the Federal Trade Commission shall undertake a rulemaking to determine the appropriate 1 or more methods for disclosing information so that consumers, distributors, contractors, and installers can easily determine whether a specific piece of equipment that is installed in a specific building is in conformance with the regional standard that applies to the building. Deadline.

“(ii) METHODS.—A method of disclosing information under clause (i) may include—

“(I) modifications to the Energy Guide label; or

“(II) other methods that make it easy for consumers and installers to use and understand at the point of installation.

“(iii) COMPLETION OF RULEMAKING.—The rulemaking shall be completed not later than 15 months after the date of the publication of a final rule that establishes a regional standard for a product.” Deadline.

(b) PROHIBITED ACTS.—Section 332(a) of the Energy Policy and Conservation Act (42 U.S.C. 6302(a)) is amended—

(1) in paragraph (4), by striking “or” after the semicolon at the end;

(2) in paragraph (5), by striking “part.” and inserting “part, except to the extent that the new covered product is covered by a regional standard that is more stringent than the base national standard; or”; and

(3) by adding at the end the following:

“(6) for any manufacturer or private labeler to knowingly sell a product to a distributor, contractor, or dealer with knowledge that the entity routinely violates any regional standard applicable to the product.”.

(c) CONSIDERATION OF PRICES AND OPERATING PATTERNS.—Section 342(a)(6)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)(B)) is amended by adding at the end the following:

“(iii) CONSIDERATION OF PRICES AND OPERATING PATTERNS.—If the Secretary is considering revised standards for air-cooled 3-phase central air conditioners and central air conditioning heat pumps with less 65,000 Btu per hour (cooling capacity), the Secretary shall use commercial energy prices and operating patterns in all analyses conducted by the Secretary.”.

SEC. 307. PROCEDURE FOR PRESCRIBING NEW OR AMENDED STANDARDS.

Section 325(p) of the Energy Policy and Conservation Act (42 U.S.C. 6925(p)) is amended— 42 USC 6295.

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

SEC. 308. EXPEDITED RULEMAKINGS.

(a) **PROCEDURE FOR PRESCRIBING NEW OR AMENDED STANDARDS.**—Section 325(p) of the Energy Policy and Conservation Act (42 U.S.C. 6295(p)) (as amended by section 307) is amended by adding at the end the following:

“(4) **DIRECT FINAL RULES.**—

Publication.

“(A) **IN GENERAL.**—On receipt of a statement that is submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates), as determined by the Secretary, and contains recommendations with respect to an energy or water conservation standard—

“(i) if the Secretary determines that the recommended standard contained in the statement is in accordance with subsection (o) or section 342(a)(6)(B), as applicable, the Secretary may issue a final rule that establishes an energy or water conservation standard and is published simultaneously with a notice of proposed rulemaking that proposes a new or amended energy or water conservation standard that is identical to the standard established in the final rule to establish the recommended standard (referred to in this paragraph as a ‘direct final rule’); or

“(ii) if the Secretary determines that a direct final rule cannot be issued based on the statement, the Secretary shall publish a notice of the determination, together with an explanation of the reasons for the determination.

“(B) **PUBLIC COMMENT.**—The Secretary shall solicit public comment for a period of at least 110 days with respect to each direct final rule issued by the Secretary under subparagraph (A)(i).

“(C) **WITHDRAWAL OF DIRECT FINAL RULES.**—

Deadline.
Federal Register,
publication.

“(i) **IN GENERAL.**—Not later than 120 days after the date on which a direct final rule issued under subparagraph (A)(i) is published in the Federal Register, the Secretary shall withdraw the direct final rule if—

“(I) the Secretary receives 1 or more adverse public comments relating to the direct final rule under subparagraph (B)(i) or any alternative joint recommendation; and

“(II) based on the rulemaking record relating to the direct final rule, the Secretary determines that such adverse public comments or alternative joint recommendation may provide a reasonable basis for withdrawing the direct final rule under subsection (o), section 342(a)(6)(B), or any other applicable law.

“(ii) **ACTION ON WITHDRAWAL.**—On withdrawal of a direct final rule under clause (i), the Secretary shall—

“(I) proceed with the notice of proposed rule-making published simultaneously with the direct final rule as described in subparagraph (A)(i); and

“(II) publish in the Federal Register the reasons why the direct final rule was withdrawn.

Federal Register,
publication.

“(iii) TREATMENT OF WITHDRAWN DIRECT FINAL RULES.—A direct final rule that is withdrawn under clause (i) shall not be considered to be a final rule for purposes of subsection (o).

“(D) EFFECT OF PARAGRAPH.—Nothing in this paragraph authorizes the Secretary to issue a direct final rule based solely on receipt of more than 1 statement containing recommended standards relating to the direct final rule.”.

(b) CONFORMING AMENDMENT.—Section 345(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6316(b)(1)) is amended in the first sentence by inserting “section 325(p)(5),” after “The provisions of”.

SEC. 309. BATTERY CHARGERS.

Section 325(u)(1)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)(1)(E)) is amended—

(1) by striking “(E)(i) Not” and inserting the following:

“(E) EXTERNAL POWER SUPPLIES AND BATTERY CHARGERS.—

“(i) ENERGY CONSERVATION STANDARDS.—

“(I) EXTERNAL POWER SUPPLIES.—Not”;

(2) by striking “3 years” and inserting “2 years”;

(3) by striking “battery chargers and” each place it appears;

and

(4) by adding at the end the following:

“(II) BATTERY CHARGERS.—Not later than July 1, 2011, the Secretary shall issue a final rule that prescribes energy conservation standards for battery chargers or classes of battery chargers or determine that no energy conservation standard is technically feasible and economically justified.”.

Deadline.
Regulations.

SEC. 310. STANDBY MODE.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(1) in subsection (u)—

(A) by striking paragraphs (2), (3), and (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (2) and (3), respectively;

(2) by redesignating subsection (gg) as subsection (hh);

(3) by inserting after subsection (ff) the following:

“(gg) STANDBY MODE ENERGY USE.—

“(1) DEFINITIONS.—

“(A) IN GENERAL.—Unless the Secretary determines otherwise pursuant to subparagraph (B), in this subsection:

“(i) ACTIVE MODE.—The term ‘active mode’ means the condition in which an energy-using product—

“(I) is connected to a main power source;

“(II) has been activated; and

“(III) provides 1 or more main functions.

“(ii) OFF MODE.—The term ‘off mode’ means the condition in which an energy-using product—

“(I) is connected to a main power source; and

“(II) is not providing any standby or active mode function.

“(iii) STANDBY MODE.—The term ‘standby mode’ means the condition in which an energy-using product—

“(I) is connected to a main power source; and

“(II) offers 1 or more of the following user-oriented or protective functions:

“(aa) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer.

“(bb) Continuous functions, including information or status displays (including clocks) or sensor-based functions.

“(B) AMENDED DEFINITIONS.—The Secretary may, by rule, amend the definitions under subparagraph (A), taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission.

“(2) TEST PROCEDURES.—

“(A) IN GENERAL.—Test procedures for all covered products shall be amended pursuant to section 323 to include standby mode and off mode energy consumption, taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission, with such energy consumption integrated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product, unless the Secretary determines that—

“(i) the current test procedures for a covered product already fully account for and incorporate the standby mode and off mode energy consumption of the covered product; or

“(ii) such an integrated test procedure is technically infeasible for a particular covered product, in which case the Secretary shall prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible.

“(B) DEADLINES.—The test procedure amendments required by subparagraph (A) shall be prescribed in a final rule no later than the following dates:

“(i) December 31, 2008, for battery chargers and external power supplies.

“(ii) March 31, 2009, for clothes dryers, room air conditioners, and fluorescent lamp ballasts.

“(iii) June 30, 2009, for residential clothes washers.

“(iv) September 30, 2009, for residential furnaces and boilers.

“(v) March 31, 2010, for residential water heaters, direct heating equipment, and pool heaters.

“(vi) March 31, 2011, for residential dishwashers, ranges and ovens, microwave ovens, and dehumidifiers.

“(C) PRIOR PRODUCT STANDARDS.—The test procedure amendments adopted pursuant to subparagraph (B) shall

Regulations.

not be used to determine compliance with product standards established prior to the adoption of the amended test procedures.

“(3) INCORPORATION INTO STANDARD.—

“(A) IN GENERAL.—Subject to subparagraph (B), based on the test procedures required under paragraph (2), any final rule establishing or revising a standard for a covered product, adopted after July 1, 2010, shall incorporate standby mode and off mode energy use into a single amended or new standard, pursuant to subsection (o), if feasible.

“(B) SEPARATE STANDARDS.—If not feasible, the Secretary shall prescribe within the final rule a separate standard for standby mode and off mode energy consumption, if justified under subsection (o).”; and

(4) in paragraph (2) of subsection (hh) (as redesignated by paragraph (2)), by striking “(ff)” each place it appears and inserting “(gg)”.

SEC. 311. ENERGY STANDARDS FOR HOME APPLIANCES.

(a) APPLIANCES.—

(1) DEHUMIDIFIERS.—Section 325(cc) of the Energy Policy and Conservation Act (42 U.S.C. 6295(cc)) is amended by striking paragraph (2) and inserting the following:

“(2) DEHUMIDIFIERS MANUFACTURED ON OR AFTER OCTOBER 1, 2012.—Dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

“Product Capacity (pints/day):	Minimum Energy Factor (liters/kWh)
Up to 35.00	1.35
35.01–45.00	1.50
45.01–54.00	1.60
54.01–75.00	1.70
Greater than 75.00	2.5.”.

(2) RESIDENTIAL CLOTHES WASHERS AND RESIDENTIAL DISHWASHERS.—Section 325(g) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)) is amended by adding at the end the following:

“(9) RESIDENTIAL CLOTHES WASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2011.—

“(A) IN GENERAL.—A top-loading or front-loading standard-size residential clothes washer manufactured on or after January 1, 2011, shall have—

“(i) a Modified Energy Factor of at least 1.26; and

“(ii) a water factor of not more than 9.5.

“(B) AMENDMENT OF STANDARDS.—

“(i) IN GENERAL.—Not later than December 31, 2011, the Secretary shall publish a final rule determining whether to amend the standards in effect for clothes washers manufactured on or after January 1, 2015.

Deadline.
Regulations.

Deadline.
Regulations.

“(ii) AMENDED STANDARDS.—The final rule shall contain any amended standards.

“(10) RESIDENTIAL DISHWASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2010.—

“(A) IN GENERAL.—A dishwasher manufactured on or after January 1, 2010, shall—

“(i) for a standard size dishwasher not exceed 355 kWh/year and 6.5 gallons per cycle; and

“(ii) for a compact size dishwasher not exceed 260 kWh/year and 4.5 gallons per cycle.

“(B) AMENDMENT OF STANDARDS.—

“(i) IN GENERAL.—Not later than January 1, 2015, the Secretary shall publish a final rule determining whether to amend the standards for dishwashers manufactured on or after January 1, 2018.

“(ii) AMENDED STANDARDS.—The final rule shall contain any amended standards.”.

(3) REFRIGERATORS AND FREEZERS.—Section 325(b) of the Energy Policy and Conservation Act (42 U.S.C. 6295(b)) is amended by adding at the end the following:

“(4) REFRIGERATORS AND FREEZERS MANUFACTURED ON OR AFTER JANUARY 1, 2014.—

Deadline.
Regulations.

“(A) IN GENERAL.—Not later than December 31, 2010, the Secretary shall publish a final rule determining whether to amend the standards in effect for refrigerators, refrigerator-freezers, and freezers manufactured on or after January 1, 2014.

“(B) AMENDED STANDARDS.—The final rule shall contain any amended standards.”.

(b) ENERGY STAR.—Section 324A(d)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294a(d)(2)) is amended by striking “January 1, 2010” and inserting “July 1, 2009”.

SEC. 312. WALK-IN COOLERS AND WALK-IN FREEZERS.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (G) through (K) as subparagraphs (H) through (L), respectively; and

(B) by inserting after subparagraph (F) the following:

“(G) Walk-in coolers and walk-in freezers.”;

(2) by redesignating paragraphs (20) and (21) as paragraphs (21) and (22), respectively; and

(3) by inserting after paragraph (19) the following:

“(20) WALK-IN COOLER; WALK-IN FREEZER.—

“(A) IN GENERAL.—The terms ‘walk-in cooler’ and ‘walk-in freezer’ mean an enclosed storage space refrigerated to temperatures, respectively, above, and at or below 32 degrees Fahrenheit that can be walked into, and has a total chilled storage area of less than 3,000 square feet.

“(B) EXCLUSION.—The terms ‘walk-in cooler’ and ‘walk-in freezer’ do not include products designed and marketed exclusively for medical, scientific, or research purposes.”.

(b) STANDARDS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) is amended by adding at the end the following:

“(f) WALK-IN COOLERS AND WALK-IN FREEZERS.—

“(1) IN GENERAL.—Subject to paragraphs (2) through (5), each walk-in cooler or walk-in freezer manufactured on or after January 1, 2009, shall—

“(A) have automatic door closers that firmly close all walk-in doors that have been closed to within 1 inch of full closure, except that this subparagraph shall not apply to doors wider than 3 feet 9 inches or taller than 7 feet;

“(B) have strip doors, spring hinged doors, or other method of minimizing infiltration when doors are open;

“(C) contain wall, ceiling, and door insulation of at least R-25 for coolers and R-32 for freezers, except that this subparagraph shall not apply to glazed portions of doors nor to structural members;

“(D) contain floor insulation of at least R-28 for freezers;

“(E) for evaporator fan motors of under 1 horsepower and less than 460 volts, use—

“(i) electronically commutated motors (brushless direct current motors); or

“(ii) 3-phase motors;

“(F) for condenser fan motors of under 1 horsepower, use—

“(i) electronically commutated motors;

“(ii) permanent split capacitor-type motors; or

“(iii) 3-phase motors; and

“(G) for all interior lights, use light sources with an efficacy of 40 lumens per watt or more, including ballast losses (if any), except that light sources with an efficacy of 40 lumens per watt or less, including ballast losses (if any), may be used in conjunction with a timer or device that turns off the lights within 15 minutes of when the walk-in cooler or walk-in freezer is not occupied by people.

“(2) ELECTRONICALLY COMMUTATED MOTORS.—

“(A) IN GENERAL.—The requirements of paragraph (1)(E)(i) for electronically commutated motors shall take effect January 1, 2009, unless, prior to that date, the Secretary determines that such motors are only available from 1 manufacturer.

Effective date.

“(B) OTHER TYPES OF MOTORS.—In carrying out paragraph (1)(E)(i) and subparagraph (A), the Secretary may allow other types of motors if the Secretary determines that, on average, those other motors use no more energy in evaporator fan applications than electronically commutated motors.

“(C) MAXIMUM ENERGY CONSUMPTION LEVEL.—The Secretary shall establish the maximum energy consumption level under subparagraph (B) not later than January 1, 2010.

Deadline.

“(3) ADDITIONAL SPECIFICATIONS.—Each walk-in cooler or walk-in freezer with transparent reach-in doors manufactured on or after January 1, 2009, shall also meet the following specifications:

“(A) Transparent reach-in doors for walk-in freezers and windows in walk-in freezer doors shall be of triple-pane glass with either heat-reflective treated glass or gas fill.

“(B) Transparent reach-in doors for walk-in coolers and windows in walk-in cooler doors shall be—

“(i) double-pane glass with heat-reflective treated glass and gas fill; or

“(ii) triple-pane glass with either heat-reflective treated glass or gas fill.

“(C) If the appliance has an antisweat heater without antisweat heat controls, the appliance shall have a total door rail, glass, and frame heater power draw of not more than 7.1 watts per square foot of door opening (for freezers) and 3.0 watts per square foot of door opening (for coolers).

“(D) If the appliance has an antisweat heater with antisweat heat controls, and the total door rail, glass, and frame heater power draw is more than 7.1 watts per square foot of door opening (for freezers) and 3.0 watts per square foot of door opening (for coolers), the antisweat heat controls shall reduce the energy use of the antisweat heater in a quantity corresponding to the relative humidity in the air outside the door or to the condensation on the inner glass pane.

“(4) PERFORMANCE-BASED STANDARDS.—

“(A) IN GENERAL.—Not later than January 1, 2012, the Secretary shall publish performance-based standards for walk-in coolers and walk-in freezers that achieve the maximum improvement in energy that the Secretary determines is technologically feasible and economically justified.

“(B) APPLICATION.—

“(i) IN GENERAL.—Except as provided in clause (ii), the standards shall apply to products described in subparagraph (A) that are manufactured beginning on the date that is 3 years after the final rule is published.

“(ii) DELAYED EFFECTIVE DATE.—If the Secretary determines, by rule, that a 3-year period is inadequate, the Secretary may establish an effective date for products manufactured beginning on the date that is not more than 5 years after the date of publication of a final rule for the products.

“(5) AMENDMENT OF STANDARDS.—

“(A) IN GENERAL.—Not later than January 1, 2020, the Secretary shall publish a final rule to determine if the standards established under paragraph (4) should be amended.

“(B) APPLICATION.—

“(i) IN GENERAL.—Except as provided in clause (ii), the rule shall provide that the standards shall apply to products manufactured beginning on the date that is 3 years after the final rule is published.

“(ii) DELAYED EFFECTIVE DATE.—If the Secretary determines, by rule, that a 3-year period is inadequate, the Secretary may establish an effective date for products manufactured beginning on the date that is not more than 5 years after the date of publication of a final rule for the products.”.

(c) TEST PROCEDURES.—Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6314(a)) is amended by adding at the end the following:

Deadline.
Publication.

Deadline.
Publication.
Regulations.

“(9) WALK-IN COOLERS AND WALK-IN FREEZERS.—

“(A) IN GENERAL.—For the purpose of test procedures for walk-in coolers and walk-in freezers:

“(i) The R value shall be the 1/K factor multiplied by the thickness of the panel.

“(ii) The K factor shall be based on ASTM test procedure C518–2004.

“(iii) For calculating the R value for freezers, the K factor of the foam at 20°F (average foam temperature) shall be used.

“(iv) For calculating the R value for coolers, the K factor of the foam at 55°F (average foam temperature) shall be used.

“(B) TEST PROCEDURE.—

“(i) IN GENERAL.—Not later than January 1, 2010, the Secretary shall establish a test procedure to measure the energy-use of walk-in coolers and walk-in freezers. Deadline.

“(ii) COMPUTER MODELING.—The test procedure may be based on computer modeling, if the computer model or models have been verified using the results of laboratory tests on a significant sample of walk-in coolers and walk-in freezers.”.

(d) LABELING.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended by inserting “walk-in coolers and walk-in freezers,” after “commercial clothes washers,” each place it appears.

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended—

(1) by striking “subparagraphs (B), (C), (D), (E), and (F)” each place it appears and inserting “subparagraphs (B) through (G)”; and

(2) by adding at the end the following:

“(h) WALK-IN COOLERS AND WALK-IN FREEZERS.—

“(1) COVERED TYPES.—

“(A) RELATIONSHIP TO OTHER LAW.—

“(i) IN GENERAL.—Except as otherwise provided in this subsection, section 327 shall apply to walk-in coolers and walk-in freezers for which standards have been established under paragraphs (1), (2), and (3) of section 342(f) to the same extent and in the same manner as the section applies under part A on the date of enactment of this subsection. Applicability.

“(ii) STATE STANDARDS.—Any State standard prescribed before the date of enactment of this subsection shall not be preempted until the standards established under paragraphs (1) and (2) of section 342(f) take effect.

“(B) ADMINISTRATION.—In applying section 327 to equipment under subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply. Applicability.

“(2) FINAL RULE NOT TIMELY.—

“(A) IN GENERAL.—If the Secretary does not issue a final rule for a specific type of walk-in cooler or walk-in freezer within the timeframe established under paragraph (4) or (5) of section 342(f), subsections (b) and (c)

of section 327 shall no longer apply to the specific type of walk-in cooler or walk-in freezer during the period—

“(i) beginning on the day after the scheduled date for a final rule; and

“(ii) ending on the date on which the Secretary publishes a final rule covering the specific type of walk-in cooler or walk-in freezer.

“(B) STATE STANDARDS.—Any State standard issued before the publication of the final rule shall not be preempted until the standards established in the final rule take effect.

“(3) CALIFORNIA.—Any standard issued in the State of California before January 1, 2011, under title 20 of the California Code of Regulations, that refers to walk-in coolers and walk-in freezers, for which standards have been established under paragraphs (1), (2), and (3) of section 342(f), shall not be preempted until the standards established under section 342(f)(3) take effect.”.

SEC. 313. ELECTRIC MOTOR EFFICIENCY STANDARDS.

(a) DEFINITIONS.—Section 340(13) of the Energy Policy and Conservation Act (42 U.S.C. 6311(13)) is amended—

(1) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively; and

(2) by striking “(13)(A)” and all that follows through the end of subparagraph (A) and inserting the following:

“(13) ELECTRIC MOTOR.—

“(A) GENERAL PURPOSE ELECTRIC MOTOR (SUBTYPE I).—The term ‘general purpose electric motor (subtype I)’ means any motor that meets the definition of ‘General Purpose’ as established in the final rule issued by the Department of Energy entitled ‘Energy Efficiency Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors’ (10 CFR 431), as in effect on the date of enactment of the Energy Independence and Security Act of 2007.

“(B) GENERAL PURPOSE ELECTRIC MOTOR (SUBTYPE II).—The term ‘general purpose electric motor (subtype II)’ means motors incorporating the design elements of a general purpose electric motor (subtype I) that are configured as 1 of the following:

“(i) A U-Frame Motor.

“(ii) A Design C Motor.

“(iii) A close-coupled pump motor.

“(iv) A Footless motor.

“(v) A vertical solid shaft normal thrust motor (as tested in a horizontal configuration).

“(vi) An 8-pole motor (900 rpm).

“(vii) A poly-phase motor with voltage of not more than 600 volts (other than 230 or 460 volts).”.

(b) STANDARDS.—

(1) AMENDMENTS.—Section 342(b) of the Energy Policy and Conservation Act (42 U.S.C. 6313(b)) is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following:

“(2) ELECTRIC MOTORS.—

“(A) GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE I).—Except as provided in subparagraph (B), each general purpose electric motor (subtype I) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on the date of enactment of the Energy Independence and Security Act of 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG-1 (2006) Table 12-12.

“(B) FIRE PUMP MOTORS.—Each fire pump motor manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on the date of enactment of the Energy Independence and Security Act of 2007 shall have nominal full load efficiency that is not less than as defined in NEMA MG-1 (2006) Table 12-11.

“(C) GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE II).—Each general purpose electric motor (subtype II) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on the date of enactment of the Energy Independence and Security Act of 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG-1 (2006) Table 12-11.

“(D) NEMA DESIGN B, GENERAL PURPOSE ELECTRIC MOTORS.—Each NEMA Design B, general purpose electric motor with a power rating of more than 200 horsepower, but not greater than 500 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on the date of enactment of the Energy Independence and Security Act of 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG-1 (2006) Table 12-11.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on the date that is 3 years after the date of enactment of this Act. 42 USC 6313 note.

SEC. 314. STANDARDS FOR SINGLE PACKAGE VERTICAL AIR CONDITIONERS AND HEAT PUMPS.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended by adding at the end the following:

“(22) SINGLE PACKAGE VERTICAL AIR CONDITIONER.—The term ‘single package vertical air conditioner’ means air-cooled commercial package air conditioning and heating equipment that—

“(A) is factory-assembled as a single package that—

“(i) has major components that are arranged vertically;

“(ii) is an encased combination of cooling and optional heating components; and

“(iii) is intended for exterior mounting on, adjacent interior to, or through an outside wall;

“(B) is powered by a single- or 3-phase current;

“(C) may contain 1 or more separate indoor grilles, outdoor louvers, various ventilation options, indoor free air discharges, ductwork, well plenum, or sleeves; and

“(D) has heating components that may include electrical resistance, steam, hot water, or gas, but may not include reverse cycle refrigeration as a heating means.

“(23) SINGLE PACKAGE VERTICAL HEAT PUMP.—The term ‘single package vertical heat pump’ means a single package vertical air conditioner that—

“(A) uses reverse cycle refrigeration as its primary heat source; and

“(B) may include secondary supplemental heating by means of electrical resistance, steam, hot water, or gas.”.

(b) STANDARDS.—Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended—

(1) in the first sentence of each of paragraphs (1) and (2), by inserting “(including single package vertical air conditioners and single package vertical heat pumps)” after “heating equipment” each place it appears;

(2) in paragraph (1), by striking “but before January 1, 2010,”;

(3) in the first sentence of each of paragraphs (7), (8), and (9), by inserting “(other than single package vertical air conditioners and single package vertical heat pumps)” after “heating equipment” each place it appears;

(4) in paragraph (7)—

(A) by striking “manufactured on or after January 1, 2010,”;

(B) in each of subparagraphs (A), (B), and (C), by striking “The” and inserting “For equipment manufactured on or after January 1, 2010, the”; and

(C) by adding at the end the following:

“(D) For equipment manufactured on or after the later of January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007—

“(i) the minimum seasonal energy efficiency ratio of air-cooled 3-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 13.0;

“(ii) the minimum seasonal energy efficiency ratio of air-cooled 3-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 13.0;

“(iii) the minimum heating seasonal performance factor of air-cooled 3-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 7.7; and

“(iv) the minimum heating seasonal performance factor of air-cooled 3-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 7.7.”; and

(5) by adding at the end the following:

“(10) SINGLE PACKAGE VERTICAL AIR CONDITIONERS AND SINGLE PACKAGE VERTICAL HEAT PUMPS.—

“(A) IN GENERAL.—Single package vertical air conditioners and single package vertical heat pumps manufactured on or after January 1, 2010, shall meet the following standards:

“(i) The minimum energy efficiency ratio of single package vertical air conditioners less than 65,000 Btu per hour (cooling capacity), single-phase, shall be 9.0.

“(ii) The minimum energy efficiency ratio of single package vertical air conditioners less than 65,000 Btu per hour (cooling capacity), 3-phase, shall be 9.0.

“(iii) The minimum energy efficiency ratio of single package vertical air conditioners at or above 65,000 Btu per hour (cooling capacity) but less than 135,000 Btu per hour (cooling capacity), shall be 8.9.

“(iv) The minimum energy efficiency ratio of single package vertical air conditioners at or above 135,000 Btu per hour (cooling capacity) but less than 240,000 Btu per hour (cooling capacity), shall be 8.6.

“(v) The minimum energy efficiency ratio of single package vertical heat pumps less than 65,000 Btu per hour (cooling capacity), single-phase, shall be 9.0 and the minimum coefficient of performance in the heating mode shall be 3.0.

“(vi) The minimum energy efficiency ratio of single package vertical heat pumps less than 65,000 Btu per hour (cooling capacity), 3-phase, shall be 9.0 and the minimum coefficient of performance in the heating mode shall be 3.0.

“(vii) The minimum energy efficiency ratio of single package vertical heat pumps at or above 65,000 Btu per hour (cooling capacity) but less than 135,000 Btu per hour (cooling capacity), shall be 8.9 and the minimum coefficient of performance in the heating mode shall be 3.0.

“(viii) The minimum energy efficiency ratio of single package vertical heat pumps at or above 135,000 Btu per hour (cooling capacity) but less than 240,000 Btu per hour (cooling capacity), shall be 8.6 and the minimum coefficient of performance in the heating mode shall be 2.9.

“(B) REVIEW.—Not later than 3 years after the date of enactment of this paragraph, the Secretary shall review the most recently published ASHRAE/IES Standard 90.1 with respect to single package vertical air conditioners and single package vertical heat pumps in accordance with the procedures established under paragraph (6).”.

Deadline.

SEC. 315. IMPROVED ENERGY EFFICIENCY FOR APPLIANCES AND BUILDINGS IN COLD CLIMATES.

(a) RESEARCH.—Section 911(a)(2) of the Energy Policy Act of 2005 (42 U.S.C. 16191(a)(2)) is amended—

- (1) in subparagraph (C), by striking “and” at the end;
- (2) in subparagraph (D), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:

“(E) technologies to improve the energy efficiency of appliances and mechanical systems for buildings in cold

climates, including combined heat and power units and increased use of renewable resources, including fuel.”

(b) REBATES.—Section 124 of the Energy Policy Act of 2005 (42 U.S.C. 15821) is amended—

(1) in subsection (b)(1), by inserting “, or products with improved energy efficiency in cold climates,” after “residential Energy Star products”; and

(2) in subsection (e), by inserting “or product with improved energy efficiency in a cold climate” after “residential Energy Star product” each place it appears.

SEC. 316. TECHNICAL CORRECTIONS.

(a) DEFINITION OF F96T12 LAMP.—

42 USC 6291.

(1) IN GENERAL.—Section 135(a)(1)(A)(ii) of the Energy Policy Act of 2005 (Public Law 109-58; 119 Stat. 624) is amended by striking “C78.1-1978 (R1984)” and inserting “C78.3-1978 (R1984)”.

42 USC 6291
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on August 8, 2005.

(b) DEFINITION OF FLUORESCENT LAMP.—Section 321(30)(B)(viii) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(B)(viii)) is amended by striking “82” and inserting “87”.

(c) MERCURY VAPOR LAMP BALLASTS.—

(1) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by section 301(a)(2)) is amended—

(A) by striking paragraphs (46) through (48) and inserting the following:

“(46) HIGH INTENSITY DISCHARGE LAMP.—

“(A) IN GENERAL.—The term ‘high intensity discharge lamp’ means an electric-discharge lamp in which—

“(i) the light-producing arc is stabilized by the arc tube wall temperature; and

“(ii) the arc tube wall loading is in excess of 3 Watts/cm².

“(B) INCLUSIONS.—The term ‘high intensity discharge lamp’ includes mercury vapor, metal halide, and high-pressure sodium lamps described in subparagraph (A).

“(47) MERCURY VAPOR LAMP.—

“(A) IN GENERAL.—The term ‘mercury vapor lamp’ means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury typically operating at a partial vapor pressure in excess of 100,000 Pa (approximately 1 atm).

“(B) INCLUSIONS.—The term ‘mercury vapor lamp’ includes clear, phosphor-coated, and self-ballasted screw base lamps described in subparagraph (A).

“(48) MERCURY VAPOR LAMP BALLAST.—The term ‘mercury vapor lamp ballast’ means a device that is designed and marketed to start and operate mercury vapor lamps intended for general illumination by providing the necessary voltage and current.”; and

(B) by adding at the end the following:

“(53) SPECIALTY APPLICATION MERCURY VAPOR LAMP BALLAST.—The term ‘specialty application mercury vapor lamp ballast’ means a mercury vapor lamp ballast that—

“(A) is designed and marketed for operation of mercury vapor lamps used in quality inspection, industrial processing, or scientific use, including fluorescent microscopy and ultraviolet curing; and

“(B) in the case of a specialty application mercury vapor lamp ballast, the label of which—

“(i) provides that the specialty application mercury vapor lamp ballast is ‘For specialty applications only, not for general illumination’; and

“(ii) specifies the specific applications for which the ballast is designed.”.

(2) STANDARD SETTING AUTHORITY.—Section 325(ee) of the Energy Policy and Conservation Act (42 U.S.C. 6295(ee)) is amended by inserting “(other than specialty application mercury vapor lamp ballasts)” after “ballasts”.

(d) ENERGY CONSERVATION STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(1) in subsection (v)—

(A) in the subsection heading, by striking “CEILING FANS AND”;

(B) by striking paragraph (1); and

(C) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(2) in subsection (ff)—

(A) in paragraph (1)(A)—

(i) by striking clause (iii);

(ii) by redesignating clause (iv) as clause (iii); and

(iii) in clause (iii)(II) (as so redesignated), by inserting “fans sold for” before “outdoor”; and

(B) in paragraph (4)(C)—

(i) in the matter preceding clause (i), by striking “subparagraph (B)” and inserting “subparagraph (A)”; and

(ii) by striking clause (ii) and inserting the following:

“(ii) shall be packaged with lamps to fill all sockets.”;

(C) in paragraph (6), by redesignating subparagraphs (C) and (D) as clauses (i) and (ii), respectively, of subparagraph (B); and

(D) in paragraph (7), by striking “327” the second place it appears and inserting “324”.

Subtitle B—Lighting Energy Efficiency

SEC. 321. EFFICIENT LIGHT BULBS.

(a) ENERGY EFFICIENCY STANDARDS FOR GENERAL SERVICE INCANDESCENT LAMPS.—

(1) DEFINITION OF GENERAL SERVICE INCANDESCENT LAMP.—

Section 321(30) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)) is amended—

(A) by striking subparagraph (D) and inserting the following:

“(D) GENERAL SERVICE INCANDESCENT LAMP.—

“(i) IN GENERAL.—The term ‘general service incandescent lamp’ means a standard incandescent or halogen type lamp that—

“(I) is intended for general service applications;

“(II) has a medium screw base;

“(III) has a lumen range of not less than 310 lumens and not more than 2,600 lumens; and

“(IV) is capable of being operated at a voltage range at least partially within 110 and 130 volts.

“(ii) EXCLUSIONS.—The term ‘general service incandescent lamp’ does not include the following incandescent lamps:

“(I) An appliance lamp.

“(II) A black light lamp.

“(III) A bug lamp.

“(IV) A colored lamp.

“(V) An infrared lamp.

“(VI) A left-hand thread lamp.

“(VII) A marine lamp.

“(VIII) A marine signal service lamp.

“(IX) A mine service lamp.

“(X) A plant light lamp.

“(XI) A reflector lamp.

“(XII) A rough service lamp.

“(XIII) A shatter-resistant lamp (including a shatter-proof lamp and a shatter-protected lamp).

“(XIV) A sign service lamp.

“(XV) A silver bowl lamp.

“(XVI) A showcase lamp.

“(XVII) A 3-way incandescent lamp.

“(XVIII) A traffic signal lamp.

“(XIX) A vibration service lamp.

“(XX) A G shape lamp (as defined in ANSI C78.20-2003 and C79.1-2002 with a diameter of 5 inches or more.

“(XXI) A T shape lamp (as defined in ANSI C78.20-2003 and C79.1-2002) and that uses not more than 40 watts or has a length of more than 10 inches.

“(XXII) A B, BA, CA, F, G16-1/2, G-25, G30, S, or M-14 lamp (as defined in ANSI C79.1-2002 and ANSI C78.20-2003) of 40 watts or less.”; and

(B) by adding at the end the following:

“(T) APPLIANCE LAMP.—The term ‘appliance lamp’ means any lamp that—

“(i) is specifically designed to operate in a household appliance, has a maximum wattage of 40 watts, and is sold at retail, including an oven lamp, refrigerator lamp, and vacuum cleaner lamp; and

“(ii) is designated and marketed for the intended application, with—

“(I) the designation on the lamp packaging; and

“(II) marketing materials that identify the lamp as being for appliance use.

“(U) CANDELABRA BASE INCANDESCENT LAMP.—The term ‘candelabra base incandescent lamp’ means a lamp that uses candelabra screw base as described in ANSI

C81.61-2006, Specifications for Electric Bases, common designations E11 and E12.

“(V) INTERMEDIATE BASE INCANDESCENT LAMP.—The term ‘intermediate base incandescent lamp’ means a lamp that uses an intermediate screw base as described in ANSI C81.61-2006, Specifications for Electric Bases, common designation E17.

“(W) MODIFIED SPECTRUM.—The term ‘modified spectrum’ means, with respect to an incandescent lamp, an incandescent lamp that—

“(i) is not a colored incandescent lamp; and

“(ii) when operated at the rated voltage and wattage of the incandescent lamp—

“(I) has a color point with (x,y) chromaticity coordinates on the Commission Internationale de l’Eclairage (C.I.E.) 1931 chromaticity diagram that lies below the black-body locus; and

“(II) has a color point with (x,y) chromaticity coordinates on the C.I.E. 1931 chromaticity diagram that lies at least 4 MacAdam steps (as referenced in IESNA LM16) distant from the color point of a clear lamp with the same filament and bulb shape, operated at the same rated voltage and wattage.

“(X) ROUGH SERVICE LAMP.—The term ‘rough service lamp’ means a lamp that—

“(i) has a minimum of 5 supports with filament configurations that are C-7A, C-11, C-17, and C-22 as listed in Figure 6-12 of the 9th edition of the IESNA Lighting handbook, or similar configurations where lead wires are not counted as supports; and

“(ii) is designated and marketed specifically for ‘rough service’ applications, with—

“(I) the designation appearing on the lamp packaging; and

“(II) marketing materials that identify the lamp as being for rough service.

“(Y) 3-WAY INCANDESCENT LAMP.—The term ‘3-way incandescent lamp’ includes an incandescent lamp that—

“(i) employs 2 filaments, operated separately and in combination, to provide 3 light levels; and

“(ii) is designated on the lamp packaging and marketing materials as being a 3-way incandescent lamp.

“(Z) SHATTER-RESISTANT LAMP, SHATTER-PROOF LAMP, OR SHATTER-PROTECTED LAMP.—The terms ‘shatter-resistant lamp’, ‘shatter-proof lamp’, and ‘shatter-protected lamp’ mean a lamp that—

“(i) has a coating or equivalent technology that is compliant with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken; and

“(ii) is designated and marketed for the intended application, with—

“(I) the designation on the lamp packaging; and

“(II) marketing materials that identify the lamp as being shatter-resistant, shatter-proof, or shatter-protected.

“(AA) VIBRATION SERVICE LAMP.—The term ‘vibration service lamp’ means a lamp that—

“(i) has filament configurations that are C-5, C-7A, or C-9, as listed in Figure 6-12 of the 9th Edition of the IESNA Lighting Handbook or similar configurations;

“(ii) has a maximum wattage of 60 watts;

“(iii) is sold at retail in packages of 2 lamps or less; and

“(iv) is designated and marketed specifically for vibration service or vibration-resistant applications, with—

“(I) the designation appearing on the lamp packaging; and

“(II) marketing materials that identify the lamp as being vibration service only.

“(BB) GENERAL SERVICE LAMP.—

“(i) IN GENERAL.—The term ‘general service lamp’ includes—

“(I) general service incandescent lamps;

“(II) compact fluorescent lamps;

“(III) general service light-emitting diode (LED or OLED) lamps; and

“(IV) any other lamps that the Secretary determines are used to satisfy lighting applications traditionally served by general service incandescent lamps.

“(ii) EXCLUSIONS.—The term ‘general service lamp’ does not include—

“(I) any lighting application or bulb shape described in any of subclauses (I) through (XXII) of subparagraph (D)(ii); or

“(II) any general service fluorescent lamp or incandescent reflector lamp.

“(CC) LIGHT-EMITTING DIODE; LED.—

“(i) IN GENERAL.—The terms ‘light-emitting diode’ and ‘LED’ means a p-n junction solid state device the radiated output of which is a function of the physical construction, material used, and exciting current of the device.

“(ii) OUTPUT.—The output of a light-emitting diode may be in—

“(I) the infrared region;

“(II) the visible region; or

“(III) the ultraviolet region.

“(DD) ORGANIC LIGHT-EMITTING DIODE; OLED.—The terms ‘organic light-emitting diode’ and ‘OLED’ mean a thin-film light-emitting device that typically consists of a series of organic layers between 2 electrical contacts (electrodes).

“(EE) COLORED INCANDESCENT LAMP.—The term ‘colored incandescent lamp’ means an incandescent lamp designated and marketed as a colored lamp that has—

“(i) a color rendering index of less than 50, as determined according to the test method given in C.I.E. publication 13.3–1995; or

“(ii) a correlated color temperature of less than 2,500K, or greater than 4,600K, where correlated temperature is computed according to the Journal of Optical Society of America, Vol. 58, pages 1528–1595 (1986).”.

(2) **COVERAGE.**—Section 322(a)(14) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)(14)) is amended by inserting “, general service incandescent lamps,” after “fluorescent lamps”.

(3) **ENERGY CONSERVATION STANDARDS.**—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(A) in subsection (i)—

(i) in the section heading, by inserting “, GENERAL SERVICE INCANDESCENT LAMPS, INTERMEDIATE BASE INCANDESCENT LAMPS, CANDELABRA BASE INCANDESCENT LAMPS,” after “FLUORESCENT LAMPS”;

(ii) in paragraph (1)—

(I) in subparagraph (A)—

(aa) by inserting “, general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps,” after “fluorescent lamps”;

(bb) by inserting “, new maximum wattage,” after “lamp efficacy”; and

(cc) by inserting after the table entitled “INCANDESCENT REFLECTOR LAMPS” the following:

“GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rate Wattage	Minimum Rate Life- time	Effective Date
1490–2600	72	1,000 hrs	1/1/2012
1050–1489	53	1,000 hrs	1/1/2013
750–1049	43	1,000 hrs	1/1/2014
310–749	29	1,000 hrs	1/1/2014

“MODIFIED SPECTRUM GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rate Wattage	Minimum Rate Life- time	Effective Date
1118–1950	72	1,000 hrs	1/1/2012
788–1117	53	1,000 hrs	1/1/2013
563–787	43	1,000 hrs	1/1/2014
232–562	29	1,000 hrs	1/1/2014”;

and

(II) by striking subparagraph (B) and inserting the following:

“(B) **APPLICATION.**—

“(i) APPLICATION CRITERIA.—This subparagraph applies to each lamp that—

“(I) is intended for a general service or general illumination application (whether incandescent or not);

“(II) has a medium screw base or any other screw base not defined in ANSI C81.61-2006;

“(III) is capable of being operated at a voltage at least partially within the range of 110 to 130 volts; and

“(IV) is manufactured or imported after December 31, 2011.

“(ii) REQUIREMENT.—For purposes of this paragraph, each lamp described in clause (i) shall have a color rendering index that is greater than or equal to—

“(I) 80 for nonmodified spectrum lamps; or

“(II) 75 for modified spectrum lamps.

“(C) CANDELABRA INCANDESCENT LAMPS AND INTERMEDIATE BASE INCANDESCENT LAMPS.—

“(i) CANDELABRA BASE INCANDESCENT LAMPS.—A candelabra base incandescent lamp shall not exceed 60 rated watts.

“(ii) INTERMEDIATE BASE INCANDESCENT LAMPS.—An intermediate base incandescent lamp shall not exceed 40 rated watts.

“(D) EXEMPTIONS.—

“(i) PETITION.—Any person may petition the Secretary for an exemption for a type of general service lamp from the requirements of this subsection.

“(ii) CRITERIA.—The Secretary may grant an exemption under clause (i) only to the extent that the Secretary finds, after a hearing and opportunity for public comment, that it is not technically feasible to serve a specialized lighting application (such as a military, medical, public safety, or certified historic lighting application) using a lamp that meets the requirements of this subsection.

“(iii) ADDITIONAL CRITERION.—To grant an exemption for a product under this subparagraph, the Secretary shall include, as an additional criterion, that the exempted product is unlikely to be used in a general service lighting application.

“(E) EXTENSION OF COVERAGE.—

“(i) PETITION.—Any person may petition the Secretary to establish standards for lamp shapes or bases that are excluded from the definition of general service lamps.

“(ii) INCREASED SALES OF EXEMPTED LAMPS.—The petition shall include evidence that the availability or sales of exempted incandescent lamps have increased significantly since the date on which the standards on general service incandescent lamps were established.

“(iii) CRITERIA.—The Secretary shall grant a petition under clause (i) if the Secretary finds that—

“(I) the petition presents evidence that demonstrates that commercial availability or sales of exempted incandescent lamp types have increased significantly since the standards on general service lamps were established and likely are being widely used in general lighting applications; and

“(II) significant energy savings could be achieved by covering exempted products, as determined by the Secretary based on sales data provided to the Secretary from manufacturers and importers.

“(iv) NO PRESUMPTION.—The grant of a petition under this subparagraph shall create no presumption with respect to the determination of the Secretary with respect to any criteria under a rulemaking conducted under this section.

“(v) EXPEDITED PROCEEDING.—If the Secretary grants a petition for a lamp shape or base under this subparagraph, the Secretary shall—

“(I) conduct a rulemaking to determine standards for the exempted lamp shape or base; and

“(II) complete the rulemaking not later than 18 months after the date on which notice is provided granting the petition.

“(F) DEFINITION OF EFFECTIVE DATE.—In this paragraph, except as otherwise provided in a table contained in subparagraph (A), the term ‘effective date’ means the last day of the month specified in the table that follows October 24, 1992.”;

(iii) in paragraph (5), in the first sentence, by striking “and general service incandescent lamps”;

(iv) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(v) by inserting after paragraph (5) the following:

“(6) STANDARDS FOR GENERAL SERVICE LAMPS.—

“(A) RULEMAKING BEFORE JANUARY 1, 2014.—

“(i) IN GENERAL.—Not later than January 1, 2014, the Secretary shall initiate a rulemaking procedure to determine whether—

“(I) standards in effect for general service lamps should be amended to establish more stringent standards than the standards specified in paragraph (1)(A); and

“(II) the exemptions for certain incandescent lamps should be maintained or discontinued based, in part, on exempted lamp sales collected by the Secretary from manufacturers.

“(ii) SCOPE.—The rulemaking—

“(I) shall not be limited to incandescent lamp technologies; and

“(II) shall include consideration of a minimum standard of 45 lumens per watt for general service lamps.

“(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service incandescent lamps should be amended, the Secretary shall publish a final rule not later than January 1,

Deadline.

Publication.
Regulations.
Deadline.
Effective date.

2017, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

“(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

“(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

“(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

Effective date.

“(v) BACKSTOP REQUIREMENT.—If the Secretary fails to complete a rulemaking in accordance with clauses (i) through (iv) or if the final rule does not produce savings that are greater than or equal to the savings from a minimum efficacy standard of 45 lumens per watt, effective beginning January 1, 2020, the Secretary shall prohibit the sale of any general service lamp that does not meet a minimum efficacy standard of 45 lumens per watt.

California.
Nevada.
Effective date.

“(vi) STATE PREEMPTION.—Neither section 327(b) nor any other provision of law shall preclude California or Nevada from adopting, effective beginning on or after January 1, 2018—

“(I) a final rule adopted by the Secretary in accordance with clauses (i) through (iv);

“(II) if a final rule described in subclause (I) has not been adopted, the backstop requirement under clause (v); or

“(III) in the case of California, if a final rule described in subclause (I) has not been adopted, any California regulations relating to these covered products adopted pursuant to State statute in effect as of the date of enactment of the Energy Independence and Security Act of 2007.

“(B) RULEMAKING BEFORE JANUARY 1, 2020.—

Deadline.

“(i) IN GENERAL.—Not later than January 1, 2020, the Secretary shall initiate a rulemaking procedure to determine whether—

“(I) standards in effect for general service incandescent lamps should be amended to reflect lumen ranges with more stringent maximum wattage than the standards specified in paragraph (I)(A); and

“(II) the exemptions for certain incandescent lamps should be maintained or discontinued based, in part, on exempted lamp sales data collected by the Secretary from manufacturers.

“(ii) SCOPE.—The rulemaking shall not be limited to incandescent lamp technologies.

Publication.
Regulation.
Deadline.
Effective date.

“(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service incandescent lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2022, with an effective date that is not earlier than

3 years after the date on which the final rule is published.

“(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

“(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

“(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.”; and

(B) in subsection (l), by adding at the end the following:

“(4) ENERGY EFFICIENCY STANDARDS FOR CERTAIN LAMPS.—

Effective dates.
Deadlines.

“(A) IN GENERAL.—The Secretary shall prescribe an energy efficiency standard for rough service lamps, vibration service lamps, 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and shatter-resistant lamps only in accordance with this paragraph.

“(B) BENCHMARKS.—Not later than 1 year after the date of enactment of this paragraph, the Secretary, in consultation with the National Electrical Manufacturers Association, shall—

“(i) collect actual data for United States unit sales for each of calendar years 1990 through 2006 for each of the 5 types of lamps described in subparagraph (A) to determine the historical growth rate of the type of lamp; and

“(ii) construct a model for each type of lamp based on coincident economic indicators that closely match the historical annual growth rate of the type of lamp to provide a neutral comparison benchmark to model future unit sales after calendar year 2006.

“(C) ACTUAL SALES DATA.—

“(i) IN GENERAL.—Effective for each of calendar years 2010 through 2025, the Secretary, in consultation with the National Electrical Manufacturers Association, shall—

“(I) collect actual United States unit sales data for each of 5 types of lamps described in subparagraph (A); and

“(II) not later than 90 days after the end of each calendar year, compare the lamp sales in that year with the sales predicted by the comparison benchmark for each of the 5 types of lamps described in subparagraph (A).

“(ii) CONTINUATION OF TRACKING.—

“(I) DETERMINATION.—Not later than January 1, 2023, the Secretary shall determine if actual sales data should be tracked for the lamp types described in subparagraph (A) after calendar year 2025.

“(II) CONTINUATION.—If the Secretary finds that the market share of a lamp type described in subparagraph (A) could significantly erode the

market share for general service lamps, the Secretary shall continue to track the actual sales data for the lamp type.

“(D) ROUGH SERVICE LAMPS.—

“(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for rough service lamps demonstrates actual unit sales of rough service lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

“(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

“(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for rough service lamps.

“(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of the issuance of the finding under clause (i)(I), the Secretary shall require rough service lamps to—

“(I) have a shatter-proof coating or equivalent technology that is compliant with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken and to provide effective containment over the life of the lamp;

“(II) have a maximum 40-watt limitation; and

“(III) be sold at retail only in a package containing 1 lamp.

“(E) VIBRATION SERVICE LAMPS.—

“(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for vibration service lamps demonstrates actual unit sales of vibration service lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

“(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

“(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for vibration service lamps.

“(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of the issuance of the finding under clause (i)(I), the Secretary shall require vibration service lamps to—

“(I) have a maximum 40-watt limitation; and

“(II) be sold at retail only in a package containing 1 lamp.

“(F) 3-WAY INCANDESCENT LAMPS.—

“(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for 3-way incandescent lamps demonstrates actual unit sales of 3-way incandescent lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

“(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

“(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for 3-way incandescent lamps.

“(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of issuance of the finding under clause (i)(I), the Secretary shall require that—

“(I) each filament in a 3-way incandescent lamp meet the new maximum wattage requirements for the respective lumen range established under subsection (i)(1)(A); and

“(II) 3-way lamps be sold at retail only in a package containing 1 lamp.

“(G) 2,601–3,300 LUMEN GENERAL SERVICE INCANDESCENT LAMPS.—Effective beginning with the first year that the reported annual sales rate demonstrates actual unit sales of 2,601–3,300 lumen general service incandescent lamps in the lumen range of 2,601 through 3,300 lumens (or, in the case of a modified spectrum, in the lumen range of 1,951 through 2,475 lumens) that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall impose—

“(i) a maximum 95-watt limitation on general service incandescent lamps in the lumen range of 2,601 through 3,300 lumens; and

“(ii) a requirement that those lamps be sold at retail only in a package containing 1 lamp.

“(H) SHATTER-RESISTANT LAMPS.—

“(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for shatter-resistant lamps demonstrates actual unit sales of shatter-resistant lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

“(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

“(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for shatter-resistant lamps.

“(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after

the date of issuance of the finding under clause (i)(I), the Secretary shall impose—

“(I) a maximum wattage limitation of 40 watts on shatter resistant lamps; and

“(II) a requirement that those lamps be sold at retail only in a package containing 1 lamp.

“(I) RULEMAKINGS BEFORE JANUARY 1, 2025.—

“(i) IN GENERAL.—Except as provided in clause (ii), if the Secretary issues a final rule prior to January 1, 2025, establishing an energy conservation standard for any of the 5 types of lamps for which data collection is required under any of subparagraphs (D) through (G), the requirement to collect and model data for that type of lamp shall terminate unless, as part of the rulemaking, the Secretary determines that continued tracking is necessary.

“(ii) BACKSTOP REQUIREMENT.—If the Secretary imposes a backstop requirement as a result of a failure to complete an accelerated rulemaking in accordance with clause (i)(II) of any of subparagraphs (D) through (G), the requirement to collect and model data for the applicable type of lamp shall continue for an additional 2 years after the effective date of the backstop requirement.”.

(b) CONSUMER EDUCATION AND LAMP LABELING.—Section 324(a)(2)(C) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)(C)) is amended by adding at the end the following:

Deadlines.

“(iii) RULEMAKING TO CONSIDER EFFECTIVENESS OF LAMP LABELING.—

“(I) IN GENERAL.—Not later than 1 year after the date of enactment of this clause, the Commission shall initiate a rulemaking to consider—

“(aa) the effectiveness of current lamp labeling for power levels or watts, light output or lumens, and lamp lifetime; and

“(bb) alternative labeling approaches that will help consumers to understand new high-efficiency lamp products and to base the purchase decisions of the consumers on the most appropriate source that meets the requirements of the consumers for lighting level, light quality, lamp lifetime, and total lifecycle cost.

“(II) COMPLETION.—The Commission shall—

“(aa) complete the rulemaking not later than the date that is 30 months after the date of enactment of this clause; and

“(bb) consider reopening the rulemaking not later than 180 days before the effective dates of the standards for general service incandescent lamps established under section 325(i)(1)(A), if the Commission determines that further labeling changes are needed to help consumers understand lamp alternatives.”.

42 USC 6294
note.

(c) MARKET ASSESSMENTS AND CONSUMER AWARENESS PROGRAM.—

(1) IN GENERAL.—In cooperation with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, the Federal Trade Commission, lighting and retail industry associations, energy efficiency organizations, and any other entities that the Secretary of Energy determines to be appropriate, the Secretary of Energy shall—

(A) conduct an annual assessment of the market for general service lamps and compact fluorescent lamps—

(i) to identify trends in the market shares of lamp types, efficiencies, and light output levels purchased by residential and nonresidential consumers; and

(ii) to better understand the degree to which consumer decisionmaking is based on lamp power levels or watts, light output or lumens, lamp lifetime, and other factors, including information required on labels mandated by the Federal Trade Commission;

(B) provide the results of the market assessment to the Federal Trade Commission for consideration in the rulemaking described in section 324(a)(2)(C)(iii) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)(C)(iii)); and

(C) in cooperation with industry trade associations, lighting industry members, utilities, and other interested parties, carry out a proactive national program of consumer awareness, information, and education that broadly uses the media and other effective communication techniques over an extended period of time to help consumers understand the lamp labels and make energy-efficient lighting choices that meet the needs of consumers.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$10,000,000 for each of fiscal years 2009 through 2012.

(d) GENERAL RULE OF PREEMPTION FOR ENERGY CONSERVATION STANDARDS BEFORE FEDERAL STANDARD BECOMES EFFECTIVE FOR A PRODUCT.—Section 327(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)(1)) is amended—

(1) by inserting “(A)” after “(1)”;

(2) by inserting “or” after the semicolon at the end; and

(3) by adding at the end the following:

“(B) in the case of any portion of any regulation that establishes requirements for general service incandescent lamps, intermediate base incandescent lamps, or candelabra base lamps, was enacted or adopted by the State of California or Nevada before December 4, 2007, except that—

California.
Nevada.

“(i) the regulation adopted by the California Energy Commission with an effective date of January 1, 2008, shall only be effective until the effective date of the Federal standard for the applicable lamp category under subparagraphs (A), (B), and (C) of section 325(i)(1);

“(ii) the States of California and Nevada may, at any time, modify or adopt a State standard for general service lamps to conform with Federal standards with effective dates no earlier than 12 months prior to the Federal effective dates prescribed under subparagraphs (A), (B), and (C) of section 325(i)(1), at which time any prior regulations adopted by the State of California or Nevada shall no longer be effective; and

“(iii) all other States may, at any time, modify or adopt a State standard for general service lamps to conform with Federal standards and effective dates.”.

(e) PROHIBITED ACTS.—Section 332(a) of the Energy Policy and Conservation Act (42 U.S.C. 6302(a)) is amended—

(1) in paragraph (4), by striking “or” at the end;

(2) in paragraph (5), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(6) for any manufacturer, distributor, retailer, or private labeler to distribute in commerce an adapter that—

“(A) is designed to allow an incandescent lamp that does not have a medium screw base to be installed into a fixture or lampholder with a medium screw base socket; and

“(B) is capable of being operated at a voltage range at least partially within 110 and 130 volts.”.

(f) ENFORCEMENT.—Section 334 of the Energy Policy and Conservation Act (42 U.S.C. 6304) is amended by inserting after the second sentence the following: “Any such action to restrain any person from distributing in commerce a general service incandescent lamp that does not comply with the applicable standard established under section 325(i) or an adapter prohibited under section 332(a)(6) may also be brought by the attorney general of a State in the name of the State.”.

(g) RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—The Secretary may carry out a lighting technology research and development program—

(A) to support the research, development, demonstration, and commercial application of lamps and related technologies sold, offered for sale, or otherwise made available in the United States; and

(B) to assist manufacturers of general service lamps in the manufacturing of general service lamps that, at a minimum, achieve the wattage requirements imposed as a result of the amendments made by subsection (a).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$10,000,000 for each of fiscal years 2008 through 2013.

(3) TERMINATION OF AUTHORITY.—The program under this subsection shall terminate on September 30, 2015.

(h) REPORTS TO CONGRESS.—

(1) REPORT ON MERCURY USE AND RELEASE.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall submit to Congress a report describing recommendations relating to the means by which the Federal Government may reduce or prevent the release of mercury during the manufacture, transportation, storage, or disposal of light bulbs.

(2) REPORT ON RULEMAKING SCHEDULE.—Beginning on July 1, 2013, and semiannually through July 1, 2016, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on—

(A) whether the Secretary will meet the deadlines for the rulemakings required under this section;

(B) a description of any impediments to meeting the deadlines; and

(C) a specific plan to remedy any failures, including recommendations for additional legislation or resources.

(3) NATIONAL ACADEMY REVIEW.—

(A) IN GENERAL.—Not later than December 31, 2009, the Secretary shall enter into an arrangement with the National Academy of Sciences to provide a report by December 31, 2013, and an updated report by July 31, 2015. The report should include—

(i) the status of advanced solid state lighting research, development, demonstration and commercialization;

(ii) the impact on the types of lighting available to consumers of an energy conservation standard requiring a minimum of 45 lumens per watt for general service lighting effective in 2020; and

(iii) the time frame for the commercialization of lighting that could replace current incandescent and halogen incandescent lamp technology and any other new technologies developed to meet the minimum standards required under subsection (a)(3) of this section.

(B) REPORTS.—The reports shall be transmitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 322. INCANDESCENT REFLECTOR LAMP EFFICIENCY STANDARDS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by section 316(c)(1)(D)) is amended—

(1) in paragraph (30)(C)(ii)—

(A) in the matter preceding subclause (I)—

(i) by striking “or similar bulb shapes (excluding ER or BR)” and inserting “ER, BR, BPAR, or similar bulb shapes”; and

(ii) by striking “2.75” and inserting “2.25”; and

(B) by striking “is either—” and all that follows through subclause (II) and inserting “has a rated wattage that is 40 watts or higher”; and

(2) by adding at the end the following:

“(54) BPAR INCANDESCENT REFLECTOR LAMP.—The term ‘BPAR incandescent reflector lamp’ means a reflector lamp as shown in figure C78.21-278 on page 32 of ANSI C78.21-2003.

“(55) BR INCANDESCENT REFLECTOR LAMP; BR30; BR40.—

“(A) BR INCANDESCENT REFLECTOR LAMP.—The term ‘BR incandescent reflector lamp’ means a reflector lamp that has—

“(i) a bulged section below the major diameter of the bulb and above the approximate baseline of the bulb, as shown in figure 1 (RB) on page 7 of ANSI C79.1-1994, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this paragraph); and

“(ii) a finished size and shape shown in ANSI C78.21-1989, including the referenced reflective characteristics in part 7 of ANSI C78.21-1989, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this paragraph).

“(B) BR30.—The term ‘BR30’ means a BR incandescent reflector lamp with a diameter of 30/8ths of an inch.

“(C) BR40.—The term ‘BR40’ means a BR incandescent reflector lamp with a diameter of 40/8ths of an inch.

“(56) ER INCANDESCENT REFLECTOR LAMP; ER30; ER40.—

“(A) ER INCANDESCENT REFLECTOR LAMP.—The term ‘ER incandescent reflector lamp’ means a reflector lamp that has—

“(i) an elliptical section below the major diameter of the bulb and above the approximate baseline of the bulb, as shown in figure 1 (RE) on page 7 of ANSI C79.1-1994, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this paragraph); and

“(ii) a finished size and shape shown in ANSI C78.21-1989, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this paragraph).

“(B) ER30.—The term ‘ER30’ means an ER incandescent reflector lamp with a diameter of 30/8ths of an inch.

“(C) ER40.—The term ‘ER40’ means an ER incandescent reflector lamp with a diameter of 40/8ths of an inch.

“(57) R20 INCANDESCENT REFLECTOR LAMP.—The term ‘R20 incandescent reflector lamp’ means a reflector lamp that has a face diameter of approximately 2.5 inches, as shown in figure 1(R) on page 7 of ANSI C79.1-1994.”.

(b) STANDARDS FOR FLUORESCENT LAMPS AND INCANDESCENT REFLECTOR LAMPS.—Section 325(i) of the Energy Policy and Conservation Act (42 U.S.C. 6995(i)) is amended by striking paragraph (1) and inserting the following:

“(1) STANDARDS.—

“(A) DEFINITION OF EFFECTIVE DATE.—In this paragraph (other than subparagraph (D)), the term ‘effective date’ means, with respect to each type of lamp specified in a table contained in subparagraph (B), the last day of the period of months corresponding to that type of lamp (as specified in the table) that follows October 24, 1992.

“(B) MINIMUM STANDARDS.—Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured after the effective date specified in the tables contained in this paragraph shall meet or exceed the following lamp efficacy and CRI standards:

“FLUORESCENT LAMPS

Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
4-foot medium bi-pin	>35 W	69	75.0	36
	≤35 W	45	75.0	36

“FLUORESCENT LAMPS—Continued

Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
2-foot U-shaped	>35 W	69	68.0	36
	≤35 W	45	64.0	36
8-foot slimline	65 W	69	80.0	18
	≤65 W	45	80.0	18
8-foot high output	>100 W	69	80.0	18
	≤100 W	45	80.0	18

“INCANDESCENT REFLECTOR LAMPS

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

“(C) EXEMPTIONS.—The standards specified in subparagraph (B) shall not apply to the following types of incandescent reflector lamps:

“(i) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps.

“(ii) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps.

“(iii) R20 incandescent reflector lamps rated 45 watts or less.

“(D) EFFECTIVE DATES.—

“(i) ER, BR, AND BPAR LAMPS.—The standards specified in subparagraph (B) shall apply with respect to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes on and after January 1, 2008.

“(ii) LAMPS BETWEEN 2.25–2.75 INCHES IN DIAMETER.—The standards specified in subparagraph (B) shall apply with respect to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches, on and after the later of January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007.”.

SEC. 323. PUBLIC BUILDING ENERGY EFFICIENT AND RENEWABLE ENERGY SYSTEMS.

(a) ESTIMATE OF ENERGY PERFORMANCE IN PROSPECTUS.—Section 3307(b) of title 40, United States Code, is amended—

(1) by striking “and” at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting “; and”; and

(3) by inserting after paragraph (6) the following:

“(7) with respect to any prospectus for the construction, alteration, or acquisition of any building or space to be leased, an estimate of the future energy performance of the building or space and a specific description of the use of energy efficient and renewable energy systems, including photovoltaic systems, in carrying out the project.”.

(b) MINIMUM PERFORMANCE REQUIREMENTS FOR LEASED SPACE.—Section 3307 of such title is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

“(f) MINIMUM PERFORMANCE REQUIREMENTS FOR LEASED SPACE.—With respect to space to be leased, the Administrator shall include, to the maximum extent practicable, minimum performance requirements requiring energy efficiency and the use of renewable energy.”.

(c) USE OF ENERGY EFFICIENT LIGHTING FIXTURES AND BULBS.—

(1) IN GENERAL.—Chapter 33 of such title is amended—

(A) by redesignating sections 3313, 3314, and 3315 as sections 3314, 3315, and 3316, respectively; and

(B) by inserting after section 3312 the following:

“§ 3313. Use of energy efficient lighting fixtures and bulbs

“(a) CONSTRUCTION, ALTERATION, AND ACQUISITION OF PUBLIC BUILDINGS.—Each public building constructed, altered, or acquired by the Administrator of General Services shall be equipped, to the maximum extent feasible as determined by the Administrator, with lighting fixtures and bulbs that are energy efficient.

“(b) MAINTENANCE OF PUBLIC BUILDINGS.—Each lighting fixture or bulb that is replaced by the Administrator in the normal course of maintenance of public buildings shall be replaced, to the maximum extent feasible, with a lighting fixture or bulb that is energy efficient.

“(c) CONSIDERATIONS.—In making a determination under this section concerning the feasibility of installing a lighting fixture or bulb that is energy efficient, the Administrator shall consider—

“(1) the life-cycle cost effectiveness of the fixture or bulb;

“(2) the compatibility of the fixture or bulb with existing equipment;

“(3) whether use of the fixture or bulb could result in interference with productivity;

“(4) the aesthetics relating to use of the fixture or bulb; and

“(5) such other factors as the Administrator determines appropriate.

“(d) ENERGY STAR.—A lighting fixture or bulb shall be treated as being energy efficient for purposes of this section if—

“(1) the fixture or bulb is certified under the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a);

“(2) in the case of all light-emitting diode (LED) luminaires, lamps, and systems whose efficacy (lumens per watt) and Color Rendering Index (CRI) meet the Department of Energy requirements for minimum luminaire efficacy and CRI for the Energy Star certification, as verified by an independent third-party testing laboratory that the Administrator and the Secretary

of Energy determine conducts its tests according to the procedures and recommendations of the Illuminating Engineering Society of North America, even if the luminaires, lamps, and systems have not received such certification; or

“(3) the Administrator and the Secretary of Energy have otherwise determined that the fixture or bulb is energy efficient.

“(e) **ADDITIONAL ENERGY EFFICIENT LIGHTING DESIGNATIONS.**—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall give priority to establishing Energy Star performance criteria or Federal Energy Management Program designations for additional lighting product categories that are appropriate for use in public buildings.

“(f) **GUIDELINES.**—The Administrator shall develop guidelines for the use of energy efficient lighting technologies that contain mercury in child care centers in public buildings.

“(g) **APPLICABILITY OF BUY AMERICAN ACT.**—Acquisitions carried out pursuant to this section shall be subject to the requirements of the Buy American Act (41 U.S.C. 10c et seq.).

“(h) **EFFECTIVE DATE.**—The requirements of subsections (a) and (b) shall take effect 1 year after the date of enactment of this subsection.”.

(2) **CLERICAL AMENDMENT.**—The analysis for such chapter is amended by striking the items relating to sections 3313, 3314, and 3315 and inserting the following:

“3313. Use of energy efficient lighting fixtures and bulbs.

“3314. Delegation.

“3315. Report to Congress.

“3316. Certain authority not affected.”.

(d) **EVALUATION FACTOR.**—Section 3310 of such title is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) shall include in the solicitation for any lease requiring a prospectus under section 3307 an evaluation factor considering the extent to which the offeror will promote energy efficiency and the use of renewable energy;”.

SEC. 324. METAL HALIDE LAMP FIXTURES.

(a) **DEFINITIONS.**—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by section 322(a)(2)) is amended by adding at the end the following:

“(58) **BALLAST.**—The term ‘ballast’ means a device used with an electric discharge lamp to obtain necessary circuit conditions (voltage, current, and waveform) for starting and operating.

“(59) **BALLAST EFFICIENCY.**—

“(A) **IN GENERAL.**—The term ‘ballast efficiency’ means, in the case of a high intensity discharge fixture, the efficiency of a lamp and ballast combination, expressed as a percentage, and calculated in accordance with the following formula: Efficiency = P_{out}/P_{in} .

“(B) **EFFICIENCY FORMULA.**—For the purpose of subparagraph (A)—

“(i) P_{out} shall equal the measured operating lamp wattage;

“(ii) P_{in} shall equal the measured operating input wattage;

“(iii) the lamp, and the capacitor when the capacitor is provided, shall constitute a nominal system in accordance with the ANSI Standard C78.43-2004;

“(iv) for ballasts with a frequency of 60 Hz, P_{in} and P_{out} shall be measured after lamps have been stabilized according to section 4.4 of ANSI Standard C82.6-2005 using a wattmeter with accuracy specified in section 4.5 of ANSI Standard C82.6-2005; and

“(v) for ballasts with a frequency greater than 60 Hz, P_{in} and P_{out} shall have a basic accuracy of ± 0.5 percent at the higher of—

“(I) 3 times the output operating frequency of the ballast; or

“(II) 2 kHz for ballast with a frequency greater than 60 Hz.

“(C) MODIFICATION.—The Secretary may, by rule, modify the definition of ‘ballast efficiency’ if the Secretary determines that the modification is necessary or appropriate to carry out the purposes of this Act.

“(60) ELECTRONIC BALLAST.—The term ‘electronic ballast’ means a device that uses semiconductors as the primary means to control lamp starting and operation.

“(61) GENERAL LIGHTING APPLICATION.—The term ‘general lighting application’ means lighting that provides an interior or exterior area with overall illumination.

“(62) METAL HALIDE BALLAST.—The term ‘metal halide ballast’ means a ballast used to start and operate metal halide lamps.

“(63) METAL HALIDE LAMP.—The term ‘metal halide lamp’ means a high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

“(64) METAL HALIDE LAMP FIXTURE.—The term ‘metal halide lamp fixture’ means a light fixture for general lighting application designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

“(65) PROBE-START METAL HALIDE BALLAST.—The term ‘probe-start metal halide ballast’ means a ballast that—

“(A) starts a probe-start metal halide lamp that contains a third starting electrode (probe) in the arc tube; and

“(B) does not generally contain an igniter but instead starts lamps with high ballast open circuit voltage.

“(66) PULSE-START METAL HALIDE BALLAST.—

“(A) IN GENERAL.—The term ‘pulse-start metal halide ballast’ means an electronic or electromagnetic ballast that starts a pulse-start metal halide lamp with high voltage pulses.

“(B) STARTING PROCESS.—For the purpose of subparagraph (A)—

“(i) lamps shall be started by first providing a high voltage pulse for ionization of the gas to produce a glow discharge; and

“(ii) to complete the starting process, power shall be provided by the ballast to sustain the discharge through the glow-to-arc transition.”.

(b) **COVERAGE.**—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (19) as paragraph (20); and

(2) by inserting after paragraph (18) the following:

“(19) Metal halide lamp fixtures.”.

(c) **TEST PROCEDURES.**—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) (as amended by section 301(b)) is amended by adding at the end the following:

“(18) **METAL HALIDE LAMP BALLASTS.**—Test procedures for metal halide lamp ballasts shall be based on ANSI Standard C82.6-2005, entitled ‘Ballasts for High Intensity Discharge Lamps—Method of Measurement’.”.

(d) **LABELING.**—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended—

(1) by redesignating subparagraphs (C) through (G) as subparagraphs (D) through (H), respectively; and

(2) by inserting after subparagraph (B) the following:

“(C) **METAL HALIDE LAMP FIXTURES.**—

“(i) **IN GENERAL.**—The Commission shall issue labeling rules under this section applicable to the covered product specified in section 322(a)(19) and to which standards are applicable under section 325.

Regulations.

“(ii) **LABELING.**—The rules shall provide that the labeling of any metal halide lamp fixture manufactured on or after the later of January 1, 2009, or the date that is 270 days after the date of enactment of this subparagraph, shall indicate conspicuously, in a manner prescribed by the Commission under subsection (b) by July 1, 2008, a capital letter ‘E’ printed within a circle on the packaging of the fixture, and on the ballast contained in the fixture.”.

Deadlines.

(e) **STANDARDS.**—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as amended by section 310) is amended—

(1) by redesignating subsection (hh) as subsection (ii);

(2) by inserting after subsection (gg) the following:

“(hh) **METAL HALIDE LAMP FIXTURES.**—

“(1) **STANDARDS.**—

“(A) **IN GENERAL.**—Subject to subparagraphs (B) and (C), metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall contain—

“(i) a pulse-start metal halide ballast with a minimum ballast efficiency of 88 percent;

“(ii) a magnetic probe-start ballast with a minimum ballast efficiency of 94 percent; or

“(iii) a nonpulse-start electronic ballast with—

“(I) a minimum ballast efficiency of 92 percent for wattages greater than 250 watts; and

“(II) a minimum ballast efficiency of 90 percent for wattages less than or equal to 250 watts.

“(B) **EXCLUSIONS.**—The standards established under subparagraph (A) shall not apply to—

- “(i) fixtures with regulated lag ballasts;
- “(ii) fixtures that use electronic ballasts that operate at 480 volts; or
- “(iii) fixtures that—
 - “(I) are rated only for 150 watt lamps;
 - “(II) are rated for use in wet locations, as specified by the National Electrical Code 2002, section 410.4(A); and
 - “(III) contain a ballast that is rated to operate at ambient air temperatures above 50°C, as specified by UL 1029–2001.

“(C) APPLICATION.—The standards established under subparagraph (A) shall apply to metal halide lamp fixtures manufactured on or after the later of—

- “(i) January 1, 2009; or
- “(ii) the date that is 270 days after the date of enactment of this subsection.

“(2) FINAL RULE BY JANUARY 1, 2012.—

Publication. “(A) IN GENERAL.—Not later than January 1, 2012, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

Applicability. “(B) ADMINISTRATION.—The final rule shall—
 “(i) contain any amended standard; and
 “(ii) apply to products manufactured on or after January 1, 2015.

“(3) FINAL RULE BY JANUARY 1, 2019.—

Publication. “(A) IN GENERAL.—Not later than January 1, 2019, the Secretary shall publish a final rule to determine whether the standards then in effect should be amended.

Applicability. “(B) ADMINISTRATION.—The final rule shall—
 “(i) contain any amended standards; and
 “(ii) apply to products manufactured after January 1, 2022.

“(4) DESIGN AND PERFORMANCE REQUIREMENTS.—Notwithstanding any other provision of law, any standard established pursuant to this subsection may contain both design and performance requirements.”; and

(3) in paragraph (2) of subsection (ii) (as redesignated by paragraph (2)), by striking “(gg)” each place it appears and inserting “(hh)”.

(f) EFFECT ON OTHER LAW.—Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) is amended—

(1) in paragraph (8)(B), by striking the period at the end and inserting “; and”; and

(2) by adding at the end the following:

“(9) is a regulation concerning metal halide lamp fixtures adopted by the California Energy Commission on or before January 1, 2011, except that—

Deadlines. “(A) if the Secretary fails to issue a final rule within 180 days after the deadlines for rulemakings in section 325(hh), notwithstanding any other provision of this section, preemption shall not apply to a regulation concerning metal halide lamp fixtures adopted by the California Energy Commission—

“(i) on or before July 1, 2015, if the Secretary fails to meet the deadline specified in section 325(hh)(2); or

“(ii) on or before July 1, 2022, if the Secretary fails to meet the deadline specified in section 325(hh)(3).”.

SEC. 325. ENERGY EFFICIENCY LABELING FOR CONSUMER ELECTRONIC PRODUCTS.

(a) **IN GENERAL.**—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) (as amended by section 324(d)) is amended—

(1) in paragraph (2), by adding at the end the following:

“(I) **LABELING REQUIREMENTS.**—

“(i) **IN GENERAL.**—Subject to clauses (ii) through (iv), not later than 18 months after the date of issuance of applicable Department of Energy testing procedures, the Commission, in consultation with the Secretary and the Administrator of the Environmental Protection Agency (acting through the Energy Star program), shall, by regulation, prescribe labeling or other disclosure requirements for the energy use of—

“(I) televisions;

“(II) personal computers;

“(III) cable or satellite set-top boxes;

“(IV) stand-alone digital video recorder boxes;

and

“(V) personal computer monitors.

“(ii) **ALTERNATE TESTING PROCEDURES.**—In the absence of applicable testing procedures described in clause (i) for products described in subclauses (I) through (V) of that clause, the Commission may, by regulation, prescribe labeling or other disclosure requirements for a consumer product category described in clause (i) if the Commission—

“(I) identifies adequate non-Department of Energy testing procedures for those products; and

“(II) determines that labeling of, or other disclosures relating to, those products is likely to assist consumers in making purchasing decisions.

“(iii) **DEADLINE AND REQUIREMENTS FOR LABELING.**—

“(I) **DEADLINE.**—Not later than 18 months after the date of promulgation of any requirements under clause (i) or (ii), the Commission shall require labeling of, or other disclosure requirements for, electronic products described in clause (i).

“(II) **REQUIREMENTS.**—The requirements prescribed under clause (i) or (ii) may include specific requirements for each electronic product to be labeled with respect to the placement, size, and content of Energy Guide labels.

“(iv) **DETERMINATION OF FEASIBILITY.**—Clause (i) or (ii) shall not apply in any case in which the Commission determines that labeling in accordance with this subsection—

“(I) is not technologically or economically feasible; or

“(II) is not likely to assist consumers in making purchasing decisions.”; and

(2) by adding at the end the following:

“(6) **AUTHORITY TO INCLUDE ADDITIONAL PRODUCT CATEGORIES.**—The Commission may, by regulation, require labeling or other disclosures in accordance with this subsection for any consumer product not specified in this subsection or section 322 if the Commission determines that labeling for the product is likely to assist consumers in making purchasing decisions.”.

42 USC 6294.

(b) **CONTENT OF LABEL.**—Section 324(c) of the Energy Policy and Conservation Act (42 U.S.C. 6924(c)) is amended by adding at the end the following:

“(9) **DISCRETIONARY APPLICATION.**—The Commission may apply paragraphs (1), (2), (3), (5), and (6) of this subsection to the labeling of any product covered by paragraph (2)(I) or (6) of subsection (a).”.

TITLE IV—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY

42 USC 17061.

SEC. 401. DEFINITIONS.

In this title:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of General Services.

(2) **ADVISORY COMMITTEE.**—The term “Advisory Committee” means the Green Building Advisory Committee established under section 484.

(3) **COMMERCIAL DIRECTOR.**—The term “Commercial Director” means the individual appointed to the position established under section 421.

(4) **CONSORTIUM.**—The term “Consortium” means the High-Performance Green Building Partnership Consortium created in response to section 436(c)(1) to represent the private sector in a public-private partnership to promote high-performance green buildings and zero-net-energy commercial buildings.

(5) **COST-EFFECTIVE LIGHTING TECHNOLOGY.**—

(A) **IN GENERAL.**—The term “cost-effective lighting technology” means a lighting technology that—

(i) will result in substantial operational cost savings by ensuring an installed consumption of not more than 1 watt per square foot; or

(ii) is contained in a list under—

(I) section 553 of Public Law 95–619 (42 U.S.C. 8259b);

(II) Federal acquisition regulation 23–203; and

(III) is at least as energy-conserving as required by other provisions of this Act, including the requirements of this title and title III which shall be applicable to the extent that they would achieve greater energy savings than provided under clause (i) or this clause.

(B) **INCLUSIONS.**—The term “cost-effective lighting technology” includes—

(i) lamps;

- (ii) ballasts;
- (iii) luminaires;
- (iv) lighting controls;
- (v) daylighting; and
- (vi) early use of other highly cost-effective lighting technologies.

(6) **COST-EFFECTIVE TECHNOLOGIES AND PRACTICES.**—The term “cost-effective technologies and practices” means a technology or practice that—

(A) will result in substantial operational cost savings by reducing electricity or fossil fuel consumption, water, or other utility costs, including use of geothermal heat pumps;

(B) complies with the provisions of section 553 of Public Law 95-619 (42 U.S.C. 8259b) and Federal acquisition regulation 23-203; and

(C) is at least as energy and water conserving as required under this title, including sections 431 through 435, and title V, including sections 511 through 525, which shall be applicable to the extent that they are more stringent or require greater energy or water savings than required by this section.

(7) **FEDERAL DIRECTOR.**—The term “Federal Director” means the individual appointed to the position established under section 436(a).

(8) **FEDERAL FACILITY.**—The term “Federal facility” means any building that is constructed, renovated, leased, or purchased in part or in whole for use by the Federal Government.

(9) **OPERATIONAL COST SAVINGS.**—

(A) **IN GENERAL.**—The term “operational cost savings” means a reduction in end-use operational costs through the application of cost-effective technologies and practices or geothermal heat pumps, including a reduction in electricity consumption relative to consumption by the same customer or at the same facility in a given year, as defined in guidelines promulgated by the Administrator pursuant to section 329(b) of the Clean Air Act, that achieves cost savings sufficient to pay the incremental additional costs of using cost-effective technologies and practices including geothermal heat pumps by not later than the later of the date established under sections 431 through 434, or—

(i) for cost-effective technologies and practices, the date that is 5 years after the date of installation; and

(ii) for geothermal heat pumps, as soon as practical after the date of installation of the applicable geothermal heat pump.

(B) **INCLUSIONS.**—The term “operational cost savings” includes savings achieved at a facility as a result of—

(i) the installation or use of cost-effective technologies and practices; or

(ii) the planting of vegetation that shades the facility and reduces the heating, cooling, or lighting needs of the facility.

(C) **EXCLUSION.**—The term “operational cost savings” does not include savings from measures that would likely

be adopted in the absence of cost-effective technology and practices programs, as determined by the Administrator.

(10) GEOTHERMAL HEAT PUMP.—The term “geothermal heat pump” means any heating or air conditioning technology that—

(A) uses the ground or ground water as a thermal energy source to heat, or as a thermal energy sink to cool, a building; and

(B) meets the requirements of the Energy Star program of the Environmental Protection Agency applicable to geothermal heat pumps on the date of purchase of the technology.

(11) GSA FACILITY.—

(A) IN GENERAL.—The term “GSA facility” means any building, structure, or facility, in whole or in part (including the associated support systems of the building, structure, or facility) that—

(i) is constructed (including facilities constructed for lease), renovated, or purchased, in whole or in part, by the Administrator for use by the Federal Government; or

(ii) is leased, in whole or in part, by the Administrator for use by the Federal Government—

(I) except as provided in subclause (II), for a term of not less than 5 years; or

(II) for a term of less than 5 years, if the Administrator determines that use of cost-effective technologies and practices would result in the payback of expenses.

(B) INCLUSION.—The term “GSA facility” includes any group of buildings, structures, or facilities described in subparagraph (A) (including the associated energy-consuming support systems of the buildings, structures, and facilities).

(C) EXEMPTION.—The Administrator may exempt from the definition of “GSA facility” under this paragraph a building, structure, or facility that meets the requirements of section 543(c) of Public Law 95-619 (42 U.S.C. 8253(c)).

(12) HIGH-PERFORMANCE BUILDING.—The term “high-performance building” means a building that integrates and optimizes on a life cycle basis all major high performance attributes, including energy conservation, environment, safety, security, durability, accessibility, cost-benefit, productivity, sustainability, functionality, and operational considerations.

(13) HIGH-PERFORMANCE GREEN BUILDING.—The term “high-performance green building” means a high-performance building that, during its life-cycle, as compared with similar buildings (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from the Energy Information Agency)—

(A) reduces energy, water, and material resource use;

(B) improves indoor environmental quality, including reducing indoor pollution, improving thermal comfort, and improving lighting and acoustic environments that affect occupant health and productivity;

(C) reduces negative impacts on the environment throughout the life-cycle of the building, including air and water pollution and waste generation;

(D) increases the use of environmentally preferable products, including biobased, recycled content, and nontoxic products with lower life-cycle impacts;

(E) increases reuse and recycling opportunities;

(F) integrates systems in the building;

(G) reduces the environmental and energy impacts of transportation through building location and site design that support a full range of transportation choices for users of the building; and

(H) considers indoor and outdoor effects of the building on human health and the environment, including—

(i) improvements in worker productivity;

(ii) the life-cycle impacts of building materials and operations; and

(iii) other factors that the Federal Director or the Commercial Director consider to be appropriate.

(14) **LIFE-CYCLE.**—The term “life-cycle”, with respect to a high-performance green building, means all stages of the useful life of the building (including components, equipment, systems, and controls of the building) beginning at conception of a high-performance green building project and continuing through site selection, design, construction, landscaping, commissioning, operation, maintenance, renovation, deconstruction or demolition, removal, and recycling of the high-performance green building.

(15) **LIFE-CYCLE ASSESSMENT.**—The term “life-cycle assessment” means a comprehensive system approach for measuring the environmental performance of a product or service over the life of the product or service, beginning at raw materials acquisition and continuing through manufacturing, transportation, installation, use, reuse, and end-of-life waste management.

(16) **LIFE-CYCLE COSTING.**—The term “life-cycle costing”, with respect to a high-performance green building, means a technique of economic evaluation that—

(A) sums, over a given study period, the costs of initial investment (less resale value), replacements, operations (including energy use), and maintenance and repair of an investment decision; and

(B) is expressed—

(i) in present value terms, in the case of a study period equivalent to the longest useful life of the building, determined by taking into consideration the typical life of such a building in the area in which the building is to be located; or

(ii) in annual value terms, in the case of any other study period.

(17) **OFFICE OF COMMERCIAL HIGH-PERFORMANCE GREEN BUILDINGS.**—The term “Office of Commercial High-Performance Green Buildings” means the Office of Commercial High-Performance Green Buildings established under section 421(a).

(18) **OFFICE OF FEDERAL HIGH-PERFORMANCE GREEN BUILDINGS.**—The term “Office of Federal High-Performance Green Buildings” means the Office of Federal High-Performance Green Buildings established under section 436(a).

(19) **PRACTICES.**—The term “practices” means design, financing, permitting, construction, commissioning, operation

and maintenance, and other practices that contribute to achieving zero-net-energy buildings or facilities.

(20) **ZERO-NET-ENERGY COMMERCIAL BUILDING.**—The term “zero-net-energy commercial building” means a commercial building that is designed, constructed, and operated to—

(A) require a greatly reduced quantity of energy to operate;

(B) meet the balance of energy needs from sources of energy that do not produce greenhouse gases;

(C) therefore result in no net emissions of greenhouse gases; and

(D) be economically viable.

Subtitle A—Residential Building Efficiency

SEC. 411. REAUTHORIZATION OF WEATHERIZATION ASSISTANCE PROGRAM.

(a) **IN GENERAL.**—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking “appropriated \$500,000,000 for fiscal year 2006, \$600,000,000 for fiscal year 2007, and \$700,000,000 for fiscal year 2008” and inserting “appropriated—

“(1) \$750,000,000 for fiscal year 2008;

“(2) \$900,000,000 for fiscal year 2009;

“(3) \$1,050,000,000 for fiscal year 2010;

“(4) \$1,200,000,000 for fiscal year 2011; and

“(5) \$1,400,000,000 for fiscal year 2012.”.

(b) **SUSTAINABLE ENERGY RESOURCES FOR CONSUMERS GRANTS.**—

(1) **IN GENERAL.**—The Secretary may make funding available to local weatherization agencies from amounts authorized under the amendment made by subsection (a) to expand the weatherization assistance program for residential buildings to include materials, benefits, and renewable and domestic energy technologies not covered by the program (as of the date of enactment of this Act), if the State weatherization grantee certifies that the applicant has the capacity to carry out the proposed activities and that the grantee will include the project in the financial oversight of the grantee of the weatherization assistance program.

(2) **PRIORITY.**—In selecting grant recipients under this subsection, the Secretary shall give priority to—

(A) the expected effectiveness and benefits of the proposed project to low- and moderate-income energy consumers;

(B) the potential for replication of successful results;

(C) the impact on the health and safety and energy costs of consumers served; and

(D) the extent of partnerships with other public and private entities that contribute to the resources and implementation of the program, including financial partnerships.

(3) **FUNDING.**—

(A) **IN GENERAL.**—Except as provided in paragraph (2), the amount of funds used for projects described in paragraph (1) may equal up to 2 percent of the amount of

42 USC 6872
note.

funds made available for any fiscal year under section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872).

(B) EXCEPTION.—No funds may be used for sustainable energy resources for consumers grants for a fiscal year under this subsection if the amount of funds made available for the fiscal year to carry out the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) is less than \$275,000,000.

(c) DEFINITION OF STATE.—Section 412 of the Energy Conservation and Production Act (42 U.S.C. 6862) is amended by striking paragraph (8) and inserting the following:

“(8) STATE.—The term ‘State’ means—

“(A) a State;

“(B) the District of Columbia;

“(C) the Commonwealth of Puerto Rico; and

“(D) any other territory or possession of the United States.”.

SEC. 412. STUDY OF RENEWABLE ENERGY REBATE PROGRAMS.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall conduct, and submit to Congress a report on, a study regarding the rebate programs established under sections 124 and 206(c) of the Energy Policy Act of 2005 (42 U.S.C. 15821, 15853). Deadline.

(b) COMPONENTS.—In conducting the study, the Secretary shall—

(1) develop a plan for how the rebate programs would be carried out if the programs were funded; and

(2) determine the minimum amount of funding the program would need to receive in order to accomplish the goals of the programs.

SEC. 413. ENERGY CODE IMPROVEMENTS APPLICABLE TO MANUFACTURED HOUSING.

42 USC 17071.

(a) ESTABLISHMENT OF STANDARDS.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary shall by regulation establish standards for energy efficiency in manufactured housing. Deadline.
Regulations.

(2) NOTICE, COMMENT, AND CONSULTATION.—Standards described in paragraph (1) shall be established after—

(A) notice and an opportunity for comment by manufacturers of manufactured housing and other interested parties; and

(B) consultation with the Secretary of Housing and Urban Development, who may seek further counsel from the Manufactured Housing Consensus Committee.

(b) REQUIREMENTS.—

(1) INTERNATIONAL ENERGY CONSERVATION CODE.—The energy conservation standards established under this section shall be based on the most recent version of the International Energy Conservation Code (including supplements), except in cases in which the Secretary finds that the code is not cost-effective, or a more stringent standard would be more cost-effective, based on the impact of the code on the purchase

price of manufactured housing and on total life-cycle construction and operating costs.

(2) CONSIDERATIONS.—The energy conservation standards established under this section may—

(A) take into consideration the design and factory construction techniques of manufactured homes;

(B) be based on the climate zones established by the Department of Housing and Urban Development rather than the climate zones under the International Energy Conservation Code; and

(C) provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards.

Deadlines.

(3) UPDATING.—The energy conservation standards established under this section shall be updated not later than—

(A) 1 year after the date of enactment of this Act; and

(B) 1 year after any revision to the International Energy Conservation Code.

(c) ENFORCEMENT.—Any manufacturer of manufactured housing that violates a provision of the regulations under subsection (a) is liable to the United States for a civil penalty in an amount not exceeding 1 percent of the manufacturer's retail list price of the manufactured housing.

Subtitle B—High-Performance Commercial Buildings

42 USC 17081.

SEC. 421. COMMERCIAL HIGH-PERFORMANCE GREEN BUILDINGS.

Appointment.

(a) DIRECTOR OF COMMERCIAL HIGH-PERFORMANCE GREEN BUILDINGS.—Notwithstanding any other provision of law, the Secretary, acting through the Assistant Secretary of Energy Efficiency and Renewable Energy, shall appoint a Director of Commercial High-Performance Green Buildings to a position in the career-reserved Senior Executive service, with the principal responsibility to—

(1) establish and manage the Office of Commercial High-Performance Green Buildings; and

(2) carry out other duties as required under this subtitle.

(b) QUALIFICATIONS.—The Commercial Director shall be an individual, who by reason of professional background and experience, is specifically qualified to carry out the duties required under this subtitle.

(c) DUTIES.—The Commercial Director shall, with respect to development of high-performance green buildings and zero-energy commercial buildings nationwide—

(1) coordinate the activities of the Office of Commercial High-Performance Green Buildings with the activities of the Office of Federal High-Performance Green Buildings;

(2) develop the legal predicates and agreements for, negotiate, and establish one or more public-private partnerships with the Consortium, members of the Consortium, and other capable parties meeting the qualifications of the Consortium, to further such development;

(3) represent the public and the Department in negotiating and performing in accord with such public-private partnerships;

(4) use appropriated funds in an effective manner to encourage the maximum investment of private funds to achieve such development;

(5) promote research and development of high-performance green buildings, consistent with section 423; and

(6) jointly establish with the Federal Director a national high-performance green building clearinghouse in accordance with section 423(1), which shall provide high-performance green building information and disseminate research results through—

(A) outreach;

(B) education; and

(C) the provision of technical assistance.

(d) **REPORTING.**—The Commercial Director shall report directly to the Assistant Secretary for Energy Efficiency and Renewable Energy, or to other senior officials in a way that facilitates the integrated program of this subtitle for both energy efficiency and renewable energy and both technology development and technology deployment.

(e) **COORDINATION.**—The Commercial Director shall ensure full coordination of high-performance green building information and activities, including activities under this subtitle, within the Federal Government by working with the General Services Administration and all relevant agencies, including, at a minimum—

(1) the Environmental Protection Agency;

(2) the Office of the Federal Environmental Executive;

(3) the Office of Federal Procurement Policy;

(4) the Department of Energy, particularly the Federal Energy Management Program;

(5) the Department of Health and Human Services;

(6) the Department of Housing and Urban Development;

(7) the Department of Defense;

(8) the National Institute of Standards and Technology;

(9) the Department of Transportation;

(10) the Office of Science Technology and Policy; and

(11) such nonprofit high-performance green building rating and analysis entities as the Commercial Director determines can offer support, expertise, and review services.

(f) **HIGH-PERFORMANCE GREEN BUILDING PARTNERSHIP CONSORTIUM.**—

(1) **RECOGNITION.**—Not later than 90 days after the date of enactment of this Act, the Commercial Director shall formally recognize one or more groups that qualify as a high-performance green building partnership consortium.

Deadline.

(2) **REPRESENTATION TO QUALIFY.**—To qualify under this section, any consortium shall include representation from—

(A) the design professions, including national associations of architects and of professional engineers;

(B) the development, construction, financial, and real estate industries;

(C) building owners and operators from the public and private sectors;

(D) academic and research organizations, including at least one national laboratory with extensive commercial building energy expertise;

(E) building code agencies and organizations, including a model energy code-setting organization;

(F) independent high-performance green building associations or councils;

(G) experts in indoor air quality and environmental factors;

(H) experts in intelligent buildings and integrated building information systems;

(I) utility energy efficiency programs;

(J) manufacturers and providers of equipment and techniques used in high-performance green buildings;

(K) public transportation industry experts; and

(L) nongovernmental energy efficiency organizations.

(3) FUNDING.—The Secretary may make payments to the Consortium pursuant to the terms of a public-private partnership for such activities of the Consortium undertaken under such a partnership as described in this subtitle directly to the Consortium or through one or more of its members.

(g) REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Commercial Director, in consultation with the Consortium, shall submit to Congress a report that—

(1) describes the status of the high-performance green building initiatives under this subtitle and other Federal programs affecting commercial high-performance green buildings in effect as of the date of the report, including—

(A) the extent to which the programs are being carried out in accordance with this subtitle; and

(B) the status of funding requests and appropriations for those programs; and

(2) summarizes and highlights development, at the State and local level, of high-performance green building initiatives, including executive orders, policies, or laws adopted promoting high-performance green building (including the status of implementation of those initiatives).

42 USC 17082.

SEC. 422. ZERO NET ENERGY COMMERCIAL BUILDINGS INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) CONSORTIUM.—The term “consortium” means a High-Performance Green Building Consortium selected by the Commercial Director.

(2) INITIATIVE.—The term “initiative” means the Zero-Net-Energy Commercial Buildings Initiative established under subsection (b)(1).

(3) ZERO-NET-ENERGY COMMERCIAL BUILDING.—The term “zero-net-energy commercial building” means a high-performance commercial building that is designed, constructed, and operated—

(A) to require a greatly reduced quantity of energy to operate;

(B) to meet the balance of energy needs from sources of energy that do not produce greenhouse gases;

(C) in a manner that will result in no net emissions of greenhouse gases; and

(D) to be economically viable.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Commercial Director shall establish an initiative, to be known as the “Zero-Net-Energy Commercial Buildings Initiative”—

(A) to reduce the quantity of energy consumed by commercial buildings located in the United States; and

(B) to achieve the development of zero net energy commercial buildings in the United States.

(2) CONSORTIUM.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commercial Director shall competitively select, and enter into an agreement with, a consortium to develop and carry out the initiative.

Deadline.

(B) AGREEMENTS.—In entering into an agreement with a consortium under subparagraph (A), the Commercial Director shall use the authority described in section 646(g) of the Department of Energy Organization Act (42 U.S.C. 7256(g)), to the maximum extent practicable.

(c) GOAL OF INITIATIVE.—The goal of the initiative shall be to develop and disseminate technologies, practices, and policies for the development and establishment of zero net energy commercial buildings for—

(1) any commercial building newly constructed in the United States by 2030;

(2) 50 percent of the commercial building stock of the United States by 2040; and

(3) all commercial buildings in the United States by 2050.

(d) COMPONENTS.—In carrying out the initiative, the Commercial Director, in consultation with the consortium, may—

(1) conduct research and development on building science, design, materials, components, equipment and controls, operation and other practices, integration, energy use measurement, and benchmarking;

(2) conduct pilot programs and demonstration projects to evaluate replicable approaches to achieving energy efficient commercial buildings for a variety of building types in a variety of climate zones;

(3) conduct deployment, dissemination, and technical assistance activities to encourage widespread adoption of technologies, practices, and policies to achieve energy efficient commercial buildings;

(4) conduct other research, development, demonstration, and deployment activities necessary to achieve each goal of the initiative, as determined by the Commercial Director, in consultation with the consortium;

(5) develop training materials and courses for building professionals and trades on achieving cost-effective high-performance energy efficient buildings;

(6) develop and disseminate public education materials to share information on the benefits and cost-effectiveness of high-performance energy efficient buildings;

(7) support code-setting organizations and State and local governments in developing minimum performance standards in building codes that recognize the ready availability of many technologies utilized in high-performance energy efficient buildings;

(8) develop strategies for overcoming the split incentives between builders and purchasers, and landlords and tenants, to ensure that energy efficiency and high-performance investments are made that are cost-effective on a lifecycle basis; and

(9) develop improved means of measurement and verification of energy savings and performance for public dissemination.

(e) COST SHARING.—In carrying out this section, the Commercial Director shall require cost sharing in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

- (1) \$20,000,000 for fiscal year 2008;
- (2) \$50,000,000 for each of fiscal years 2009 and 2010;
- (3) \$100,000,000 for each of fiscal years 2011 and 2012;
- and
- (4) \$200,000,000 for each of fiscal years 2013 through 2018.

42 USC 17083.

SEC. 423. PUBLIC OUTREACH.

The Commercial Director and Federal Director, in coordination with the Consortium, shall carry out public outreach to inform individuals and entities of the information and services available governmentwide by—

(1) establishing and maintaining a national high-performance green building clearinghouse, including on the Internet, that—

(A) identifies existing similar efforts and coordinates activities of common interest; and

(B) provides information relating to high-performance green buildings, including hyperlinks to Internet sites that describe the activities, information, and resources of—

- (i) the Federal Government;
 - (ii) State and local governments;
 - (iii) the private sector (including nongovernmental and nonprofit entities and organizations); and
 - (iv) international organizations;
- (2) identifying and recommending educational resources for implementing high-performance green building practices, including security and emergency benefits and practices;
- (3) providing access to technical assistance, tools, and resources for constructing high-performance green buildings, particularly tools to conduct life-cycle costing and life-cycle assessment;
- (4) providing information on application processes for certifying a high-performance green building, including certification and commissioning;
- (5) providing to the public, through the Commercial Director, technical and research information or other forms of assistance or advice that would be useful in planning and constructing high-performance green buildings;
- (6) using such additional methods as are determined by the Commercial Director to be appropriate to conduct public outreach;
- (7) surveying existing research and studies relating to high-performance green buildings; and
- (8) coordinating activities of common interest.

Subtitle C—High-Performance Federal Buildings

SEC. 431. ENERGY REDUCTION GOALS FOR FEDERAL BUILDINGS.

Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking the table and inserting the following:

“Fiscal Year	Percentage Reduction
2006	2
2007	4
2008	9
2009	12
2010	15
2011	18
2012	21
2013	24
2014	27
2015	30.”.

SEC. 432. MANAGEMENT OF ENERGY AND WATER EFFICIENCY IN FEDERAL BUILDINGS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

“(f) USE OF ENERGY AND WATER EFFICIENCY MEASURES IN FEDERAL BUILDINGS.—

“(1) DEFINITIONS.—In this subsection:

“(A) COMMISSIONING.—The term ‘commissioning’, with respect to a facility, means a systematic process—

“(i) of ensuring, using appropriate verification and documentation, during the period beginning on the initial day of the design phase of the facility and ending not earlier than 1 year after the date of completion of construction of the facility, that all facility systems perform interactively in accordance with—

“(I) the design documentation and intent of the facility; and

“(II) the operational needs of the owner of the facility, including preparation of operation personnel; and

“(ii) the primary goal of which is to ensure fully functional systems that can be properly operated and maintained during the useful life of the facility.

“(B) ENERGY MANAGER.—

“(i) IN GENERAL.—The term ‘energy manager’, with respect to a facility, means the individual who is responsible for—

“(I) ensuring compliance with this subsection by the facility; and

“(II) reducing energy use at the facility.

“(ii) INCLUSIONS.—The term ‘energy manager’ may include—

“(I) a contractor of a facility;

“(II) a part-time employee of a facility; and

“(III) an individual who is responsible for multiple facilities.

“(C) FACILITY.—

“(i) IN GENERAL.—The term ‘facility’ means any building, installation, structure, or other property (including any applicable fixtures) owned or operated by, or constructed or manufactured and leased to, the Federal Government.

“(ii) INCLUSIONS.—The term ‘facility’ includes—

“(I) a group of facilities at a single location or multiple locations managed as an integrated operation; and

“(II) contractor-operated facilities owned by the Federal Government.

“(iii) EXCLUSIONS.—The term ‘facility’ does not include any land or site for which the cost of utilities is not paid by the Federal Government.

“(D) LIFE CYCLE COST-EFFECTIVE.—The term ‘life cycle cost-effective’, with respect to a measure, means a measure, the estimated savings of which exceed the estimated costs over the lifespan of the measure, as determined in accordance with section 544.

“(E) PAYBACK PERIOD.—

“(i) IN GENERAL.—Subject to clause (ii), the term ‘payback period’, with respect to a measure, means a value equal to the quotient obtained by dividing—

“(I) the estimated initial implementation cost of the measure (other than financing costs); by

“(II) the annual cost savings resulting from the measure, including—

“(aa) net savings in estimated energy and water costs; and

“(bb) operations, maintenance, repair, replacement, and other direct costs.

“(ii) MODIFICATIONS AND EXCEPTIONS.—The Secretary, in guidelines issued pursuant to paragraph (6), may make such modifications and provide such exceptions to the calculation of the payback period of a measure as the Secretary determines to be appropriate to achieve the purposes of this Act.

“(F) RECOMMISSIONING.—The term ‘recommissioning’ means a process—

“(i) of commissioning a facility or system beyond the project development and warranty phases of the facility or system; and

“(ii) the primary goal of which is to ensure optimum performance of a facility, in accordance with design or current operating needs, over the useful life of the facility, while meeting building occupancy requirements.

“(G) RETROCOMMISSIONING.—The term ‘retrocommissioning’ means a process of commissioning a facility or system that was not commissioned at the time of construction of the facility or system.

“(2) FACILITY ENERGY MANAGERS.—

“(A) IN GENERAL.—Each Federal agency shall designate an energy manager responsible for implementing this subsection and reducing energy use at each facility that meets criteria under subparagraph (B).

“(B) COVERED FACILITIES.—The Secretary shall develop criteria, after consultation with affected agencies, energy efficiency advocates, and energy and utility service providers, that cover, at a minimum, Federal facilities, including central utility plants and distribution systems and other energy intensive operations, that constitute at least 75 percent of facility energy use at each agency.”

Criteria.

“(3) ENERGY AND WATER EVALUATIONS.—

“(A) EVALUATIONS.—Effective beginning on the date that is 180 days after the date of enactment of this subsection and annually thereafter, energy managers shall complete, for each calendar year, a comprehensive energy and water evaluation for approximately 25 percent of the facilities of each agency that meet the criteria under paragraph (2)(B) in a manner that ensures that an evaluation of each such facility is completed at least once every 4 years.

Effective date.

“(B) RECOMMISSIONING AND RETROCOMMISSIONING.—As part of the evaluation under subparagraph (A), the energy manager shall identify and assess recommissioning measures (or, if the facility has never been commissioned, retrocommissioning measures) for each such facility.

“(4) IMPLEMENTATION OF IDENTIFIED ENERGY AND WATER EFFICIENCY MEASURES.—Not later than 2 years after the completion of each evaluation under paragraph (3), each energy manager may—

Deadline.

“(A) implement any energy- or water-saving measure that the Federal agency identified in the evaluation conducted under paragraph (3) that is life cycle cost-effective; and

“(B) bundle individual measures of varying paybacks together into combined projects.

“(5) FOLLOW-UP ON IMPLEMENTED MEASURES.—For each measure implemented under paragraph (4), each energy manager shall ensure that—

“(A) equipment, including building and equipment controls, is fully commissioned at acceptance to be operating at design specifications;

“(B) a plan for appropriate operations, maintenance, and repair of the equipment is in place at acceptance and is followed;

“(C) equipment and system performance is measured during its entire life to ensure proper operations, maintenance, and repair; and

“(D) energy and water savings are measured and verified.

“(6) GUIDELINES.—

“(A) IN GENERAL.—The Secretary shall issue guidelines and necessary criteria that each Federal agency shall follow for implementation of—

Deadlines.

“(i) paragraphs (2) and (3) not later than 180 days after the date of enactment of this subsection; and

“(ii) paragraphs (4) and (5) not later than 1 year after the date of enactment of this subsection.

“(B) RELATIONSHIP TO FUNDING SOURCE.—The guidelines issued by the Secretary under subparagraph (A) shall be appropriate and uniform for measures funded with each

type of funding made available under paragraph (10), but may distinguish between different types of measures project size, and other criteria the Secretary determines are relevant.

“(7) WEB-BASED CERTIFICATION.—

“(A) IN GENERAL.—For each facility that meets the criteria established by the Secretary under paragraph (2)(B), the energy manager shall use the web-based tracking system under subparagraph (B) to certify compliance with the requirements for—

“(i) energy and water evaluations under paragraph (3);

“(ii) implementation of identified energy and water measures under paragraph (4); and

“(iii) follow-up on implemented measures under paragraph (5).

“(B) DEPLOYMENT.—

Deadline.

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop and deploy a web-based tracking system required under this paragraph in a manner that tracks, at a minimum—

“(I) the covered facilities;

“(II) the status of meeting the requirements specified in subparagraph (A);

“(III) the estimated cost and savings for measures required to be implemented in a facility;

“(IV) the measured savings and persistence of savings for implemented measures; and

“(V) the benchmarking information disclosed under paragraph (8)(C).

“(ii) EASE OF COMPLIANCE.—The Secretary shall ensure that energy manager compliance with the requirements in this paragraph, to the maximum extent practicable—

“(I) can be accomplished with the use of streamlined procedures and templates that minimize the time demands on Federal employees; and

“(II) is coordinated with other applicable energy reporting requirements.

“(C) AVAILABILITY.—

Internet.

“(i) IN GENERAL.—Subject to clause (ii), the Secretary shall make the web-based tracking system required under this paragraph available to Congress, other Federal agencies, and the public through the Internet.

“(ii) EXEMPTIONS.—At the request of a Federal agency, the Secretary may exempt specific data for specific facilities from disclosure under clause (i) for national security purposes.

“(8) BENCHMARKING OF FEDERAL FACILITIES.—

“(A) IN GENERAL.—The energy manager shall enter energy use data for each metered building that is (or is a part of) a facility that meets the criteria established by the Secretary under paragraph (2)(B) into a building energy use benchmarking system, such as the Energy Star Portfolio Manager.

“(B) SYSTEM AND GUIDANCE.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall— Deadline.

“(i) select or develop the building energy use benchmarking system required under this paragraph for each type of building; and

“(ii) issue guidance for use of the system.

“(C) PUBLIC DISCLOSURE.—Each energy manager shall post the information entered into, or generated by, a benchmarking system under this subsection, on the web-based tracking system under paragraph (7)(B). The energy manager shall update such information each year, and shall include in such reporting previous years’ information to allow changes in building performance to be tracked over time.

“(9) FEDERAL AGENCY SCORECARDS.—

“(A) IN GENERAL.—The Director of the Office of Management and Budget shall issue semiannual scorecards for energy management activities carried out by each Federal agency that includes—

“(i) summaries of the status of implementing the various requirements of the agency and its energy managers under this subsection; and

“(ii) any other means of measuring performance that the Director considers appropriate.

“(B) AVAILABILITY.—The Director shall make the scorecards required under this paragraph available to Congress, other Federal agencies, and the public through the Internet. Internet.

“(10) FUNDING AND IMPLEMENTATION.—

“(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

“(B) FUNDING OPTIONS.—

“(i) IN GENERAL.—To carry out this subsection, a Federal agency may use any combination of—

“(I) appropriated funds made available under subparagraph (A); and

“(II) private financing otherwise authorized under Federal law, including financing available through energy savings performance contracts or utility energy service contracts.

“(ii) COMBINED FUNDING FOR SAME MEASURE.—A Federal agency may use any combination of appropriated funds and private financing described in clause (i) to carry out the same measure under this subsection.

“(C) IMPLEMENTATION.—Each Federal agency may implement the requirements under this subsection itself or may contract out performance of some or all of the requirements.

“(11) RULE OF CONSTRUCTION.—This subsection shall not be construed to require or to obviate any contractor savings guarantees.”.

SEC. 433. FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.

Deadline.
Regulations.

(a) STANDARDS.—Section 305(a)(3) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)) is amended by adding at the end the following new subparagraph:

“(D) Not later than 1 year after the date of enactment of the Energy Independence and Security Act of 2007, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that:

“(i) For new Federal buildings and Federal buildings undergoing major renovations, with respect to which the Administrator of General Services is required to transmit a prospectus to Congress under section 3307 of title 40, United States Code, in the case of public buildings (as defined in section 3301 of title 40, United States Code), or of at least \$2,500,000 in costs adjusted annually for inflation for other buildings:

“(I) The buildings shall be designed so that the fossil fuel-generated energy consumption of the buildings is reduced, as compared with such energy consumption by a similar building in fiscal year 2003 (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from the Energy Information Agency), by the percentage specified in the following table:

“Fiscal Year	Percentage Reduction
2010	55
2015	65
2020	80
2025	90
2030	100.

“(II) Upon petition by an agency subject to this subparagraph, the Secretary may adjust the applicable numeric requirement under subclause (I) downward with respect to a specific building, if the head of the agency designing the building certifies in writing that meeting such requirement would be technically impracticable in light of the agency’s specified functional needs for that building and the Secretary concurs with the agency’s conclusion. This subclause shall not apply to the General Services Administration.

Applicability.
Deadline.

“(III) Sustainable design principles shall be applied to the siting, design, and construction of such buildings. Not later than 90 days after the date of enactment of the Energy Independence and Security Act of 2007, the Secretary, after reviewing the findings of the Federal Director under section 436(h) of that Act, in consultation with the Administrator of General Services, and in consultation with the Secretary of Defense for considerations relating to those facilities under the custody and control of the Department of Defense, shall identify a certification system and level for green buildings that the Secretary determines to be the most likely to encourage a comprehensive and environmentally-sound approach to certification of green buildings. The identification of the certification system and level shall be based on a review of the Federal

Director's findings under section 436(h) of the Energy Independence and Security Act of 2007 and the criteria specified in clause (iii), shall identify the highest level the Secretary determines is appropriate above the minimum level required for certification under the system selected, and shall achieve results at least comparable to the system used by and highest level referenced by the General Services Administration as of the date of enactment of the Energy Independence and Security Act of 2007. Within 90 days of the completion of each study required by clause (iv), the Secretary, in consultation with the Administrator of General Services, and in consultation with the Secretary of Defense for considerations relating to those facilities under the custody and control of the Department of Defense, shall review and update the certification system and level, taking into account the conclusions of such study.

Deadline.

“(ii) In establishing criteria for identifying major renovations that are subject to the requirements of this subparagraph, the Secretary shall take into account the scope, degree, and types of renovations that are likely to provide significant opportunities for substantial improvements in energy efficiency.

“(iii) In identifying the green building certification system and level, the Secretary shall take into consideration—

“(I) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this subparagraph;

“(II) the ability of the applicable certification organization to collect and reflect public comment;

“(III) the ability of the standard to be developed and revised through a consensus-based process;

“(IV) an evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting—

“(aa) efficient and sustainable use of water, energy, and other natural resources;

“(bb) use of renewable energy sources;

“(cc) improved indoor environmental quality through enhanced indoor air quality, thermal comfort, acoustics, day lighting, pollutant source control, and use of low-emission materials and building system controls; and

“(dd) such other criteria as the Secretary determines to be appropriate; and

“(V) national recognition within the building industry.

“(iv) At least once every 5 years, and in accordance with section 436 of the Energy Independence and Security Act of 2007, the Administrator of General Services shall conduct a study to evaluate and compare available third-party green building certification systems and levels, taking into account the criteria listed in clause (iii).

Study.

“(v) The Secretary may by rule allow Federal agencies to develop internal certification processes, using certified professionals, in lieu of certification by the certification entity identified under clause (i)(III). The Secretary shall include in any such rule guidelines to ensure that the certification process results in buildings meeting the applicable certification system

Guidelines.

and level identified under clause (i)(III). An agency employing an internal certification process must continue to obtain external certification by the certification entity identified under clause (i)(III) for at least 5 percent of the total number of buildings certified annually by the agency.

“(vi) With respect to privatized military housing, the Secretary of Defense, after consultation with the Secretary may, through rulemaking, develop alternative criteria to those established by subclauses (I) and (III) of clause (i) that achieve an equivalent result in terms of energy savings, sustainable design, and green building performance.

“(vii) In addition to any use of water conservation technologies otherwise required by this section, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective.”.

(b) DEFINITIONS.—Section 303(6) of the Energy Conservation and Production Act (42 U.S.C. 6832(6)) is amended by striking “which is not legally subject to State or local building codes or similar requirements.” and inserting “. Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing.”.

Deadline.
42 USC 6834
note.

(c) REVISION OF FEDERAL ACQUISITION REGULATION.—Not later than 2 years after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to require Federal officers and employees to comply with this section and the amendments made by this section in the acquisition, construction, or major renovation of any facility. The members of the Federal Acquisition Regulatory Council (established under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)) shall consult with the Federal Director and the Commercial Director before promulgating regulations to carry out this subsection.

Deadline.

(d) GUIDANCE.—Not later than 90 days after the date of promulgation of the revised regulations under subsection (c), the Administrator for Federal Procurement Policy shall issue guidance to all Federal procurement executives providing direction and instructions to renegotiate the design of proposed facilities and major renovations for existing facilities to incorporate improvements that are consistent with this section.

SEC. 434. MANAGEMENT OF FEDERAL BUILDING EFFICIENCY.

(a) LARGE CAPITAL ENERGY INVESTMENTS.—Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

“(f) LARGE CAPITAL ENERGY INVESTMENTS.—

“(1) IN GENERAL.—Each Federal agency shall ensure that any large capital energy investment in an existing building that is not a major renovation but involves replacement of installed equipment (such as heating and cooling systems), or involves renovation, rehabilitation, expansion, or remodeling of existing space, employs the most energy efficient designs, systems, equipment, and controls that are life-cycle cost effective.

Deadline.

“(2) PROCESS FOR REVIEW OF INVESTMENT DECISIONS.—Not later than 180 days after the date of enactment of this subsection, each Federal agency shall—

“(A) develop a process for reviewing each decision made on a large capital energy investment described in paragraph (1) to ensure that the requirements of this subsection are met; and

“(B) report to the Director of the Office of Management and Budget on the process established. Reports.

“(3) COMPLIANCE REPORT.—Not later than 1 year after the date of enactment of this subsection, the Director of the Office of Management and Budget shall evaluate and report to Congress on the compliance of each agency with this subsection.”.

(b) METERING.—Section 543(e)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(e)(1)) is amended by inserting after the second sentence the following: “Not later than October 1, 2016, each agency shall provide for equivalent metering of natural gas and steam, in accordance with guidelines established by the Secretary under paragraph (2).”. Deadline.

SEC. 435. LEASING.

42 USC 17091.

(a) IN GENERAL.—Except as provided in subsection (b), effective beginning on the date that is 3 years after the date of enactment of this Act, no Federal agency shall enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year. Effective date.

(b) EXCEPTION.—

(1) APPLICATION.—This subsection applies if—

(A) no space is available in a building described in subsection (a) that meets the functional requirements of an agency, including locational needs;

(B) the agency proposes to remain in a building that the agency has occupied previously;

(C) the agency proposes to lease a building of historical, architectural, or cultural significance (as defined in section 3306(a)(4) of title 40, United States Code) or space in such a building; or

(D) the lease is for not more than 10,000 gross square feet of space.

(2) BUILDINGS WITHOUT ENERGY STAR LABEL.—If one of the conditions described in paragraph (2) is met, the agency may enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year if the lease contract includes provisions requiring that, prior to occupancy or, in the case of a contract described in paragraph (1)(B), not later than 1 year after signing the contract, the space will be renovated for all energy efficiency and conservation improvements that would be cost effective over the life of the lease, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems. Deadline.

(c) REVISION OF FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Federal Acquisition Regulation described in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)) shall be revised to require Federal officers and employees to comply with this section in leasing buildings. Deadline.

(2) CONSULTATION.—The members of the Federal Acquisition Regulatory Council established under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) shall

consult with the Federal Director and the Commercial Director before promulgating regulations to carry out this subsection.

42 USC 17092.

Deadline.

SEC. 436. HIGH-PERFORMANCE GREEN FEDERAL BUILDINGS.

(a) **ESTABLISHMENT OF OFFICE.**—Not later than 60 days after the date of enactment of this Act, the Administrator shall establish within the General Services Administration an Office of Federal High-Performance Green Buildings, and appoint an individual to serve as Federal Director in, a position in the career-reserved Senior Executive service, to—

(1) establish and manage the Office of Federal High-Performance Green Buildings; and

(2) carry out other duties as required under this subtitle.

(b) **COMPENSATION.**—The compensation of the Federal Director shall not exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

(c) **DUTIES.**—The Federal Director shall—

(1) coordinate the activities of the Office of Federal High-Performance Green Buildings with the activities of the Office of Commercial High-Performance Green Buildings, and the Secretary, in accordance with section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D));

(2) ensure full coordination of high-performance green building information and activities within the General Services Administration and all relevant agencies, including, at a minimum—

(A) the Environmental Protection Agency;

(B) the Office of the Federal Environmental Executive;

(C) the Office of Federal Procurement Policy;

(D) the Department of Energy;

(E) the Department of Health and Human Services;

(F) the Department of Defense;

(G) the Department of Transportation;

(H) the National Institute of Standards and Technology; and

(I) the Office of Science and Technology Policy;

(3) establish a senior-level Federal Green Building Advisory Committee under section 474, which shall provide advice and recommendations in accordance with that section and subsection (d);

(4) identify and every 5 years reassess improved or higher rating standards recommended by the Advisory Committee;

(5) ensure full coordination, dissemination of information regarding, and promotion of the results of research and development information relating to Federal high-performance green building initiatives;

(6) identify and develop Federal high-performance green building standards for all types of Federal facilities, consistent with the requirements of this subtitle and section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D));

(7) establish green practices that can be used throughout the life of a Federal facility;

(8) review and analyze current Federal budget practices and life-cycle costing issues, and make recommendations to Congress, in accordance with subsection (d); and

(9) identify opportunities to demonstrate innovative and emerging green building technologies and concepts.

(d) **ADDITIONAL DUTIES.**—The Federal Director, in consultation with the Commercial Director and the Advisory Committee, and consistent with the requirements of section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)) shall—

(1) identify, review, and analyze current budget and contracting practices that affect achievement of high-performance green buildings, including the identification of barriers to high-performance green building life-cycle costing and budgetary issues;

(2) develop guidance and conduct training sessions with budget specialists and contracting personnel from Federal agencies and budget examiners to apply life-cycle cost criteria to actual projects;

(3) identify tools to aid life-cycle cost decisionmaking; and

(4) explore the feasibility of incorporating the benefits of high-performance green buildings, such as security benefits, into a cost-budget analysis to aid in life-cycle costing for budget and decisionmaking processes.

(e) **INCENTIVES.**—Within 90 days after the date of enactment of this Act, the Federal Director shall identify incentives to encourage the expedited use of high-performance green buildings and related technology in the operations of the Federal Government, in accordance with the requirements of section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)), including through—

(1) the provision of recognition awards; and

(2) the maximum feasible retention of financial savings in the annual budgets of Federal agencies for use in reinvesting in future high-performance green building initiatives.

(f) **REPORT.**—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Federal Director, in consultation with the Secretary, shall submit to Congress a report that—

(1) describes the status of compliance with this subtitle, the requirements of section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)), and other Federal high-performance green building initiatives in effect as of the date of the report, including—

(A) the extent to which the programs are being carried out in accordance with this subtitle and the requirements of section 305(a)(3)(D) of that Act; and

(B) the status of funding requests and appropriations for those programs;

(2) identifies within the planning, budgeting, and construction process all types of Federal facility procedures that may affect the certification of new and existing Federal facilities as high-performance green buildings under the provisions of section 305(a)(3)(D) of that Act and the criteria established in subsection (h);

(3) identifies inconsistencies, as reported to the Advisory Committee, in Federal law with respect to product acquisition guidelines and high-performance product guidelines;

(4) recommends language for uniform standards for use by Federal agencies in environmentally responsible acquisition;

(5) in coordination with the Office of Management and Budget, reviews the budget process for capital programs with respect to alternatives for—

(A) restructuring of budgets to require the use of complete energy and environmental cost accounting;

(B) using operations expenditures in budget-related decisions while simultaneously incorporating productivity and health measures (as those measures can be quantified by the Office of Federal High-Performance Green Buildings, with the assistance of universities and national laboratories);

(C) streamlining measures for permitting Federal agencies to retain all identified savings accrued as a result of the use of life-cycle costing for future high-performance green building initiatives; and

(D) identifying short-term and long-term cost savings that accrue from high-performance green buildings, including those relating to health and productivity;

(6) identifies green, self-sustaining technologies to address the operational needs of Federal facilities in times of national security emergencies, natural disasters, or other dire emergencies;

(7) summarizes and highlights development, at the State and local level, of high-performance green building initiatives, including executive orders, policies, or laws adopted promoting high-performance green building (including the status of implementation of those initiatives); and

(8) includes, for the 2-year period covered by the report, recommendations to address each of the matters, and a plan for implementation of each recommendation, described in paragraphs (1) through (7).

(g) IMPLEMENTATION.—The Office of Federal High-Performance Green Buildings shall carry out each plan for implementation of recommendations under subsection (f)(8).

(h) IDENTIFICATION OF CERTIFICATION SYSTEM.—

Deadline.

(1) IN GENERAL.—For the purpose of this section, not later than 60 days after the date of enactment of this Act, the Federal Director shall identify and shall provide to the Secretary pursuant to section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)), a certification system that the Director determines to be the most likely to encourage a comprehensive and environmentally-sound approach to certification of green buildings.

(2) BASIS.—The system identified under paragraph (1) shall be based on—

Study.
Deadline.

(A) a study completed every 5 years and provided to the Secretary pursuant to section 305(a)(3)(D) of that Act, which shall be carried out by the Federal Director to compare and evaluate standards;

(B) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this subtitle;

(C) the ability of the applicable standard-setting organization to collect and reflect public comment;

(D) the ability of the standard to be developed and revised through a consensus-based process;

(E) an evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting—

(i) efficient and sustainable use of water, energy, and other natural resources;

(ii) use of renewable energy sources;

(iii) improved indoor environmental quality through enhanced indoor air quality, thermal comfort, acoustics, day lighting, pollutant source control, and use of low-emission materials and building system controls;

(iv) reduced impacts from transportation through building location and site design that promote access by public transportation; and

(v) such other criteria as the Federal Director determines to be appropriate; and

(F) national recognition within the building industry.

SEC. 437. FEDERAL GREEN BUILDING PERFORMANCE.

42 USC 17093.

(a) IN GENERAL.—Not later than October 31 of each of the 2 fiscal years following the fiscal year in which this Act is enacted, and at such times thereafter as the Comptroller General of the United States determines to be appropriate, the Comptroller General of the United States shall, with respect to the fiscal years that have passed since the preceding report—

Deadline.

(1) conduct an audit of the implementation of this subtitle, section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)), and section 435; and

Audit.

(2) submit to the Federal Director, the Advisory Committee, the Administrator, and Congress a report describing the results of the audit.

Reports.

(b) CONTENTS.—An audit under subsection (a) shall include a review, with respect to the period covered by the report under subsection (a)(2), of—

(1) budget, life-cycle costing, and contracting issues, using best practices identified by the Comptroller General of the United States and heads of other agencies in accordance with section 436(d);

(2) the level of coordination among the Federal Director, the Office of Management and Budget, the Department of Energy, and relevant agencies;

(3) the performance of the Federal Director and other agencies in carrying out the implementation plan;

(4) the design stage of high-performance green building measures;

(5) high-performance building data that were collected and reported to the Office; and

(6) such other matters as the Comptroller General of the United States determines to be appropriate.

(c) ENVIRONMENTAL STEWARDSHIP SCORECARD.—The Federal Director shall consult with the Advisory Committee to enhance, and assist in the implementation of, the Office of Management and Budget government efficiency reports and scorecards under

section 528 and the Environmental Stewardship Scorecard announced at the White House summit on Federal sustainable buildings in January 2006, to measure the implementation by each Federal agency of sustainable design and green building initiatives.

42 USC 17094.

SEC. 438. STORM WATER RUNOFF REQUIREMENTS FOR FEDERAL DEVELOPMENT PROJECTS.

The sponsor of any development or redevelopment project involving a Federal facility with a footprint that exceeds 5,000 square feet shall use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the property with regard to the temperature, rate, volume, and duration of flow.

42 USC 17095.

SEC. 439. COST-EFFECTIVE TECHNOLOGY ACCELERATION PROGRAM.

(a) **DEFINITION OF ADMINISTRATOR.**—In this section, the term “Administrator” means the Administrator of General Services.

(b) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—The Administrator shall establish a program to accelerate the use of more cost-effective technologies and practices at GSA facilities.

(2) **REQUIREMENTS.**—The program established under this subsection shall—

(A) ensure centralized responsibility for the coordination of cost reduction-related recommendations, practices, and activities of all relevant Federal agencies;

(B) provide technical assistance and operational guidance to applicable tenants to achieve the goal identified in subsection (c)(2)(B)(ii);

(C) establish methods to track the success of Federal departments and agencies with respect to that goal; and

(D) be fully coordinated with and no less stringent nor less energy-conserving or water-conserving than required by other provisions of this Act and other applicable law, including sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525 and amendments made by those sections.

(c) **ACCELERATED USE OF TECHNOLOGIES.**—

(1) **REVIEW.**—

(A) **IN GENERAL.**—As part of the program under this section, not later than 90 days after the date of enactment of this Act, the Administrator shall conduct a review of—

(i) current use of cost-effective lighting technologies and geothermal heat pumps in GSA facilities; and

(ii) the availability to managers of GSA facilities of cost-effective lighting technologies and geothermal heat pumps.

(B) **REQUIREMENTS.**—The review under subparagraph

(A) shall—

(i) examine the use of cost-effective lighting technologies, geothermal heat pumps, and other cost-effective technologies and practices by Federal agencies in GSA facilities; and

(ii) as prepared in consultation with the Administrator of the Environmental Protection Agency, identify cost-effective lighting technology and geothermal heat

Deadline.

pump technology standards that could be used for all types of GSA facilities.

(2) REPLACEMENT.—

(A) IN GENERAL.—As part of the program under this section, not later than 180 days after the date of enactment of this Act, the Administrator shall establish, using available appropriations and programs implementing sections 432 and 525 (and amendments made by those sections), a cost-effective lighting technology and geothermal heat pump technology acceleration program to achieve maximum feasible replacement of existing lighting, heating, cooling technologies with cost-effective lighting technologies and geothermal heat pump technologies in each GSA facility. Such program shall fully comply with the requirements of sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525 and amendments made by those sections and any other provisions of law, which shall be applicable to the extent that they are more stringent or would achieve greater energy savings than required by this section.

Deadline.

(B) ACCELERATION PLAN TIMETABLE.—

(i) IN GENERAL.—To implement the program established under subparagraph (A), not later than 1 year after the date of enactment of this Act, the Administrator shall establish a timetable of actions to comply with the requirements of this section and sections 431 through 435, whichever achieves greater energy savings most expeditiously, including milestones for specific activities needed to replace existing lighting, heating, cooling technologies with cost-effective lighting technologies and geothermal heat pump technologies, to the maximum extent feasible (including at the maximum rate feasible), at each GSA facility.

Deadline.

(ii) GOAL.—The goal of the timetable under clause (i) shall be to complete, using available appropriations and programs implementing sections 431 through 435 (and amendments made by those sections), maximum feasible replacement of existing lighting, heating, and cooling technologies with cost-effective lighting technologies and geothermal heat pump technologies consistent with the requirements of this section and sections 431 through 435, whichever achieves greater energy savings most expeditiously. Notwithstanding any provision of this section, such program shall fully comply with the requirements of the Act including sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525 and amendments made by those sections and other provisions of law, which shall be applicable to the extent that they are more stringent or would achieve greater energy or water savings than required by this section.

(d) GSA FACILITY TECHNOLOGIES AND PRACTICES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Administrator shall—

Deadline.

(A) ensure that a manager responsible for implementing section 432 and for accelerating the use of cost-

- effective technologies and practices is designated for each GSA facility; and
- Plan. (B) submit to Congress a plan to comply with section 432, this section, and other applicable provisions of this Act and applicable law with respect to energy and water conservation at GSA facilities.
- Deadline. (2) MEASURES.—The plan shall implement measures required by such other provisions of law in accordance with those provisions, and shall implement the measures required by this section to the maximum extent feasible (including at the maximum rate feasible) using available appropriations and programs implementing sections 431 through 435 and 525 (and amendments made by those sections), by not later than the date that is 5 years after the date of enactment of this Act.
- (3) CONTENTS OF PLAN.—The plan shall—
- (A) with respect to cost-effective technologies and practices—
- (i) identify the specific activities needed to comply with sections 431 through 435;
- Deadline. (ii) identify the specific activities needed to achieve at least a 20-percent reduction in operational costs through the application of cost-effective technologies and practices from 2003 levels at GSA facilities by not later than 5 years after the date of enactment of this Act;
- (iii) describe activities required and carried out to estimate the funds necessary to achieve the reduction described in clauses (i) and (ii);
- (B) include an estimate of the funds necessary to carry out this section;
- (C) describe the status of the implementation of cost-effective technologies and practices at GSA facilities, including—
- (i) the extent to which programs, including the program established under subsection (b), are being carried out in accordance with this subtitle; and
- (ii) the status of funding requests and appropriations for those programs;
- (D) identify within the planning, budgeting, and construction processes, all types of GSA facility-related procedures that inhibit new and existing GSA facilities from implementing cost-effective technologies;
- (E) recommend language for uniform standards for use by Federal agencies in implementing cost-effective technologies and practices;
- (F) in coordination with the Office of Management and Budget, review the budget process for capital programs with respect to alternatives for—
- (i) implementing measures that will assure that Federal agencies retain all identified savings accrued as a result of the use of cost-effective technologies, consistent with section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1), and other applicable law; and
- (ii) identifying short- and long-term cost savings that accrue from the use of cost-effective technologies and practices;

(G) with respect to cost-effective technologies and practices, achieve substantial operational cost savings through the application of the technologies; and

(H) include recommendations to address each of the matters, and a plan for implementation of each recommendation, described in subparagraphs (A) through (G).

(4) ADMINISTRATION.—Notwithstanding any provision of this section, the program required under this section shall fully comply with the requirements of sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525 and amendments made by those sections, which shall be applicable to the extent that they are more stringent or would achieve greater energy or water savings than required by this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

SEC. 440. AUTHORIZATION OF APPROPRIATIONS.

42 USC 17096.

There is authorized to be appropriated to carry out sections 434 through 439 and 482 \$4,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

SEC. 441. PUBLIC BUILDING LIFE-CYCLE COSTS.

Section 544(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)(1)) is amended by striking “25” and inserting “40”.

Subtitle D—Industrial Energy Efficiency

SEC. 451. INDUSTRIAL ENERGY EFFICIENCY.

(a) IN GENERAL.—Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended by inserting after part D the following:

“PART E—INDUSTRIAL ENERGY EFFICIENCY

“SEC. 371. DEFINITIONS.

42 USC 6341.

“In this part:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) COMBINED HEAT AND POWER.—The term ‘combined heat and power system’ means a facility that—

“(A) simultaneously and efficiently produces useful thermal energy and electricity; and

“(B) recovers not less than 60 percent of the energy value in the fuel (on a higher-heating-value basis) in the form of useful thermal energy and electricity.

“(3) NET EXCESS POWER.—The term ‘net excess power’ means, for any facility, recoverable waste energy recovered in the form of electricity in quantities exceeding the total consumption of electricity at the specific time of generation on the site at which the facility is located.

“(4) PROJECT.—The term ‘project’ means a recoverable waste energy project or a combined heat and power system project.

“(5) RECOVERABLE WASTE ENERGY.—The term ‘recoverable waste energy’ means waste energy from which electricity or useful thermal energy may be recovered through modification of an existing facility or addition of a new facility.

“(6) REGISTRY.—The term ‘Registry’ means the Registry of Recoverable Waste Energy Sources established under section 372(d).

“(7) USEFUL THERMAL ENERGY.—The term ‘useful thermal energy’ means energy—

“(A) in the form of direct heat, steam, hot water, or other thermal form that is used in production and beneficial measures for heating, cooling, humidity control, process use, or other valid thermal end-use energy requirements; and

“(B) for which fuel or electricity would otherwise be consumed.

“(8) WASTE ENERGY.—The term ‘waste energy’ means—

“(A) exhaust heat or flared gas from any industrial process;

“(B) waste gas or industrial tail gas that would otherwise be flared, incinerated, or vented;

“(C) a pressure drop in any gas, excluding any pressure drop to a condenser that subsequently vents the resulting heat; and

“(D) such other forms of waste energy as the Administrator may determine.

“(9) OTHER TERMS.—The terms ‘electric utility’, ‘nonregulated electric utility’, ‘State regulated electric utility’, and other terms have the meanings given those terms in title I of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2611 et seq.).

42 USC 6342.

“SEC. 372. SURVEY AND REGISTRY.

“(a) RECOVERABLE WASTE ENERGY INVENTORY PROGRAM.—

“(1) IN GENERAL.—The Administrator, in cooperation with the Secretary and State energy offices, shall establish a recoverable waste energy inventory program.

“(2) SURVEY.—The program shall include—

“(A) an ongoing survey of all major industrial and large commercial combustion sources in the United States (as defined by the Administrator) and the sites at which the sources are located; and

“(B) a review of each source for the quantity and quality of waste energy produced at the source.

“(b) CRITERIA.—

“(1) IN GENERAL.—Not later than 270 days after the date of enactment of the Energy Independence and Security Act of 2007, the Administrator shall publish a rule for establishing criteria for including sites in the Registry.

“(2) INCLUSIONS.—The criteria shall include—

“(A) a requirement that, to be included in the Registry, a project at the site shall be determined to be economically feasible by virtue of offering a payback of invested costs not later than 5 years after the date of first full project operation (including incentives offered under this part);

“(B) standards to ensure that projects proposed for inclusion in the Registry are not developed or used for

Deadline.
Publication.
Regulations.

the primary purpose of making sales of excess electric power under the regulatory provisions of this part; and

“(C) procedures for contesting the listing of any source or site on the Registry by any State, utility, or other interested person.

“(c) TECHNICAL SUPPORT.—On the request of the owner or operator of a source or site included in the Registry, the Secretary shall—

“(1) provide to owners or operators of combustion sources technical support; and

“(2) offer partial funding (in an amount equal to not more than one-half of total costs) for feasibility studies to confirm whether or not investment in recovery of waste energy or combined heat and power at a source would offer a payback period of 5 years or less.

“(d) REGISTRY.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Energy Independence and Security Act of 2007, the Administrator shall establish a Registry of Recoverable Waste Energy Sources, and sites on which the sources are located, that meet the criteria established under subsection (b).

Deadline.

“(B) UPDATES; AVAILABILITY.—The Administrator shall—

“(i) update the Registry on a regular basis; and

“(ii) make the Registry available to the public on the website of the Environmental Protection Agency.

Public information.
Website.

“(C) CONTESTING LISTING.—Any State, electric utility, or other interested person may contest the listing of any source or site by submitting a petition to the Administrator.

“(2) CONTENTS.—

“(A) IN GENERAL.—The Administrator shall register and include on the Registry all sites meeting the criteria established under subsection (b).

“(B) QUANTITY OF RECOVERABLE WASTE ENERGY.—The Administrator shall—

“(i) calculate the total quantities of potentially recoverable waste energy from sources at the sites, nationally and by State; and

“(ii) make public—

“(I) the total quantities described in clause (i); and

“(II) information on the criteria pollutant and greenhouse gas emissions savings that might be achieved with recovery of the waste energy from all sources and sites listed on the Registry.

“(3) AVAILABILITY OF INFORMATION.—

“(A) IN GENERAL.—The Administrator shall notify owners or operators of recoverable waste energy sources and sites listed on the Registry prior to publishing the listing.

Notification.

“(B) DETAILED QUANTITATIVE INFORMATION.—

“(i) IN GENERAL.—Except as provided in clause (ii), the owner or operator of a source at a site may

elect to have detailed quantitative information concerning the site not made public by notifying the Administrator of the election.

“(ii) LIMITED AVAILABILITY.—The information shall be made available to—

“(I) the applicable State energy office; and

“(II) any utility requested to support recovery of waste energy from the source pursuant to the incentives provided under section 374.

“(iii) STATE TOTALS.—Information concerning the site shall be included in the total quantity of recoverable waste energy for a State unless there are fewer than 3 sites in the State.

“(4) REMOVAL OF PROJECTS FROM REGISTRY.—

“(A) IN GENERAL.—Subject to subparagraph (B), as a project achieves successful recovery of waste energy, the Administrator shall—

“(i) remove the related sites or sources from the Registry; and

“(ii) designate the removed projects as eligible for incentives under section 374.

“(B) LIMITATION.—No project shall be removed from the Registry without the consent of the owner or operator of the project if—

“(i) the owner or operator has submitted a petition under section 374; and

“(ii) the petition has not been acted on or denied.

“(5) INELIGIBILITY OF CERTAIN SOURCES.—The Administrator shall not list any source constructed after the date of the enactment of the Energy Independence and Security Act of 2007 on the Registry if the Administrator determines that the source—

“(A) was developed for the primary purpose of making sales of excess electric power under the regulatory provisions of this part; or

“(B) does not capture at least 60 percent of the total energy value of the fuels used (on a higher-heating-value basis) in the form of useful thermal energy, electricity, mechanical energy, chemical output, or any combination thereof.

“(e) SELF-CERTIFICATION.—

“(1) IN GENERAL.—Subject to any procedures that are established by the Administrator, an owner, operator, or third-party developer of a recoverable waste energy project that qualifies under standards established by the Administrator may self-certify the sites or sources of the owner, operator, or developer to the Administrator for inclusion in the Registry.

“(2) REVIEW AND APPROVAL.—To prevent a fraudulent listing, a site or source shall be included on the Registry only if the Administrator reviews and approves the self-certification.

“(f) NEW FACILITIES.—As a new energy-consuming industrial facility is developed after the date of enactment of the Energy Independence and Security Act of 2007, to the extent the facility may constitute a site with recoverable waste energy that may qualify for inclusion on the Registry, the Administrator may elect to include the facility on the Registry, at the request of the owner, operator, or developer of the facility, on a conditional basis with

the site to be removed from the Registry if the development ceases or the site fails to qualify for listing under this part.

“(g) OPTIMUM MEANS OF RECOVERY.—For each site listed in the Registry, at the request of the owner or operator of the site, the Administrator shall offer, in cooperation with Clean Energy Application Centers operated by the Secretary of Energy, suggestions for optimum means of recovery of value from waste energy stream in the form of electricity, useful thermal energy, or other energy-related products.

“(h) REVISION.—Each annual report of a State under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)) shall include the results of the survey for the State under this section.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to—

“(1) the Administrator to create and maintain the Registry and services authorized by this section, \$1,000,000 for each of fiscal years 2008 through 2012; and

“(2) the Secretary—

“(A) to assist site or source owners and operators in determining the feasibility of projects authorized by this section, \$2,000,000 for each of fiscal years 2008 through 2012; and

“(B) to provide funding for State energy office functions under this section, \$5,000,000.

“SEC. 373. WASTE ENERGY RECOVERY INCENTIVE GRANT PROGRAM. 42 USC 6343.

“(a) ESTABLISHMENT.—The Secretary shall establish in the Department of Energy a waste energy recovery incentive grant program to provide incentive grants to—

“(1) owners and operators of projects that successfully produce electricity or incremental useful thermal energy from waste energy recovery;

“(2) utilities purchasing or distributing the electricity; and

“(3) States that have achieved 80 percent or more of recoverable waste heat recovery opportunities.

“(b) GRANTS TO PROJECTS AND UTILITIES.—

“(1) IN GENERAL.—The Secretary shall make grants under this section—

“(A) to the owners or operators of waste energy recovery projects; and

“(B) in the case of excess power purchased or transmitted by a electric utility, to the utility.

“(2) PROOF.—Grants may only be made under this section on receipt of proof of waste energy recovery or excess electricity generation, or both, from the project in a form prescribed by the Secretary.

“(3) EXCESS ELECTRIC ENERGY.—

“(A) IN GENERAL.—In the case of waste energy recovery, a grant under this section shall be made at the rate of \$10 per megawatt hour of documented electricity produced from recoverable waste energy (or by prevention of waste energy in the case of a new facility) by the project during the first 3 calendar years of production, beginning on or after the date of enactment of the Energy Independence and Security Act of 2007.

“(B) UTILITIES.—If the project produces net excess power and an electric utility purchases or transmits the excess power, 50 percent of so much of the grant as is attributable to the net excess power shall be paid to the electric utility purchasing or transporting the net excess power.

“(4) USEFUL THERMAL ENERGY.—In the case of waste energy recovery that produces useful thermal energy that is used for a purpose different from that for which the project is principally designed, a grant under this section shall be made to the owner or operator of the waste energy recovery project at the rate of \$10 for each 3,412,000 Btus of the excess thermal energy used for the different purpose.

“(c) GRANTS TO STATES.—In the case of any State that has achieved 80 percent or more of waste heat recovery opportunities identified by the Secretary under this part, the Administrator shall make a 1-time grant to the State in an amount of not more than \$1,000 per megawatt of waste-heat capacity recovered (or a thermal equivalent) to support State-level programs to identify and achieve additional energy efficiency.

Regulations.

“(d) ELIGIBILITY.—The Secretary shall—

“(1) establish rules and guidelines to establish eligibility for grants under subsection (b);

“(2) publicize the availability of the grant program known to owners or operators of recoverable waste energy sources and sites listed on the Registry; and

“(3) award grants under the program on the basis of the merits of each project in recovering or preventing waste energy throughout the United States on an impartial, objective, and not unduly discriminatory basis.

“(e) LIMITATION.—The Secretary shall not award grants to any person for a combined heat and power project or a waste heat recovery project that qualifies for specific Federal tax incentives for combined heat and power or for waste heat recovery.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary—

“(1) to make grants to projects and utilities under subsection (b)—

“(A) \$100,000,000 for fiscal year 2008 and \$200,000,000 for each of fiscal years 2009 through 2012; and

“(B) such additional amounts for fiscal year 2008 and each fiscal year thereafter as may be necessary for administration of the waste energy recovery incentive grant program; and

“(2) to make grants to States under subsection (b), \$10,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

42 USC 6344.

“SEC. 374. ADDITIONAL INCENTIVES FOR RECOVERY, USE, AND PREVENTION OF INDUSTRIAL WASTE ENERGY.

“(a) CONSIDERATION OF STANDARD.—

Deadline.
Notification.

“(1) IN GENERAL.—Not later than 180 days after the receipt by a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority), or nonregulated electric utility, of a request from a project sponsor or owner or operator, the State regulatory authority or nonregulated electric utility shall—

“(A) provide public notice and conduct a hearing respecting the standard established by subsection (b); and

“(B) on the basis of the hearing, consider and make a determination whether or not it is appropriate to implement the standard to carry out the purposes of this part.

“(2) RELATIONSHIP TO STATE LAW.—For purposes of any determination under paragraph (1) and any review of the determination in any court, the purposes of this section supplement otherwise applicable State law.

“(3) NONADOPTION OF STANDARD.—Nothing in this part prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any standard described in paragraph (1), pursuant to authority under otherwise applicable State law.

“(b) STANDARD FOR SALES OF EXCESS POWER.—For purposes of this section, the standard referred to in subsection (a) shall provide that an owner or operator of a waste energy recovery project identified on the Registry that generates net excess power shall be eligible to benefit from at least 1 of the options described in subsection (c) for disposal of the net excess power in accordance with the rate conditions and limitations described in subsection (d).

“(c) OPTIONS.—The options referred to in subsection (b) are as follows:

“(1) SALE OF NET EXCESS POWER TO UTILITY.—The electric utility shall purchase the net excess power from the owner or operator of the eligible waste energy recovery project during the operation of the project under a contract entered into for that purpose.

“(2) TRANSPORT BY UTILITY FOR DIRECT SALE TO THIRD PARTY.—The electric utility shall transmit the net excess power on behalf of the project owner or operator to up to 3 separate locations on the system of the utility for direct sale by the owner or operator to third parties at those locations.

“(3) TRANSPORT OVER PRIVATE TRANSMISSION LINES.—The State and the electric utility shall permit, and shall waive or modify such laws as would otherwise prohibit, the construction and operation of private electric wires constructed, owned, and operated by the project owner or operator, to transport the power to up to 3 purchasers within a 3-mile radius of the project, allowing the wires to use or cross public rights-of-way, without subjecting the project to regulation as a public utility, and according the wires the same treatment for safety, zoning, land use, and other legal privileges as apply or would apply to the wires of the utility, except that—

“(A) there shall be no grant of any power of eminent domain to take or cross private property for the wires; and

“(B) the wires shall be physically segregated and not interconnected with any portion of the system of the utility, except on the customer side of the revenue meter of the utility and in a manner that precludes any possible export of the electricity onto the utility system, or disruption of the system.

“(4) AGREED ON ALTERNATIVES.—The utility and the owner or operator of the project may reach agreement on any alternate arrangement and payments or rates associated with the

arrangement that is mutually satisfactory and in accord with State law.

“(d) RATE CONDITIONS AND CRITERIA.—

“(1) DEFINITIONS.—In this subsection:

“(A) PER UNIT DISTRIBUTION COSTS.—The term ‘per unit distribution costs’ means (in kilowatt hours) the quotient obtained by dividing—

“(i) the depreciated book-value distribution system costs of a utility; by

“(ii) the volume of utility electricity sales or transmission during the previous year at the distribution level.

“(B) PER UNIT DISTRIBUTION MARGIN.—The term ‘per unit distribution margin’ means—

“(i) in the case of a State-regulated electric utility, a per-unit gross pretax profit equal to the product obtained by multiplying—

“(I) the State-approved percentage rate of return for the utility for distribution system assets; by

“(II) the per unit distribution costs; and

“(ii) in the case of a nonregulated utility, a per unit contribution to net revenues determined multiplying—

“(I) the percentage (but not less than 10 percent) obtained by dividing—

“(aa) the amount of any net revenue payment or contribution to the owners or subscribers of the nonregulated utility during the prior year; by

“(bb) the gross revenues of the utility during the prior year to obtain a percentage; by

“(II) the per unit distribution costs.

“(C) PER UNIT TRANSMISSION COSTS.—The term ‘per unit transmission costs’ means the total cost of those transmission services purchased or provided by a utility on a per-kilowatt-hour basis as included in the retail rate of the utility.

“(2) OPTIONS.—The options described in paragraphs (1) and (2) in subsection (c) shall be offered under purchase and transport rate conditions that reflect the rate components defined under paragraph (1) as applicable under the circumstances described in paragraph (3).

“(3) APPLICABLE RATES.—

“(A) RATES APPLICABLE TO SALE OF NET EXCESS POWER.—

“(i) IN GENERAL.—Sales made by a project owner or operator of a facility under the option described in subsection (c)(1) shall be paid for on a per kilowatt hour basis that shall equal the full undiscounted retail rate paid to the utility for power purchased by the facility minus per unit distribution costs, that applies to the type of utility purchasing the power.

“(ii) VOLTAGES EXCEEDING 25 KILOVOLTS.—If the net excess power is made available for purchase at voltages that must be transformed to or from voltages

exceeding 25 kilovolts to be available for resale by the utility, the purchase price shall further be reduced by per unit transmission costs.

“(B) RATES APPLICABLE TO TRANSPORT BY UTILITY FOR DIRECT SALE TO THIRD PARTIES.—

“(i) IN GENERAL.—Transportation by utilities of power on behalf of the owner or operator of a project under the option described in subsection (c)(2) shall incur a transportation rate that shall equal the per unit distribution costs and per unit distribution margin, that applies to the type of utility transporting the power.

“(ii) VOLTAGES EXCEEDING 25 KILOVOLTS.—If the net excess power is made available for transportation at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be transported to the designated third-party purchasers, the transport rate shall further be increased by per unit transmission costs.

“(iii) STATES WITH COMPETITIVE RETAIL MARKETS FOR ELECTRICITY.—In a State with a competitive retail market for electricity, the applicable transportation rate for similar transportation shall be applied in lieu of any rate calculated under this paragraph.

“(4) LIMITATIONS.—

“(A) IN GENERAL.—Any rate established for sale or transportation under this section shall—

“(i) be modified over time with changes in the underlying costs or rates of the electric utility; and

“(ii) reflect the same time-sensitivity and billing periods as are established in the retail sales or transportation rates offered by the utility.

“(B) LIMITATION.—No utility shall be required to purchase or transport a quantity of net excess power under this section that exceeds the available capacity of the wires, meter, or other equipment of the electric utility serving the site unless the owner or operator of the project agrees to pay necessary and reasonable upgrade costs.

“(e) PROCEDURAL REQUIREMENTS FOR CONSIDERATION AND DETERMINATION.—

“(1) PUBLIC NOTICE AND HEARING.—

“(A) IN GENERAL.—The consideration referred to in subsection (a) shall be made after public notice and hearing.

“(B) ADMINISTRATION.—The determination referred to in subsection (a) shall be—

“(i) in writing;

“(ii) based on findings included in the determination and on the evidence presented at the hearing; and

“(iii) available to the public.

“(2) INTERVENTION BY ADMINISTRATOR.—The Administrator may intervene as a matter of right in a proceeding conducted under this section—

“(A) to calculate—

“(i) the energy and emissions likely to be saved by electing to adopt 1 or more of the options; and

“(ii) the costs and benefits to ratepayers and the utility; and

“(B) to advocate for the waste-energy recovery opportunity.

“(3) PROCEDURES.—

“(A) IN GENERAL.—Except as otherwise provided in paragraphs (1) and (2), the procedures for the consideration and determination referred to in subsection (a) shall be the procedures established by the State regulatory authority or the nonregulated electric utility.

“(B) MULTIPLE PROJECTS.—If there is more than 1 project seeking consideration simultaneously in connection with the same utility, the proceeding may encompass all such projects, if full attention is paid to individual circumstances and merits and an individual judgment is reached with respect to each project.

“(f) IMPLEMENTATION.—

“(1) IN GENERAL.—The State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

“(A) implement the standard determined under this section; or

“(B) decline to implement any such standard.

“(2) NONIMPLEMENTATION OF STANDARD.—

“(A) IN GENERAL.—If a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility declines to implement any standard established by this section, the authority or nonregulated electric utility shall state in writing the reasons for declining to implement the standard.

“(B) AVAILABILITY TO PUBLIC.—The statement of reasons shall be available to the public.

“(C) ANNUAL REPORT.—The Administrator shall include in an annual report submitted to Congress a description of the lost opportunities for waste-heat recovery from the project described in subparagraph (A), specifically identifying the utility and stating the quantity of lost energy and emissions savings calculated.

“(D) NEW PETITION.—If a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility declines to implement the standard established by this section, the project sponsor may submit a new petition under this section with respect to the project at any time after the date that is 2 years after the date on which the State regulatory authority or nonregulated utility declined to implement the standard.

42 USC 6345.

“SEC. 375. CLEAN ENERGY APPLICATION CENTERS.

“(a) RENAMING.—

“(1) IN GENERAL.—The Combined Heat and Power Application Centers of the Department of Energy are redesignated as Clean Energy Application Centers.

“(2) REFERENCES.—Any reference in any law, rule, regulation, or publication to a Combined Heat and Power Application

Center shall be treated as a reference to a Clean Energy Application Center.

“(b) RELOCATION.—

“(1) IN GENERAL.—In order to better coordinate efforts with the separate Industrial Assessment Centers and to ensure that the energy efficiency and, when applicable, the renewable nature of deploying mature clean energy technology is fully accounted for, the Secretary shall relocate the administration of the Clean Energy Application Centers to the Office of Energy Efficiency and Renewable Energy within the Department of Energy.

“(2) OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY.—The Office of Electricity Delivery and Energy Reliability shall—

“(A) continue to perform work on the role of technology described in paragraph (1) in support of the grid and the reliability and security of the technology; and

“(B) shall assist the Clean Energy Application Centers in the work of the Centers with regard to the grid and with electric utilities.

“(c) GRANTS.—

“(1) IN GENERAL.—The Secretary shall make grants to universities, research centers, and other appropriate institutions to ensure the continued operations and effectiveness of 8 Regional Clean Energy Application Centers in each of the following regions (as designated for such purposes as of the date of the enactment of the Energy Independence and Security Act of 2007):

“(A) Gulf Coast.

“(B) Intermountain.

“(C) Mid-Atlantic.

“(D) Midwest.

“(E) Northeast.

“(F) Northwest.

“(G) Pacific.

“(H) Southeast.

“(2) ESTABLISHMENT OF GOALS AND COMPLIANCE.—In making grants under this subsection, the Secretary shall ensure that sufficient goals are established and met by each Center throughout the program duration concerning outreach and technology deployment.

“(d) ACTIVITIES.—

“(1) IN GENERAL.—Each Clean Energy Application Center shall—

“(A) operate a program to encourage deployment of clean energy technologies through education and outreach to building and industrial professionals; and other individuals and organizations with an interest in efficient energy use; and

“(B) provide project specific support to building and industrial professionals through assessments and advisory activities.

“(2) TYPES OF ACTIVITIES.—Funds made available under this section may be used—

“(A) to develop and distribute informational materials on clean energy technologies, including continuation of the

8 websites in existence on the date of enactment of the Energy Independence and Security Act of 2007;

“(B) to develop and conduct target market workshops, seminars, Internet programs, and other activities to educate end users, regulators, and stakeholders in a manner that leads to the deployment of clean energy technologies;

“(C) to provide or coordinate onsite assessments for sites and enterprises that may consider deployment of clean energy technology;

“(D) to perform market research to identify high profile candidates for clean energy deployment;

“(E) to provide consulting support to sites considering deployment of clean energy technologies;

“(F) to assist organizations developing clean energy technologies to overcome barriers to deployment; and

“(G) to assist companies and organizations with performance evaluations of any clean energy technology implemented.

“(e) DURATION.—

“(1) IN GENERAL.—A grant awarded under this section shall be for a period of 5 years

“(2) ANNUAL EVALUATIONS.—Each grant shall be evaluated annually for the continuation of the grant based on the activities and results of the grant.

“(f) AUTHORIZATION.—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2008 through 2012.”.

(b) TABLE OF CONTENTS.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by inserting after the items relating to part D of title III the following:

“PART E—INDUSTRIAL ENERGY EFFICIENCY

“Sec. 371. Definitions.

“Sec. 372. Survey and Registry.

“Sec. 373. Waste energy recovery incentive grant program.

“Sec. 374. Additional incentives for recovery, utilization and prevention of industrial waste energy.

“Sec. 375. Clean Energy Application Centers.”.

42 USC 17111.

SEC. 452. ENERGY-INTENSIVE INDUSTRIES PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) an energy-intensive industry;

(B) a national trade association representing an energy-intensive industry; or

(C) a person acting on behalf of 1 or more energy-intensive industries or sectors, as determined by the Secretary.

(2) ENERGY-INTENSIVE INDUSTRY.—The term “energy-intensive industry” means an industry that uses significant quantities of energy as part of its primary economic activities, including—

(A) information technology, including data centers containing electrical equipment used in processing, storing, and transmitting digital information;

(B) consumer product manufacturing;

(C) food processing;

(D) materials manufacturers, including—

- (i) aluminum;
- (ii) chemicals;
- (iii) forest and paper products;
- (iv) metal casting;
- (v) glass;
- (vi) petroleum refining;
- (vii) mining; and
- (viii) steel;

(E) other energy-intensive industries, as determined by the Secretary.

(3) FEEDSTOCK.—The term “feedstock” means the raw material supplied for use in manufacturing, chemical, and biological processes.

(4) PARTNERSHIP.—The term “partnership” means an energy efficiency partnership established under subsection (c)(1)(A).

(5) PROGRAM.—The term “program” means the energy-intensive industries program established under subsection (b).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program under which the Secretary, in cooperation with energy-intensive industries and national industry trade associations representing the energy-intensive industries, shall support, research, develop, and promote the use of new materials processes, technologies, and techniques to optimize energy efficiency and the economic competitiveness of the United States’ industrial and commercial sectors.

(c) PARTNERSHIPS.—

(1) IN GENERAL.—As part of the program, the Secretary shall establish energy efficiency partnerships between the Secretary and eligible entities to conduct research on, develop, and demonstrate new processes, technologies, and operating practices and techniques to significantly improve the energy efficiency of equipment and processes used by energy-intensive industries, including the conduct of activities to—

(A) increase the energy efficiency of industrial processes and facilities;

(B) research, develop, and demonstrate advanced technologies capable of energy intensity reductions and increased environmental performance; and

(C) promote the use of the processes, technologies, and techniques described in subparagraphs (A) and (B).

(2) ELIGIBLE ACTIVITIES.—Partnership activities eligible for funding under this subsection include—

(A) feedstock and recycling research, development, and demonstration activities to identify and promote—

(i) opportunities for meeting industry feedstock requirements with more energy efficient and flexible sources of feedstock or energy supply;

(ii) strategies to develop and deploy technologies that improve the quality and quantity of feedstocks recovered from process and waste streams; and

(iii) other methods using recycling, reuse, and improved industrial materials;

(B) research to develop and demonstrate technologies and processes that utilize alternative energy sources to supply heat, power, and new feedstocks for energy-intensive industries;

(C) research to achieve energy efficiency in steam, power, control system, and process heat technologies, and in other manufacturing processes; and

(D) industrial and commercial energy efficiency and sustainability assessments to—

(i) assist individual industrial and commercial sectors in developing tools, techniques, and methodologies to assess—

(I) the unique processes and facilities of the sectors;

(II) the energy utilization requirements of the sectors; and

(III) the application of new, more energy efficient technologies; and

(ii) conduct energy savings assessments;

(E) the incorporation of technologies and innovations that would significantly improve the energy efficiency and utilization of energy-intensive commercial applications; and

(F) any other activities that the Secretary determines to be appropriate.

(3) PROPOSALS.—

(A) IN GENERAL.—To be eligible for funding under this subsection, a partnership shall submit to the Secretary a proposal that describes the proposed research, development, or demonstration activity to be conducted by the partnership.

(B) REVIEW.—After reviewing the scientific, technical, and commercial merit of a proposals submitted under subparagraph (A), the Secretary shall approve or disapprove the proposal.

(C) COMPETITIVE AWARDS.—The provision of funding under this subsection shall be on a competitive basis.

(4) COST-SHARING REQUIREMENT.—In carrying out this section, the Secretary shall require cost sharing in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(d) GRANTS.—The Secretary may award competitive grants for innovative technology research, development and demonstrations to universities, individual inventors, and small companies, based on energy savings potential, commercial viability, and technical merit.

(e) INSTITUTION OF HIGHER EDUCATION-BASED INDUSTRIAL RESEARCH AND ASSESSMENT CENTERS.—The Secretary shall provide funding to institution of higher education-based industrial research and assessment centers, whose purpose shall be—

(1) to identify opportunities for optimizing energy efficiency and environmental performance;

(2) to promote applications of emerging concepts and technologies in small- and medium-sized manufacturers;

(3) to promote research and development for the use of alternative energy sources to supply heat, power, and new feedstocks for energy-intensive industries;

(4) to coordinate with appropriate Federal and State research offices, and provide a clearinghouse for industrial process and energy efficiency technical assistance resources; and

(5) to coordinate with State-accredited technical training centers and community colleges, while ensuring appropriate services to all regions of the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this section—

(A) \$184,000,000 for fiscal year 2008;

(B) \$190,000,000 for fiscal year 2009;

(C) \$196,000,000 for fiscal year 2010;

(D) \$202,000,000 for fiscal year 2011;

(E) \$208,000,000 for fiscal year 2012; and

(F) such sums as are necessary for fiscal year 2013 and each fiscal year thereafter.

(2) PARTNERSHIP ACTIVITIES.—Of the amounts made available under paragraph (1), not less than 50 percent shall be used to pay the Federal share of partnership activities under subsection (c).

(3) COORDINATION AND NONDUPLICATION.—The Secretary shall coordinate efforts under this section with other programs of the Department and other Federal agencies to avoid duplication of effort.

SEC. 453. ENERGY EFFICIENCY FOR DATA CENTER BUILDINGS.

42 USC 17112.

(a) DEFINITIONS.—In this section:

(1) DATA CENTER.—The term “data center” means any facility that primarily contains electronic equipment used to process, store, and transmit digital information, which may be—

(A) a free-standing structure; or

(B) a facility within a larger structure, that uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment.

(2) DATA CENTER OPERATOR.—The term “data center operator” means any person or government entity that builds or operates a data center or purchases data center services, equipment, and facilities.

(b) VOLUNTARY NATIONAL INFORMATION PROGRAM.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall, after consulting with information technology industry and other interested parties, initiate a voluntary national information program for those types of data centers and data center equipment and facilities that are widely used and for which there is a potential for significant data center energy savings as a result of the program.

Deadline.

(2) REQUIREMENTS.—The program described in paragraph (1) shall—

(A) address data center efficiency holistically, reflecting the total energy consumption of data centers as whole systems, including both equipment and facilities;

(B) consider prior work and studies undertaken in this area, including by the Environmental Protection Agency and the Department of Energy;

(C) consistent with the objectives described in paragraph (1), determine the type of data center and data

center equipment and facilities to be covered under the program;

(D) produce specifications, measurements, best practices, and benchmarks that will enable data center operators to make more informed decisions about the energy efficiency and costs of data centers, and that take into account—

(i) the performance and use of servers, data storage devices, and other information technology equipment;

(ii) the efficiency of heating, ventilation, and air conditioning, cooling, and power conditioning systems, provided that no modification shall be required of a standard then in effect under the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) for any covered heating, ventilation, air-conditioning, cooling or power-conditioning product;

(iii) energy savings from the adoption of software and data management techniques; and

(iv) other factors determined by the organization described in subsection (c);

(E) allow for creation of separate specifications, measurements, and benchmarks based on data center size and function, as well as other appropriate characteristics;

(F) advance the design and implementation of efficiency technologies to the maximum extent economically practical;

(G) provide to data center operators in the private sector and the Federal Government information about best practices and purchasing decisions that reduce the energy consumption of data centers; and

(H) publish the information described in subparagraph (G), which may be disseminated through catalogs, trade publications, the Internet, or other mechanisms, that will allow data center operators to assess the energy consumption and potential cost savings of alternative data centers and data center equipment and facilities.

(3) PROCEDURES.—The program described in paragraph (1) shall be developed in consultation with and coordinated by the organization described in subsection (c) according to commonly accepted procedures for the development of specifications, measurements, and benchmarks.

(c) DATA CENTER EFFICIENCY ORGANIZATION.—

(1) IN GENERAL.—After the establishment of the program described in subsection (b), the Secretary and the Administrator shall jointly designate an information technology industry organization to consult with and to coordinate the program.

(2) REQUIREMENTS.—The organization designated under paragraph (1), whether preexisting or formed specifically for the purposes of subsection (b), shall—

(A) consist of interested parties that have expertise in energy efficiency and in the development, operation, and functionality of computer data centers, information technology equipment, and software, as well as representatives of hardware manufacturers, data center operators, and facility managers;

(B) obtain and address input from Department of Energy National Laboratories or any college, university, research institution, industry association, company, or

public interest group with applicable expertise in any of the areas listed in paragraph (1);

(C) follow commonly accepted procedures for the development of specifications and accredited standards development processes;

(D) have a mission to develop and promote energy efficiency for data centers and information technology; and

(E) have the primary responsibility to consult in the development and publishing of the information, measurements, and benchmarks described in subsection (b) and transmission of the information to the Secretary and the Administrator for consideration under subsection (d).

(d) MEASUREMENTS AND SPECIFICATIONS.—

(1) IN GENERAL.—The Secretary and the Administrator shall consider the specifications, measurements, and benchmarks described in subsection (b) for use by the Federal Energy Management Program, the Energy Star Program, and other efficiency programs of the Department of Energy and Environmental Protection Agency, respectively.

(2) REJECTIONS.—If the Secretary or the Administrator rejects 1 or more specifications, measurements, or benchmarks described in subsection (b), the rejection shall be made consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; Public Law 104-113).

(3) DETERMINATION OF IMPRACTICABILITY.—A determination that a specification, measurement, or benchmark described in subsection (b) is impractical may include consideration of the maximum efficiency that is technologically feasible and economically justified.

(e) MONITORING.—The Secretary and the Administrator shall—

(1) monitor and evaluate the efforts to develop the program described in subsection (b); and

(2) not later than 3 years after the date of enactment of this Act, make a determination as to whether the program is consistent with the objectives of subsection (b).

Deadline.

(f) ALTERNATIVE SYSTEM.—If the Secretary and the Administrator make a determination under subsection (e) that a voluntary national information program for data centers consistent with the objectives of subsection (b) has not been developed, the Secretary and the Administrator shall, after consultation with the National Institute of Standards and Technology and not later than 2 years after the determination, develop and implement the program under subsection (b).

Deadline.

(g) PROTECTION OF PROPRIETARY INFORMATION.—The Secretary, the Administrator, or the data center efficiency organization shall not disclose any proprietary information or trade secrets provided by any individual or company for the purposes of carrying out this section or the program established under this section.

Subtitle E—Healthy High-Performance Schools

SEC. 461. HEALTHY HIGH-PERFORMANCE SCHOOLS.

(a) AMENDMENT.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end the following new title:

“TITLE V—HEALTHY HIGH-PERFORMANCE SCHOOLS

15 USC 2695.

“SEC. 501. GRANTS FOR HEALTHY SCHOOL ENVIRONMENTS.

“(a) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, may provide grants to States for use in—

“(1) providing technical assistance for programs of the Environmental Protection Agency (including the Tools for Schools Program and the Healthy School Environmental Assessment Tool) to schools for use in addressing environmental issues; and

“(2) development and implementation of State school environmental health programs that include—

“(A) standards for school building design, construction, and renovation; and

“(B) identification of ongoing school building environmental problems, including contaminants, hazardous substances, and pollutant emissions, in the State and recommended solutions to address those problems, including assessment of information on the exposure of children to environmental hazards in school facilities.

“(b) SUNSET.—The authority of the Administrator to carry out this section shall expire 5 years after the date of enactment of this section.

15 USC 2695a.

“SEC. 502. MODEL GUIDELINES FOR SITING OF SCHOOL FACILITIES.

Deadline.

“Not later than 18 months after the date of enactment of this section, the Administrator, in consultation with the Secretary of Education and the Secretary of Health and Human Services, shall issue voluntary school site selection guidelines that account for—

“(1) the special vulnerability of children to hazardous substances or pollution exposures in any case in which the potential for contamination at a potential school site exists;

“(2) modes of transportation available to students and staff;

“(3) the efficient use of energy; and

“(4) the potential use of a school at the site as an emergency shelter.

15 USC 2695b.

“SEC. 503. PUBLIC OUTREACH.

Publication.

“(a) REPORTS.—The Administrator shall publish and submit to Congress an annual report on all activities carried out under this title, until the expiration of authority described in section 501(b).

“(b) PUBLIC OUTREACH.—The Federal Director appointed under section 436(a) of the Energy Independence and Security Act of 2007 (in this title referred to as the ‘Federal Director’) shall ensure,

to the maximum extent practicable, that the public clearinghouse established under section 423(1) of the Energy Independence and Security Act of 2007 receives and makes available information on the exposure of children to environmental hazards in school facilities, as provided by the Administrator.

“SEC. 504. ENVIRONMENTAL HEALTH PROGRAM.

15 USC 2695c.

“(a) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Administrator, in consultation with the Secretary of Education, the Secretary of Health and Human Services, and other relevant agencies, shall issue voluntary guidelines for use by the State in developing and implementing an environmental health program for schools that—

Deadline.

“(1) takes into account the status and findings of Federal initiatives established under this title or subtitle C of title IV of the Energy Independence and Security Act of 2007 and other relevant Federal law with respect to school facilities, including relevant updates on trends in the field, such as the impact of school facility environments on student and staff—

“(A) health, safety, and productivity; and

“(B) disabilities or special needs;

“(2) takes into account studies using relevant tools identified or developed in accordance with section 492 of the Energy Independence and Security Act of 2007;

“(3) takes into account, with respect to school facilities, each of—

“(A) environmental problems, contaminants, hazardous substances, and pollutant emissions, including—

“(i) lead from drinking water;

“(ii) lead from materials and products;

“(iii) asbestos;

“(iv) radon;

“(v) the presence of elemental mercury releases from products and containers;

“(vi) pollutant emissions from materials and products; and

“(vii) any other environmental problem, contaminant, hazardous substance, or pollutant emission that present or may present a risk to the health of occupants of the school facilities or environment;

“(B) natural day lighting;

“(C) ventilation choices and technologies;

“(D) heating and cooling choices and technologies;

“(E) moisture control and mold;

“(F) maintenance, cleaning, and pest control activities;

“(G) acoustics; and

“(H) other issues relating to the health, comfort, productivity, and performance of occupants of the school facilities;

“(4) provides technical assistance on siting, design, management, and operation of school facilities, including facilities used by students with disabilities or special needs;

“(5) collaborates with federally funded pediatric environmental health centers to assist in on-site school environmental investigations;

“(6) assists States and the public in better understanding and improving the environmental health of children; and

“(7) takes into account the special vulnerability of children in low-income and minority communities to exposures from contaminants, hazardous substances, and pollutant emissions.

“(b) PUBLIC OUTREACH.—The Federal Director and Commercial Director shall ensure, to the maximum extent practicable, that the public clearinghouse established under section 423 of the Energy Independence and Security Act of 2007 receives and makes available—

“(1) information from the Administrator that is contained in the report described in section 503(a); and

“(2) information on the exposure of children to environmental hazards in school facilities, as provided by the Administrator.

15 USC 2695d.

“SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this title \$1,000,000 for fiscal year 2009, and \$1,500,000 for each of fiscal years 2010 through 2013, to remain available until expended.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents for the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end the following:

“TITLE V—HEALTHY HIGH-PERFORMANCE SCHOOLS

“Sec. 501. Grants for healthy school environments.

“Sec. 502. Model guidelines for siting of school facilities.

“Sec. 503. Public outreach.

“Sec. 504. Environmental health program.

“Sec. 505. Authorization of appropriations.”.

SEC. 462. STUDY ON INDOOR ENVIRONMENTAL QUALITY IN SCHOOLS.

Contracts.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency shall enter into an arrangement with the Secretary of Education and the Secretary of Energy to conduct a detailed study of how sustainable building features such as energy efficiency affect multiple perceived indoor environmental quality stressors on students in K–12 schools.

(b) CONTENTS.—The study shall—

(1) investigate the combined effect building stressors such as heating, cooling, humidity, lighting, and acoustics have on building occupants’ health, productivity, and overall well-being;

(2) identify how sustainable building features, such as energy efficiency, are influencing these human outcomes singly and in concert; and

(3) ensure that the impacts of the indoor environmental quality are evaluated as a whole.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section \$200,000 for each of the fiscal years 2008 through 2012.

Subtitle F—Institutional Entities

SEC. 471. ENERGY SUSTAINABILITY AND EFFICIENCY GRANTS AND LOANS FOR INSTITUTIONS.

Part G of title III of the Energy Policy and Conservation Act is amended by inserting after section 399 (42 U.S.C. 6371h) the following:

“SEC. 399A. ENERGY SUSTAINABILITY AND EFFICIENCY GRANTS AND LOANS FOR INSTITUTIONS. 42 USC 6371h-1.

“(a) DEFINITIONS.—In this section:

“(1) COMBINED HEAT AND POWER.—The term ‘combined heat and power’ means the generation of electric energy and heat in a single, integrated system, with an overall thermal efficiency of 60 percent or greater on a higher-heating-value basis.

“(2) DISTRICT ENERGY SYSTEMS.—The term ‘district energy systems’ means systems providing thermal energy from a renewable energy source, thermal energy source, or highly efficient technology to more than 1 building or fixed energy-consuming use from 1 or more thermal-energy production facilities through pipes or other means to provide space heating, space conditioning, hot water, steam, compression, process energy, or other end uses for that energy.

“(3) ENERGY SUSTAINABILITY.—The term ‘energy sustainability’ includes using a renewable energy source, thermal energy source, or a highly efficient technology for transportation, electricity generation, heating, cooling, lighting, or other energy services in fixed installations.

“(4) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

“(5) INSTITUTIONAL ENTITY.—The term ‘institutional entity’ means an institution of higher education, a public school district, a local government, a municipal utility, or a designee of 1 of those entities.

“(6) RENEWABLE ENERGY SOURCE.—The term ‘renewable energy source’ has the meaning given the term in section 609 of the Public Utility Regulatory Policies Act of 1978 (7 U.S.C. 918c).

“(7) SUSTAINABLE ENERGY INFRASTRUCTURE.—The term ‘sustainable energy infrastructure’ means—

“(A) facilities for production of energy from renewable energy sources, thermal energy sources, or highly efficient technologies, including combined heat and power or other waste heat use; and

“(B) district energy systems.

“(8) THERMAL ENERGY SOURCE.—The term ‘thermal energy source’ means—

“(A) a natural source of cooling or heating from lake or ocean water; and

“(B) recovery of useful energy that would otherwise be wasted from ongoing energy uses.

“(b) TECHNICAL ASSISTANCE GRANTS.—

“(1) IN GENERAL.—Subject to the availability of appropriated funds, the Secretary shall implement a program of information dissemination and technical assistance to institutional entities to assist the institutional entities in identifying, evaluating, designing, and implementing sustainable energy infrastructure projects in energy sustainability.

“(2) ASSISTANCE.—The Secretary shall support institutional entities in—

“(A) identification of opportunities for sustainable energy infrastructure;

“(B) understanding the technical and economic characteristics of sustainable energy infrastructure;

“(C) utility interconnection and negotiation of power and fuel contracts;

“(D) understanding financing alternatives;

“(E) permitting and siting issues;

“(F) obtaining case studies of similar and successful sustainable energy infrastructure systems; and

“(G) reviewing and obtaining computer software for assessment, design, and operation and maintenance of sustainable energy infrastructure systems.

“(3) ELIGIBLE COSTS FOR TECHNICAL ASSISTANCE GRANTS.—

On receipt of an application of an institutional entity, the Secretary may make grants to the institutional entity to fund a portion of the cost of—

“(A) feasibility studies to assess the potential for implementation or improvement of sustainable energy infrastructure;

“(B) analysis and implementation of strategies to overcome barriers to project implementation, including financial, contracting, siting, and permitting barriers; and

“(C) detailed engineering of sustainable energy infrastructure.

“(c) GRANTS FOR ENERGY EFFICIENCY IMPROVEMENT AND ENERGY SUSTAINABILITY.—

“(1) GRANTS.—

“(A) IN GENERAL.—The Secretary shall award grants to institutional entities to carry out projects to improve energy efficiency on the grounds and facilities of the institutional entity.

“(B) REQUIREMENT.—To the extent that applications have been submitted, grants under subparagraph (A) shall include not less than 1 grant each year to an institution of higher education in each State.

“(C) MINIMUM FUNDING.—Not less than 50 percent of the total funding for all grants under this subsection shall be awarded in grants to institutions of higher education.

“(2) CRITERIA.—Evaluation of projects for grant funding shall be based on criteria established by the Secretary, including criteria relating to—

“(A) improvement in energy efficiency;

“(B) reduction in greenhouse gas emissions and other air emissions, including criteria air pollutants and ozone-depleting refrigerants;

“(C) increased use of renewable energy sources or thermal energy sources;

“(D) reduction in consumption of fossil fuels;

“(E) active student participation; and

“(F) need for funding assistance.

“(3) CONDITION.—As a condition of receiving a grant under this subsection, an institutional entity shall agree—

“(A) to implement a public awareness campaign concerning the project in the community in which the institutional entity is located; and

“(B) to submit to the Secretary, and make available to the public, reports on any efficiency improvements, energy cost savings, and environmental benefits achieved as part of a project carried out under paragraph (1),

including quantification of the results relative to the criteria described under paragraph (2).

“(d) GRANTS FOR INNOVATION IN ENERGY SUSTAINABILITY.—

“(1) GRANTS.—

“(A) IN GENERAL.—The Secretary shall award grants to institutional entities to engage in innovative energy sustainability projects.

“(B) REQUIREMENT.—To the extent that applications have been submitted, grants under subparagraph (A) shall include not less than 2 grants each year to institutions of higher education in each State.

“(C) MINIMUM FUNDING.—Not less than 50 percent of the total funding for all grants under this subsection shall be awarded in grants to institutions of higher education.

“(2) INNOVATION PROJECTS.—An innovation project carried out with a grant under this subsection shall—

“(A) involve—

“(i) an innovative technology that is not yet commercially available; or

“(ii) available technology in an innovative application that maximizes energy efficiency and sustainability;

“(B) have the greatest potential for testing or demonstrating new technologies or processes; and

“(C) to the extent undertaken by an institution of higher education, ensure active student participation in the project, including the planning, implementation, evaluation, and other phases of projects.

“(3) CONDITION.—As a condition of receiving a grant under this subsection, an institutional entity shall agree to submit to the Secretary, and make available to the public, reports that describe the results of the projects carried out using grant funds.

“(e) ALLOCATION TO INSTITUTIONS OF HIGHER EDUCATION WITH SMALL ENDOWMENTS.—

“(1) IN GENERAL.—Of the total amount of grants provided to institutions of higher education for a fiscal year under this section, the Secretary shall provide not less than 50 percent of the amount to institutions of higher education that have an endowment of not more than \$100,000,000.

“(2) REQUIREMENT.—To the extent that applications have been submitted, at least 50 percent of the amount described in paragraph (1) shall be provided to institutions of higher education that have an endowment of not more than \$50,000,000.

“(f) GRANT AMOUNTS.—

“(1) IN GENERAL.—If the Secretary determines that cost sharing is appropriate, the amounts of grants provided under this section shall be limited as provided in this subsection.

“(2) TECHNICAL ASSISTANCE GRANTS.—In the case of grants for technical assistance under subsection (b), grant funds shall be available for not more than—

“(A) an amount equal to the lesser of—

“(i) \$50,000; or

“(ii) 75 percent of the cost of feasibility studies to assess the potential for implementation or improvement of sustainable energy infrastructure;

“(B) an amount equal to the lesser of—

“(i) \$90,000; or

“(ii) 60 percent of the cost of guidance on overcoming barriers to project implementation, including financial, contracting, siting, and permitting barriers; and

“(C) an amount equal to the lesser of—

“(i) \$250,000; or

“(ii) 40 percent of the cost of detailed engineering and design of sustainable energy infrastructure.

“(3) GRANTS FOR EFFICIENCY IMPROVEMENT AND ENERGY SUSTAINABILITY.—In the case of grants for efficiency improvement and energy sustainability under subsection (c), grant funds shall be available for not more than an amount equal to the lesser of—

“(A) \$1,000,000; or

“(B) 60 percent of the total cost.

“(4) GRANTS FOR INNOVATION IN ENERGY SUSTAINABILITY.—In the case of grants for innovation in energy sustainability under subsection (d), grant funds shall be available for not more than an amount equal to the lesser of—

“(A) \$500,000; or

“(B) 75 percent of the total cost.

“(g) LOANS FOR ENERGY EFFICIENCY IMPROVEMENT AND ENERGY SUSTAINABILITY.—

“(1) IN GENERAL.—Subject to the availability of appropriated funds, the Secretary shall provide loans to institutional entities for the purpose of implementing energy efficiency improvements and sustainable energy infrastructure.

“(2) TERMS AND CONDITIONS.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, loans made under this subsection shall be on such terms and conditions as the Secretary may prescribe.

“(B) MATURITY.—The final maturity of loans made within a period shall be the lesser of, as determined by the Secretary—

“(i) 20 years; or

“(ii) 90 percent of the useful life of the principal physical asset to be financed by the loan.

“(C) DEFAULT.—No loan made under this subsection may be subordinated to another debt contracted by the institutional entity or to any other claims against the institutional entity in the case of default.

“(D) BENCHMARK INTEREST RATE.—

“(i) IN GENERAL.—Loans under this subsection shall be at an interest rate that is set by reference to a benchmark interest rate (yield) on marketable Treasury securities with a similar maturity to the direct loans being made.

“(ii) MINIMUM.—The minimum interest rate of loans under this subsection shall be at the interest rate of the benchmark financial instrument.

“(iii) NEW LOANS.—The minimum interest rate of new loans shall be adjusted each quarter to take account of changes in the interest rate of the benchmark financial instrument.

“(E) CREDIT RISK.—The Secretary shall—

“(i) prescribe explicit standards for use in periodically assessing the credit risk of making direct loans under this subsection; and

“(ii) find that there is a reasonable assurance of repayment before making a loan.

“(F) ADVANCE BUDGET AUTHORITY REQUIRED.—New direct loans may not be obligated under this subsection except to the extent that appropriations of budget authority to cover the costs of the new direct loans are made in advance, as required by section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

“(3) CRITERIA.—Evaluation of projects for potential loan funding shall be based on criteria established by the Secretary, including criteria relating to—

“(A) improvement in energy efficiency;

“(B) reduction in greenhouse gas emissions and other air emissions, including criteria air pollutants and ozone-depleting refrigerants;

“(C) increased use of renewable electric energy sources or renewable thermal energy sources;

“(D) reduction in consumption of fossil fuels; and

“(E) need for funding assistance, including consideration of the size of endowment or other financial resources available to the institutional entity.

“(4) LABOR STANDARDS.—

“(A) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction, repair, or alteration work funded in whole or in part under this section shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code. The Secretary shall not approve any such funding without first obtaining adequate assurance that required labor standards will be maintained upon the construction work.

“(B) AUTHORITY AND FUNCTIONS.—The Secretary of Labor shall have, with respect to the labor standards specified in paragraph (1), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 Fed. Reg. 3176; 64 Stat. 1267) and section 3145 of title 40, United States Code.

“(h) PROGRAM PROCEDURES.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish procedures for the solicitation and evaluation of potential projects for grant and loan funding and administration of the grant and loan programs. Deadline.

“(i) AUTHORIZATION.—

“(1) GRANTS.—There is authorized to be appropriated for the cost of grants authorized in subsections (b), (c), and (d) \$250,000,000 for each of fiscal years 2009 through 2013, of which not more than 5 percent may be used for administrative expenses.

“(2) LOANS.—There is authorized to be appropriated for the initial cost of direct loans authorized in subsection (g) \$500,000,000 for each of fiscal years 2009 through 2013, of

which not more than 5 percent may be used for administrative expenses.”.

Subtitle G—Public and Assisted Housing

SEC. 481. APPLICATION OF INTERNATIONAL ENERGY CONSERVATION CODE TO PUBLIC AND ASSISTED HOUSING.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(C), by striking “, where such standards are determined to be cost effective by the Secretary of Housing and Urban Development”; and

(B) in the first sentence of paragraph (2)—

(i) by striking “Council of American Building Officials Model Energy Code, 1992” and inserting “2006 International Energy Conservation Code”; and

(ii) by striking “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code”;

(2) in subsection (b)—

(A) in the heading, by striking “MODEL ENERGY CODE.—” and inserting “INTERNATIONAL ENERGY CONSERVATION CODE.—”;

(B) by inserting “and rehabilitation” after “all new construction”; and

(C) by striking “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code”;

(3) in subsection (c)—

(A) in the heading, by striking “MODEL ENERGY CODE AND”; and

(B) by striking “, or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code”;

(4) by adding at the end the following:

“(d) FAILURE TO AMEND THE STANDARDS.—If the Secretary of Housing and Urban Development and the Secretary of Agriculture have not, within 1 year after the requirements of the 2006 IECC or the ASHRAE Standard 90.1–2004 are revised, amended the standards or made a determination under subsection (c), all new construction and rehabilitation of housing specified in subsection (a) shall meet the requirements of the revised code or standard if—

“(1) the Secretary of Housing and Urban Development or the Secretary of Agriculture make a determination that the revised codes do not negatively affect the availability or affordability of new construction of assisted housing and single family and multifamily residential housing (other than manufactured

Deadline.

homes) subject to mortgages insured under the National Housing Act (12 U.S.C. 1701 et seq.) or insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), respectively; and

“(2) the Secretary of Energy has made a determination under section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) that the revised code or standard would improve energy efficiency.”;

(5) by striking “CABO Model Energy Code, 1992” each place it appears and inserting “the 2006 IECC”; and

(6) by striking “1989” each place it appears and inserting “2004”.

Subtitle H—General Provisions

SEC. 491. DEMONSTRATION PROJECT.

42 USC 17121.

Guidelines.

(a) IN GENERAL.—The Federal Director and the Commercial Director shall establish guidelines to implement a demonstration project to contribute to the research goals of the Office of Commercial High-Performance Green Buildings and the Office of Federal High-Performance Green Buildings.

(b) PROJECTS.—In accordance with guidelines established by the Federal Director and the Commercial Director under subsection (a) and the duties of the Federal Director and the Commercial Director described in this title, the Federal Director or the Commercial Director shall carry out—

(1) for each of fiscal years 2009 through 2014, 1 demonstration project per year of green features in a Federal building selected by the Federal Director in accordance with relevant agencies and described in subsection (c)(1), that—

(A) provides for instrumentation, monitoring, and data collection related to the green features, for study of the impact of the features on overall energy use and operational costs, and for the evaluation of the information obtained through the conduct of projects and activities under this title; and

(B) achieves the highest rating offered by the high performance green building system identified pursuant to section 436(h);

(2) no fewer than 4 demonstration projects at 4 universities, that, as competitively selected by the Commercial Director in accordance with subsection (c)(2), have—

(A) appropriate research resources and relevant projects to meet the goals of the demonstration project established by the Office of Commercial High-Performance Green Buildings; and

(B) the ability—

(i) to serve as a model for high-performance green building initiatives, including research and education by achieving the highest rating offered by the high performance green building system identified pursuant to section 436(h);

(ii) to identify the most effective ways to use high-performance green building and landscape technologies

to engage and educate undergraduate and graduate students;

(iii) to effectively implement a high-performance green building education program for students and occupants;

(iv) to demonstrate the effectiveness of various high-performance technologies, including their impacts on energy use and operational costs, in each of the 4 climatic regions of the United States described in subsection (c)(2)(B); and

(v) to explore quantifiable and nonquantifiable beneficial impacts on public health and employee and student performance;

(3) demonstration projects to evaluate replicable approaches of achieving high performance in actual building operation in various types of commercial buildings in various climates; and

(4) deployment activities to disseminate information on and encourage widespread adoption of technologies, practices, and policies to achieve zero-net-energy commercial buildings or low energy use and effective monitoring of energy use in commercial buildings.

(c) CRITERIA.—

(1) FEDERAL FACILITIES.—With respect to the existing or proposed Federal facility at which a demonstration project under this section is conducted, the Federal facility shall—

(A) be an appropriate model for a project relating to—

(i) the effectiveness of high-performance technologies;

(ii) analysis of materials, components, systems, and emergency operations in the building, and the impact of those materials, components, and systems, including the impact on the health of building occupants;

(iii) life-cycle costing and life-cycle assessment of building materials and systems; and

(iv) location and design that promote access to the Federal facility through walking, biking, and mass transit; and

(B) possess sufficient technological and organizational adaptability.

(2) UNIVERSITIES.—With respect to the 4 universities at which a demonstration project under this section is conducted—

(A) the universities should be selected, after careful review of all applications received containing the required information, as determined by the Commercial Director, based on—

(i) successful and established public-private research and development partnerships;

(ii) demonstrated capabilities to construct or renovate buildings that meet high indoor environmental quality standards;

(iii) organizational flexibility;

(iv) technological adaptability;

(v) the demonstrated capacity of at least 1 university to replicate lessons learned among nearby or sister universities, preferably by participation in groups or consortia that promote sustainability;

(vi) the demonstrated capacity of at least 1 university to have officially-adopted, institution-wide “high-performance green building” guidelines for all campus building projects; and

(vii) the demonstrated capacity of at least 1 university to have been recognized by similar institutions as a national leader in sustainability education and curriculum for students of the university; and

(B) each university shall be located in a different climatic region of the United States, each of which regions shall have, as determined by the Office of Commercial High-Performance Green Buildings—

(i) a hot, dry climate;

(ii) a hot, humid climate;

(iii) a cold climate; or

(iv) a temperate climate (including a climate with cold winters and humid summers).

(d) APPLICATIONS.—To receive a grant under subsection (b), an eligible applicant shall submit to the Federal Director or the Commercial Director an application at such time, in such manner, and containing such information as the Director may require, including a written assurance that all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a grant under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code. The Secretary of Labor shall, with respect to the labor standards described in this subsection, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40, United States Code.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter through September 30, 2014—

(1) the Federal Director and the Commercial Director shall submit to the Secretary a report that describes the status of the demonstration projects; and

(2) each University at which a demonstration project under this section is conducted shall submit to the Secretary a report that describes the status of the demonstration projects under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the demonstration project described in section (b)(1), \$10,000,000 for the period of fiscal years 2008 through 2012, and to carry out the demonstration project described in section (b)(2), \$10,000,000 for the period of fiscal years 2008 through 2012, to remain available until expended.

SEC. 492. RESEARCH AND DEVELOPMENT.

42 USC 17122.

(a) ESTABLISHMENT.—The Federal Director and the Commercial Director, jointly and in coordination with the Advisory Committee, shall—

(1)(A) survey existing research and studies relating to high-performance green buildings; and

(B) coordinate activities of common interest;

(2) develop and recommend a high-performance green building research plan that—

(A) identifies information and research needs, including the relationships between human health, occupant productivity, safety, security, and accessibility and each of—

- (i) emissions from materials and products in the building;
- (ii) natural day lighting;
- (iii) ventilation choices and technologies;
- (iv) heating, cooling, and system control choices and technologies;
- (v) moisture control and mold;
- (vi) maintenance, cleaning, and pest control activities;
- (vii) acoustics;
- (viii) access to public transportation; and
- (ix) other issues relating to the health, comfort, productivity, and performance of occupants of the building;

(B) promotes the development and dissemination of high-performance green building measurement tools that, at a minimum, may be used—

- (i) to monitor and assess the life-cycle performance of facilities (including demonstration projects) built as high-performance green buildings; and
- (ii) to perform life-cycle assessments; and

(C) identifies and tests new and emerging technologies for high-performance green buildings;

(3) assist the budget and life-cycle costing functions of the Directors' Offices under section 436(d);

(4) study and identify potential benefits of green buildings relating to security, natural disaster, and emergency needs of the Federal Government; and

(5) support other research initiatives determined by the Directors' Offices.

(b) INDOOR AIR QUALITY.—The Federal Director, in consultation with the Administrator of the Environmental Protection Agency and the Advisory Committee, shall develop and carry out a comprehensive indoor air quality program for all Federal facilities to ensure the safety of Federal workers and facility occupants—

- (1) during new construction and renovation of facilities; and
- (2) in existing facilities.

SEC. 493. ENVIRONMENTAL PROTECTION AGENCY DEMONSTRATION GRANT PROGRAM FOR LOCAL GOVERNMENTS.

Title III of the Clean Air Act (42 U.S.C. 7601 et seq.) is amended by adding at the end the following:

42 USC 7628.

“SEC. 329. DEMONSTRATION GRANT PROGRAM FOR LOCAL GOVERNMENTS.

“(a) GRANT PROGRAM.—

“(1) IN GENERAL.—The Administrator shall establish a demonstration program under which the Administrator shall provide competitive grants to assist local governments (such as municipalities and counties), with respect to local government buildings—

- “(A) to deploy cost-effective technologies and practices; and

“(B) to achieve operational cost savings, through the application of cost-effective technologies and practices, as verified by the Administrator.

“(2) COST SHARING.—

“(A) IN GENERAL.—The Federal share of the cost of an activity carried out using a grant provided under this section shall be 40 percent.

“(B) WAIVER OF NON-FEDERAL SHARE.—The Administrator may waive up to 100 percent of the local share of the cost of any grant under this section should the Administrator determine that the community is economically distressed, pursuant to objective economic criteria established by the Administrator in published guidelines.

“(3) MAXIMUM AMOUNT.—The amount of a grant provided under this subsection shall not exceed \$1,000,000.

“(b) GUIDELINES.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue guidelines to implement the grant program established under subsection (a).

Deadline.

“(2) REQUIREMENTS.—The guidelines under paragraph (1) shall establish—

“(A) standards for monitoring and verification of operational cost savings through the application of cost-effective technologies and practices reported by grantees under this section;

“(B) standards for grantees to implement training programs, and to provide technical assistance and education, relating to the retrofit of buildings using cost-effective technologies and practices; and

“(C) a requirement that each local government that receives a grant under this section shall achieve facility-wide cost savings, through renovation of existing local government buildings using cost-effective technologies and practices, of at least 40 percent as compared to the baseline operational costs of the buildings before the renovation (as calculated assuming a 3-year, weather-normalized average).

“(c) COMPLIANCE WITH STATE AND LOCAL LAW.—Nothing in this section or any program carried out using a grant provided under this section supersedes or otherwise affects any State or local law, to the extent that the State or local law contains a requirement that is more stringent than the relevant requirement of this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$20,000,000 for each of fiscal years 2007 through 2012.

“(e) REPORTS.—

“(1) IN GENERAL.—The Administrator shall provide annual reports to Congress on cost savings achieved and actions taken and recommendations made under this section, and any recommendations for further action.

“(2) FINAL REPORT.—The Administrator shall issue a final report at the conclusion of the program, including findings, a summary of total cost savings achieved, and recommendations for further action.

“(f) **TERMINATION.**—The program under this section shall terminate on September 30, 2012.

“(g) **DEFINITIONS.**—In this section, the terms ‘cost-effective technologies and practices’ and ‘operating cost savings’ shall have the meanings defined in section 401 of the Energy Independence and Security Act of 2007.”.

42 USC 17123.

Deadline.

SEC. 494. GREEN BUILDING ADVISORY COMMITTEE.

(a) **ESTABLISHMENT.**—Not later than 180 days after the date of enactment of this Act, the Federal Director, in coordination with the Commercial Director, shall establish an advisory committee, to be known as the “Green Building Advisory Committee”.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Committee shall be composed of representatives of, at a minimum—

(A) each agency referred to in section 421(e); and

(B) other relevant agencies and entities, as determined by the Federal Director, including at least 1 representative of each of—

(i) State and local governmental green building programs;

(ii) independent green building associations or councils;

(iii) building experts, including architects, material suppliers, and construction contractors;

(iv) security advisors focusing on national security needs, natural disasters, and other dire emergency situations;

(v) public transportation industry experts; and

(vi) environmental health experts, including those with experience in children’s health.

(2) **NON-FEDERAL MEMBERS.**—The total number of non-Federal members on the Committee at any time shall not exceed 15.

(c) **MEETINGS.**—The Federal Director shall establish a regular schedule of meetings for the Committee.

(d) **DUTIES.**—The Committee shall provide advice and expertise for use by the Federal Director in carrying out the duties under this subtitle, including such recommendations relating to Federal activities carried out under sections 434 through 436 as are agreed to by a majority of the members of the Committee.

(e) **FACA EXEMPTION.**—The Committee shall not be subject to section 14 of the Federal Advisory Committee Act (5 U.S.C. App.).

42 USC 17124.

SEC. 495. ADVISORY COMMITTEE ON ENERGY EFFICIENCY FINANCE.

(a) **ESTABLISHMENT.**—The Secretary, acting through the Assistant Secretary of Energy for Energy Efficiency and Renewable Energy, shall establish an Advisory Committee on Energy Efficiency Finance to provide advice and recommendations to the Department on energy efficiency finance and investment issues, options, ideas, and trends, and to assist the energy community in identifying practical ways of lowering costs and increasing investments in energy efficiency technologies.

(b) **MEMBERSHIP.**—The advisory committee established under this section shall have a balanced membership that shall include members with expertise in—

(1) availability of seed capital;

- (2) availability of venture capital;
- (3) availability of other sources of private equity;
- (4) investment banking with respect to corporate finance;
- (5) investment banking with respect to mergers and acquisitions;
- (6) equity capital markets;
- (7) debt capital markets;
- (8) research analysis;
- (9) sales and trading;
- (10) commercial lending; and
- (11) residential lending.

(c) **TERMINATION.**—The Advisory Committee on Energy Efficiency Finance shall terminate on the date that is 10 years after the date of enactment of this Act.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to the Secretary for carrying out this section.

TITLE V—ENERGY SAVINGS IN GOVERNMENT AND PUBLIC INSTITUTIONS

Subtitle A—United States Capitol Complex

SEC. 501. CAPITOL COMPLEX PHOTOVOLTAIC ROOF FEASIBILITY STUDIES.

(a) **STUDIES.**—The Architect of the Capitol may conduct feasibility studies regarding construction of photovoltaic roofs for the Rayburn House Office Building and the Hart Senate Office Building.

(b) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Architect of the Capitol shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Rules and Administration of the Senate, a report on the results of the feasibility studies and recommendations regarding construction of photovoltaic roofs for the buildings referred to in subsection (a).

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$500,000.

SEC. 502. CAPITOL COMPLEX E-85 REFUELING STATION.

2 USC 2169.

(a) **CONSTRUCTION.**—The Architect of the Capitol may construct a fuel tank and pumping system for E-85 fuel at or within close proximity to the Capitol Grounds Fuel Station.

(b) **USE.**—The E-85 fuel tank and pumping system shall be available for use by all legislative branch vehicles capable of operating with E-85 fuel, subject to such other legislative branch agencies reimbursing the Architect of the Capitol for the costs of E-85 fuel used by such other legislative branch vehicles.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$640,000 for fiscal year 2008.

SEC. 503. ENERGY AND ENVIRONMENTAL MEASURES IN CAPITOL COMPLEX MASTER PLAN.

2 USC 1824.

(a) **IN GENERAL.**—To the maximum extent practicable, the Architect of the Capitol shall include energy efficiency and conservation measures, greenhouse gas emission reduction measures, and

other appropriate environmental measures in the Capitol Complex Master Plan.

(b) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Architect of the Capitol shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Rules and Administration of the Senate, a report on the energy efficiency and conservation measures, greenhouse gas emission reduction measures, and other appropriate environmental measures included in the Capitol Complex Master Plan pursuant to subsection (a).

2 USC 2162a.

SEC. 504. PROMOTING MAXIMUM EFFICIENCY IN OPERATION OF CAPITOL POWER PLANT.

(a) **STEAM BOILERS.**—

(1) **IN GENERAL.**—The Architect of the Capitol shall take such steps as may be necessary to operate the steam boilers at the Capitol Power Plant in the most energy efficient manner possible to minimize carbon emissions and operating costs, including adjusting steam pressures and adjusting the operation of the boilers to take into account variations in demand, including seasonality, for the use of the system.

(2) **EFFECTIVE DATE.**—The Architect shall implement the steps required under paragraph (1) not later than 30 days after the date of the enactment of this Act.

(b) **CHILLER PLANT.**—

(1) **IN GENERAL.**—The Architect of the Capitol shall take such steps as may be necessary to operate the chiller plant at the Capitol Power Plant in the most energy efficient manner possible to minimize carbon emissions and operating costs, including adjusting water temperatures and adjusting the operation of the chillers to take into account variations in demand, including seasonality, for the use of the system.

(2) **EFFECTIVE DATE.**—The Architect shall implement the steps required under paragraph (1) not later than 30 days after the date of the enactment of this Act.

Deadline.

(c) **METERS.**—Not later than 90 days after the date of the enactment of this Act, the Architect of the Capitol shall evaluate the accuracy of the meters in use at the Capitol Power Plant and correct them as necessary.

(d) **REPORT ON IMPLEMENTATION.**—Not later than 180 days after the date of the enactment of this Act, the Architect of the Capitol shall complete the implementation of the requirements of this section and submit a report describing the actions taken and the energy efficiencies achieved to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on House Administration of the House of Representatives, and the Committee on Rules and Administration of the Senate.

SEC. 505. CAPITOL POWER PLANT CARBON DIOXIDE EMISSIONS FEASIBILITY STUDY AND DEMONSTRATION PROJECTS.

The first section of the Act of March 4, 1911 (2 U.S.C. 2162; 36 Stat. 1414, chapter 285) is amended in the seventh undesignated paragraph (relating to the Capitol Power Plant) under the heading “Public Buildings”, under the heading “Under the Department of Interior”—

(1) by striking “ninety thousand dollars:” and inserting “\$90,000.”; and

(2) by striking “Provided, That hereafter the” and all that follows through the end of the proviso and inserting the following: 2 USC 2162.

“(a) DESIGNATION.—The heating, lighting, and power plant constructed under the terms of the Act approved April 28, 1904 (33 Stat. 479, chapter 1762) shall be known as the ‘Capitol Power Plant’.

“(b) DEFINITION.—In this section, the term ‘carbon dioxide energy efficiency’ means the quantity of electricity used to power equipment for carbon dioxide capture and storage or use.

“(c) FEASIBILITY STUDY.—The Architect of the Capitol shall conduct a feasibility study evaluating the available methods to capture, store, and use carbon dioxide emitted from the Capitol Power Plant as a result of burning fossil fuels. In carrying out the feasibility study, the Architect of the Capitol is encouraged to consult with individuals with expertise in carbon capture and storage or use, including experts with the Environmental Protection Agency, Department of Energy, academic institutions, non-profit organizations, and industry, as appropriate. The study shall consider—

“(1) the availability of technologies to capture and store or use Capitol Power Plant carbon dioxide emissions;

“(2) strategies to conserve energy and reduce carbon dioxide emissions at the Capitol Power Plant; and

“(3) other factors as determined by the Architect of the Capitol.

“(d) DEMONSTRATION PROJECTS.—

“(1) IN GENERAL.—If the feasibility study determines that a demonstration project to capture and store or use Capitol Power Plant carbon dioxide emissions is technologically feasible and economically justified (including direct and indirect economic and environmental benefits), the Architect of the Capitol may conduct 1 or more demonstration projects to capture and store or use carbon dioxide emitted from the Capitol Power Plant as a result of burning fossil fuels.

“(2) FACTORS FOR CONSIDERATION.—In carrying out such demonstration projects, the Architect of the Capitol shall consider—

“(A) the amount of Capitol Power Plant carbon dioxide emissions to be captured and stored or used;

“(B) whether the proposed project is able to reduce air pollutants other than carbon dioxide;

“(C) the carbon dioxide energy efficiency of the proposed project;

“(D) whether the proposed project is able to use carbon dioxide emissions;

“(E) whether the proposed project could be expanded to significantly increase the amount of Capitol Power Plant carbon dioxide emissions to be captured and stored or used;

“(F) the potential environmental, energy, and educational benefits of demonstrating the capture and storage or use of carbon dioxide at the U.S. Capitol; and

“(G) other factors as determined by the Architect of the Capitol.

“(3) TERMS AND CONDITIONS.—A demonstration project funded under this section shall be subject to such terms and conditions as the Architect of the Capitol may prescribe.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the feasibility study and demonstration project \$3,000,000. Such sums shall remain available until expended.”.

Subtitle B—Energy Savings Performance Contracting

SEC. 511. AUTHORITY TO ENTER INTO CONTRACTS; REPORTS.

(a) IN GENERAL.—Section 801(a)(2)(D) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(D)) is amended—

(1) in clause (ii), by inserting “and” after the semicolon at the end;

(2) by striking clause (iii); and

(3) by redesignating clause (iv) as clause (iii).

(b) REPORTS.—Section 548(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)(2)) is amended by inserting “and any termination penalty exposure” after “the energy and cost savings that have resulted from such contracts”.

(c) CONFORMING AMENDMENT.—Section 2913 of title 10, United States Code, is amended by striking subsection (e).

SEC. 512. FINANCING FLEXIBILITY.

Section 801(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)) is amended by adding at the end the following:

“(E) FUNDING OPTIONS.—In carrying out a contract under this title, a Federal agency may use any combination of—

“(i) appropriated funds; and

“(ii) private financing under an energy savings performance contract.”.

SEC. 513. PROMOTING LONG-TERM ENERGY SAVINGS PERFORMANCE CONTRACTS AND VERIFYING SAVINGS.

Section 801(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)) (as amended by section 512) is amended—

(1) in subparagraph (D), by inserting “beginning on the date of the delivery order” after “25 years”; and

(2) by adding at the end the following:

“(F) PROMOTION OF CONTRACTS.—In carrying out this section, a Federal agency shall not—

“(i) establish a Federal agency policy that limits the maximum contract term under subparagraph (D) to a period shorter than 25 years; or

“(ii) limit the total amount of obligations under energy savings performance contracts or other private financing of energy savings measures.

“(G) MEASUREMENT AND VERIFICATION REQUIREMENTS FOR PRIVATE FINANCING.—

“(i) IN GENERAL.—In the case of energy savings performance contracts, the evaluations and savings

measurement and verification required under paragraphs (2) and (4) of section 543(f) shall be used by a Federal agency to meet the requirements for the need for energy audits, calculation of energy savings, and any other evaluation of costs and savings needed to implement the guarantee of savings under this section.

“(ii) MODIFICATION OF EXISTING CONTRACTS.—Not later than 18 months after the date of enactment of this subparagraph, each Federal agency shall, to the maximum extent practicable, modify any indefinite delivery and indefinite quantity energy savings performance contracts, and other indefinite delivery and indefinite quantity contracts using private financing, to conform to the amendments made by subtitle B of title V of the Energy Independence and Security Act of 2007.”. Deadline.

SEC. 514. PERMANENT REAUTHORIZATION.

Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) is amended by striking subsection (c).

SEC. 515. DEFINITION OF ENERGY SAVINGS.

Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended—

- (1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and indenting appropriately;
- (2) by striking “means a reduction” and inserting “means—
“(A) a reduction”;
- (3) by striking the period at the end and inserting a semicolon; and
- (4) by adding at the end the following:
 - “(B) the increased efficient use of an existing energy source by cogeneration or heat recovery;
 - “(C) if otherwise authorized by Federal or State law (including regulations), the sale or transfer of electrical or thermal energy generated on-site from renewable energy sources or cogeneration, but in excess of Federal needs, to utilities or non-Federal energy users; and
 - “(D) the increased efficient use of existing water sources in interior or exterior applications.”.

SEC. 516. RETENTION OF SAVINGS.

Section 546(c) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)) is amended by striking paragraph (5).

SEC. 517. TRAINING FEDERAL CONTRACTING OFFICERS TO NEGOTIATE ENERGY EFFICIENCY CONTRACTS.

42 USC 17131.

(a) PROGRAM.—The Secretary shall create and administer in the Federal Energy Management Program a training program to educate Federal contract negotiation and contract management personnel so that the contract officers are prepared to—

- (1) negotiate energy savings performance contracts;
- (2) conclude effective and timely contracts for energy efficiency services with all companies offering energy efficiency services; and

(3) review Federal contracts for all products and services for the potential energy efficiency opportunities and implications of the contracts.

(b) SCHEDULE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall plan, staff, announce, and begin training under the Federal Energy Management Program.

(c) PERSONNEL TO BE TRAINED.—Personnel appropriate to receive training under the Federal Energy Management Program shall be selected by and sent for the training from—

- (1) the Department of Defense;
- (2) the Department of Veterans Affairs;
- (3) the Department;
- (4) the General Services Administration;
- (5) the Department of Housing and Urban Development;
- (6) the United States Postal Service; and
- (7) all other Federal agencies and departments that enter contracts for buildings, building services, electricity and electricity services, natural gas and natural gas services, heating and air conditioning services, building fuel purchases, and other types of procurement or service contracts determined by the Secretary, in carrying out the Federal Energy Management Program, to offer the potential for energy savings and greenhouse gas emission reductions if negotiated with taking into account those goals.

(d) TRAINERS.—Training under the Federal Energy Management Program may be conducted by—

(1) attorneys or contract officers with experience in negotiating and managing contracts described in subsection (c)(7) from any agency, except that the Secretary shall reimburse the related salaries and expenses of the attorneys or contract officers from amounts made available for carrying out this section to the extent the attorneys or contract officers are not employees of the Department; and

(2) private experts hired by the Secretary for the purposes of this section, except that the Secretary may not hire experts who are simultaneously employed by any company under contract to provide energy efficiency services to the Federal Government.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section \$750,000 for each of fiscal years 2008 through 2012.

SEC. 518. STUDY OF ENERGY AND COST SAVINGS IN NONBUILDING APPLICATIONS.

(a) DEFINITIONS.—In this section:

(1) NONBUILDING APPLICATION.—The term “nonbuilding application” means—

(A) any class of vehicles, devices, or equipment that is transportable under the power of the applicable vehicle, device, or equipment by land, sea, or air and that consumes energy from any fuel source for the purpose of—

(i) that transportation; or

(ii) maintaining a controlled environment within the vehicle, device, or equipment; and

(B) any federally-owned equipment used to generate electricity or transport water.

(2) SECONDARY SAVINGS.—

(A) IN GENERAL.—The term “secondary savings” means additional energy or cost savings that are a direct consequence of the energy savings that result from the energy efficiency improvements that were financed and implemented pursuant to an energy savings performance contract.

(B) INCLUSIONS.—The term “secondary savings” includes—

(i) energy and cost savings that result from a reduction in the need for fuel delivery and logistical support;

(ii) personnel cost savings and environmental benefits; and

(iii) in the case of electric generation equipment, the benefits of increased efficiency in the production of electricity, including revenues received by the Federal Government from the sale of electricity so produced.

(b) STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary and the Secretary of Defense shall jointly conduct, and submit to Congress and the President, a report of, a study of the potential for the use of energy savings performance contracts to reduce energy consumption and provide energy and cost savings in nonbuilding applications. Reports.

(2) REQUIREMENTS.—The study under this subsection shall include—

(A) an estimate of the potential energy and cost savings to the Federal Government, including secondary savings and benefits, from increased efficiency in nonbuilding applications;

(B) an assessment of the feasibility of extending the use of energy savings performance contracts to nonbuilding applications, including an identification of any regulatory or statutory barriers to that use; and

(C) such recommendations as the Secretary and the Secretary of Defense determine to be appropriate.

Subtitle C—Energy Efficiency in Federal Agencies

SEC. 521. INSTALLATION OF PHOTOVOLTAIC SYSTEM AT DEPARTMENT OF ENERGY HEADQUARTERS BUILDING.

(a) IN GENERAL.—The Administrator of General Services shall install a photovoltaic system, as set forth in the Sun Wall Design Project, for the headquarters building of the Department located at 1000 Independence Avenue, SW., Washington, DC, commonly known as the Forrestal Building.

(b) FUNDING.—There shall be available from the Federal Buildings Fund established by section 592 of title 40, United States Code, \$30,000,000 to carry out this section. Such sums shall be derived from the unobligated balance of amounts made available from the Fund for fiscal year 2007, and prior fiscal years, for repairs and alternations and other activities (excluding amounts

made available for the energy program). Such sums shall remain available until expended.

42 USC 17141.

Effective date.

SEC. 522. PROHIBITION ON INCANDESCENT LAMPS BY COAST GUARD.

(a) PROHIBITION.—Except as provided by subsection (b), on and after January 1, 2009, a general service incandescent lamp shall not be purchased or installed in a Coast Guard facility by or on behalf of the Coast Guard.

(b) EXCEPTION.—A general service incandescent lamp may be purchased, installed, and used in a Coast Guard facility whenever the application of a general service incandescent lamp is—

(1) necessary due to purpose or design, including medical, security, and industrial applications;

(2) reasonable due to the architectural or historical value of a light fixture installed before January 1, 2009; or

(3) the Commandant of the Coast Guard determines that operational requirements necessitate the use of a general service incandescent lamp.

(c) LIMITATION.—In this section, the term “facility” does not include a vessel or aircraft of the Coast Guard.

SEC. 523. STANDARD RELATING TO SOLAR HOT WATER HEATERS.

Section 305(a)(3)(A) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(A)) is amended—

(1) in clause (i)(II), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(iii) if lifecycle cost-effective, as compared to other reasonably available technologies, not less than 30 percent of the hot water demand for each new Federal building or Federal building undergoing a major renovation be met through the installation and use of solar hot water heaters.”.

SEC. 524. FEDERALLY-PROCURED APPLIANCES WITH STANDBY POWER.

Section 553 of the National Energy Conservation Policy Act (42 U.S.C. 8259b) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

“(e) FEDERALLY-PROCURED APPLIANCES WITH STANDBY POWER.—

“(1) DEFINITION OF ELIGIBLE PRODUCT.—In this subsection, the term ‘eligible product’ means a commercially available, off-the-shelf product that—

“(A)(i) uses external standby power devices; or

“(ii) contains an internal standby power function; and

“(B) is included on the list compiled under paragraph

(4).

“(2) FEDERAL PURCHASING REQUIREMENT.—Subject to paragraph (3), if an agency purchases an eligible product, the agency shall purchase—

“(A) an eligible product that uses not more than 1 watt in the standby power consuming mode of the eligible product; or

“(B) if an eligible product described in subparagraph (A) is not available, the eligible product with the lowest

available standby power wattage in the standby power consuming mode of the eligible product.

“(3) LIMITATION.—The requirements of paragraph (2) shall apply to a purchase by an agency only if—

“(A) the lower-wattage eligible product is—

“(i) lifecycle cost-effective; and

“(ii) practicable; and

“(B) the utility and performance of the eligible product is not compromised by the lower wattage requirement.

“(4) ELIGIBLE PRODUCTS.—The Secretary, in consultation with the Secretary of Defense, the Administrator of the Environmental Protection Agency, and the Administrator of General Services, shall compile a publicly accessible list of cost-effective eligible products that shall be subject to the purchasing requirements of paragraph (2).”.

Records.

SEC. 525. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) AMENDMENTS.—Section 553 of the National Energy Conservation Policy Act (42 U.S.C. 8259b) is amended—

(1) in subsection (b)(1), by inserting “in a product category covered by the Energy Star program or the Federal Energy Management Program for designated products” after “energy consuming product”; and

(2) in the second sentence of subsection (c)—

(A) by inserting “list in their catalogues, represent as available, and” after “Logistics Agency shall”; and

(B) by striking “where the agency” and inserting “in which the head of the agency”.

(b) CATALOGUE LISTING DEADLINE.—Not later than 9 months after the date of enactment of this Act, the General Services Administration and the Defense Logistics Agency shall ensure that the requirement established by the amendment made by subsection (a)(2)(A) has been fully complied with.

42 USC 8259b
note.

SEC. 526. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.

42 USC 17142.

No Federal agency shall enter into a contract for procurement of an alternative or synthetic fuel, including a fuel produced from nonconventional petroleum sources, for any mobility-related use, other than for research or testing, unless the contract specifies that the lifecycle greenhouse gas emissions associated with the production and combustion of the fuel supplied under the contract must, on an ongoing basis, be less than or equal to such emissions from the equivalent conventional fuel produced from conventional petroleum sources.

SEC. 527. GOVERNMENT EFFICIENCY STATUS REPORTS.

42 USC 17143.

(a) IN GENERAL.—Each Federal agency subject to any of the requirements of this title or the amendments made by this title shall compile and submit to the Director of the Office of Management and Budget an annual Government efficiency status report on—

(1) compliance by the agency with each of the requirements of this title and the amendments made by this title;

(2) the status of the implementation by the agency of initiatives to improve energy efficiency, reduce energy costs, and reduce emissions of greenhouse gases; and

(3) savings to the taxpayers of the United States resulting from mandated improvements under this title and the amendments made by this title.

(b) SUBMISSION.—The report shall be submitted—

- (1) to the Director at such time as the Director requires;
- (2) in electronic, not paper, format; and
- (3) consistent with related reporting requirements.

42 USC 17144.

SEC. 528. OMB GOVERNMENT EFFICIENCY REPORTS AND SCORECARDS.

(a) REPORTS.—Not later than April 1 of each year, the Director of the Office of Management and Budget shall submit an annual Government efficiency report to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate, which shall contain—

- (1) a summary of the information reported by agencies under section 527;
- (2) an evaluation of the overall progress of the Federal Government toward achieving the goals of this title and the amendments made by this title; and
- (3) recommendations for additional actions necessary to meet the goals of this title and the amendments made by this title.

(b) SCORECARDS.—The Director of the Office of Management and Budget shall include in any annual energy scorecard the Director is otherwise required to submit a description of the compliance of each agency with the requirements of this title and the amendments made by this title.

SEC. 529. ELECTRICITY SECTOR DEMAND RESPONSE.

(a) IN GENERAL.—Title V of the National Energy Conservation Policy Act (42 U.S.C. 8241 et seq.) is amended by adding at the end the following:

“PART 5—PEAK DEMAND REDUCTION

42 USC 8279.

“SEC. 571. NATIONAL ACTION PLAN FOR DEMAND RESPONSE.

“(a) NATIONAL ASSESSMENT AND REPORT.—The Federal Energy Regulatory Commission (‘Commission’) shall conduct a National Assessment of Demand Response. The Commission shall, within 18 months of the date of enactment of this part, submit a report to Congress that includes each of the following:

“(1) Estimation of nationwide demand response potential in 5 and 10 year horizons, including data on a State-by-State basis, and a methodology for updates of such estimates on an annual basis.

“(2) Estimation of how much of this potential can be achieved within 5 and 10 years after the enactment of this part accompanied by specific policy recommendations that if implemented can achieve the estimated potential. Such recommendations shall include options for funding and/or incentives for the development of demand response resources.

“(3) The Commission shall further note any barriers to demand response programs offering flexible, non-discriminatory, and fairly compensatory terms for the services and benefits made available, and shall provide recommendations for overcoming such barriers.

“(4) The Commission shall seek to take advantage of pre-existing research and ongoing work, and shall insure that there is no duplication of effort.

“(b) NATIONAL ACTION PLAN ON DEMAND RESPONSE.—The Commission shall further develop a National Action Plan on Demand Response, soliciting and accepting input and participation from a broad range of industry stakeholders, State regulatory utility commissioners, and non-governmental groups. The Commission shall seek consensus where possible, and decide on optimum solutions to issues that defy consensus. Such Plan shall be completed within 1 year after the completion of the National Assessment of Demand Response, and shall meet each of the following objectives:

“(1) Identification of requirements for technical assistance to States to allow them to maximize the amount of demand response resources that can be developed and deployed.

“(2) Design and identification of requirements for implementation of a national communications program that includes broad-based customer education and support.

“(3) Development or identification of analytical tools, information, model regulatory provisions, model contracts, and other support materials for use by customers, States, utilities and demand response providers.

“(c) Upon completion, the National Action Plan on Demand Response shall be published, together with any favorable and dissenting comments submitted by participants in its preparation. Six months after publication, the Commission, together with the Secretary of Energy, shall submit to Congress a proposal to implement the Action Plan, including specific proposed assignments of responsibility, proposed budget amounts, and any agreements secured for participation from State and other participants.

“(d) AUTHORIZATION.—There are authorized to be appropriated to the Commission to carry out this section not more than \$10,000,000 for each of the fiscal years 2008, 2009, and 2010.”.

(b) TABLE OF CONTENTS.—The table of contents for the National Energy Conservation Policy Act (42 U.S.C. 8201 note) is amended by adding after the items relating to part 4 of title V the following:

“PART 5—PEAK DEMAND REDUCTION

“Sec. 571. National Action Plan for Demand Response.”.

Publication.

Deadline.
Proposal.

Subtitle D—Energy Efficiency of Public Institutions

SEC. 531. REAUTHORIZATION OF STATE ENERGY PROGRAMS.

Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking “\$100,000,000 for each of the fiscal years 2006 and 2007 and \$125,000,000 for fiscal year 2008” and inserting “\$125,000,000 for each of fiscal years 2007 through 2012”.

SEC. 532. UTILITY ENERGY EFFICIENCY PROGRAMS.

(a) ELECTRIC UTILITIES.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

“(16) INTEGRATED RESOURCE PLANNING.—Each electric utility shall—

“(A) integrate energy efficiency resources into utility, State, and regional plans; and

“(B) adopt policies establishing cost-effective energy efficiency as a priority resource.

“(17) RATE DESIGN MODIFICATIONS TO PROMOTE ENERGY EFFICIENCY INVESTMENTS.—

“(A) IN GENERAL.—The rates allowed to be charged by any electric utility shall—

“(i) align utility incentives with the delivery of cost-effective energy efficiency; and

“(ii) promote energy efficiency investments.

“(B) POLICY OPTIONS.—In complying with subparagraph (A), each State regulatory authority and each non-regulated utility shall consider—

“(i) removing the throughput incentive and other regulatory and management disincentives to energy efficiency;

“(ii) providing utility incentives for the successful management of energy efficiency programs;

“(iii) including the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives;

“(iv) adopting rate designs that encourage energy efficiency for each customer class;

“(v) allowing timely recovery of energy efficiency-related costs; and

“(vi) offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.”.

(b) NATURAL GAS UTILITIES.—Section 303(b) of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3203(b)) is amended by adding at the end the following:

“(5) ENERGY EFFICIENCY.—Each natural gas utility shall—

“(A) integrate energy efficiency resources into the plans and planning processes of the natural gas utility; and

“(B) adopt policies that establish energy efficiency as a priority resource in the plans and planning processes of the natural gas utility.

“(6) RATE DESIGN MODIFICATIONS TO PROMOTE ENERGY EFFICIENCY INVESTMENTS.—

“(A) IN GENERAL.—The rates allowed to be charged by a natural gas utility shall align utility incentives with the deployment of cost-effective energy efficiency.

“(B) POLICY OPTIONS.—In complying with subparagraph (A), each State regulatory authority and each non-regulated utility shall consider—

“(i) separating fixed-cost revenue recovery from the volume of transportation or sales service provided to the customer;

“(ii) providing to utilities incentives for the successful management of energy efficiency programs, such

as allowing utilities to retain a portion of the cost-reducing benefits accruing from the programs;

“(iii) promoting the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives; and

“(iv) adopting rate designs that encourage energy efficiency for each customer class.

For purposes of applying the provisions of this subtitle to this paragraph, any reference in this subtitle to the date of enactment of this Act shall be treated as a reference to the date of enactment of this paragraph.”.

(c) CONFORMING AMENDMENT.—Section 303(a) of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3203(a)) is amended by striking “and (4)” inserting “(4), (5), and (6)”.

Subtitle E—Energy Efficiency and Conservation Block Grants

SEC. 541. DEFINITIONS.

42 USC 17151.

In this subtitle:

- (1) ELIGIBLE ENTITY.—The term “eligible entity” means—
 - (A) a State;
 - (B) an eligible unit of local government; and
 - (C) an Indian tribe.
- (2) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—The term “eligible unit of local government” means—
 - (A) an eligible unit of local government-alternative 1; and
 - (B) an eligible unit of local government-alternative 2.
- (3)(A) ELIGIBLE UNIT OF LOCAL GOVERNMENT-ALTERNATIVE 1.—The term “eligible unit of local government-alternative 1” means—
 - (i) a city with a population—
 - (I) of at least 35,000; or
 - (II) that causes the city to be 1 of the 10 highest-populated cities of the State in which the city is located; and
 - (ii) a county with a population—
 - (I) of at least 200,000; or
 - (II) that causes the county to be 1 of the 10 highest-populated counties of the State in which the county is located.
- (B) ELIGIBLE UNIT OF LOCAL GOVERNMENT-ALTERNATIVE 2.—The term “eligible unit of local government-alternative 2” means—
 - (i) a city with a population of at least 50,000; or
 - (ii) a county with a population of at least 200,000.
- (4) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).
- (5) PROGRAM.—The term “program” means the Energy Efficiency and Conservation Block Grant Program established under section 542(a).
- (6) STATE.—The term “State” means—
 - (A) a State;

- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico; and
- (D) any other territory or possession of the United States.

42 USC 17152.

SEC. 542. ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary shall establish a program, to be known as the “Energy Efficiency and Conservation Block Grant Program”, under which the Secretary shall provide grants to eligible entities in accordance with this subtitle.

(b) **PURPOSE.**—The purpose of the program shall be to assist eligible entities in implementing strategies—

(1) to reduce fossil fuel emissions created as a result of activities within the jurisdictions of eligible entities in a manner that—

(A) is environmentally sustainable; and

(B) to the maximum extent practicable, maximizes benefits for local and regional communities;

(2) to reduce the total energy use of the eligible entities; and

(3) to improve energy efficiency in—

(A) the transportation sector;

(B) the building sector; and

(C) other appropriate sectors.

42 USC 17153.

SEC. 543. ALLOCATION OF FUNDS.

(a) **IN GENERAL.**—Of amounts made available to provide grants under this subtitle for each fiscal year, the Secretary shall allocate—

(1) 68 percent to eligible units of local government in accordance with subsection (b);

(2) 28 percent to States in accordance with subsection (c);

(3) 2 percent to Indian tribes in accordance with subsection (d); and

(4) 2 percent for competitive grants under section 546.

(b) **ELIGIBLE UNITS OF LOCAL GOVERNMENT.**—Of amounts available for distribution to eligible units of local government under subsection (a)(1), the Secretary shall provide grants to eligible units of local government under this section based on a formula established by the Secretary according to—

(1) the populations served by the eligible units of local government, according to the latest available decennial census; and

(2) the daytime populations of the eligible units of local government and other similar factors (such as square footage of commercial, office, and industrial space), as determined by the Secretary.

(c) **STATES.**—Of amounts available for distribution to States under subsection (a)(2), the Secretary shall provide—

(1) not less than 1.25 percent to each State; and

(2) the remainder among the States, based on a formula to be established by the Secretary that takes into account—

(A) the population of each State; and

(B) any other criteria that the Secretary determines to be appropriate.

(d) **INDIAN TRIBES.**—Of amounts available for distribution to Indian tribes under subsection (a)(3), the Secretary shall establish

a formula for allocation of the amounts to Indian tribes, taking into account any factors that the Secretary determines to be appropriate.

(e) PUBLICATION OF ALLOCATION FORMULAS.—Not later than 90 days before the beginning of each fiscal year for which grants are provided under this subtitle, the Secretary shall publish in the Federal Register the formulas for allocation established under this section.

Deadline.
Federal Register,
publication.

(f) STATE AND LOCAL ADVISORY COMMITTEE.—The Secretary shall establish a State and local advisory committee to advise the Secretary regarding administration, implementation, and evaluation of the program.

Establishment.

SEC. 544. USE OF FUNDS.

42 USC 17154.

An eligible entity may use a grant received under this subtitle to carry out activities to achieve the purposes of the program, including—

(1) development and implementation of an energy efficiency and conservation strategy under section 545(b);

(2) retaining technical consultant services to assist the eligible entity in the development of such a strategy, including—

(A) formulation of energy efficiency, energy conservation, and energy usage goals;

(B) identification of strategies to achieve those goals—

(i) through efforts to increase energy efficiency and reduce energy consumption; and

(ii) by encouraging behavioral changes among the population served by the eligible entity;

(C) development of methods to measure progress in achieving the goals;

(D) development and publication of annual reports to the population served by the eligible entity describing—

(i) the strategies and goals; and

(ii) the progress made in achieving the strategies and goals during the preceding calendar year; and

(E) other services to assist in the implementation of the energy efficiency and conservation strategy;

(3) conducting residential and commercial building energy audits;

(4) establishment of financial incentive programs for energy efficiency improvements;

(5) the provision of grants to nonprofit organizations and governmental agencies for the purpose of performing energy efficiency retrofits;

(6) development and implementation of energy efficiency and conservation programs for buildings and facilities within the jurisdiction of the eligible entity, including—

(A) design and operation of the programs;

(B) identifying the most effective methods for achieving maximum participation and efficiency rates;

(C) public education;

(D) measurement and verification protocols; and

(E) identification of energy efficient technologies;

(7) development and implementation of programs to conserve energy used in transportation, including—

(A) use of flex time by employers;

- (B) satellite work centers;
- (C) development and promotion of zoning guidelines or requirements that promote energy efficient development;
- (D) development of infrastructure, such as bike lanes and pathways and pedestrian walkways;
- (E) synchronization of traffic signals; and
- (F) other measures that increase energy efficiency and decrease energy consumption;
- (8) development and implementation of building codes and inspection services to promote building energy efficiency;
- (9) application and implementation of energy distribution technologies that significantly increase energy efficiency, including—
 - (A) distributed resources; and
 - (B) district heating and cooling systems;
- (10) activities to increase participation and efficiency rates for material conservation programs, including source reduction, recycling, and recycled content procurement programs that lead to increases in energy efficiency;
- (11) the purchase and implementation of technologies to reduce, capture, and, to the maximum extent practicable, use methane and other greenhouse gases generated by landfills or similar sources;
- (12) replacement of traffic signals and street lighting with energy efficient lighting technologies, including—
 - (A) light emitting diodes; and
 - (B) any other technology of equal or greater energy efficiency;
- (13) development, implementation, and installation on or in any government building of the eligible entity of onsite renewable energy technology that generates electricity from renewable resources, including—
 - (A) solar energy;
 - (B) wind energy;
 - (C) fuel cells; and
 - (D) biomass; and
- (14) any other appropriate activity, as determined by the Secretary, in consultation with—
 - (A) the Administrator of the Environmental Protection Agency;
 - (B) the Secretary of Transportation; and
 - (C) the Secretary of Housing and Urban Development.

42 USC 17155.

SEC. 545. REQUIREMENTS FOR ELIGIBLE ENTITIES.**(a) CONSTRUCTION REQUIREMENT.—**

(1) **IN GENERAL.**—To be eligible to receive a grant under the program, each eligible applicant shall submit to the Secretary a written assurance that all laborers and mechanics employed by any contractor or subcontractor of the eligible entity during any construction, alteration, or repair activity funded, in whole or in part, by the grant shall be paid wages at rates not less than the prevailing wages for similar construction activities in the locality, as determined by the Secretary of Labor, in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code.

(2) SECRETARY OF LABOR.—With respect to the labor standards referred to in paragraph (1), the Secretary of Labor shall have the authority and functions described in—

(A) Reorganization Plan Numbered 14 of 1950 (5 U.S.C. 903 note); and

(B) section 3145 of title 40, United States Code.

(b) ELIGIBLE UNITS OF LOCAL GOVERNMENT AND INDIAN TRIBES.—

(1) PROPOSED STRATEGY.—

(A) IN GENERAL.—Not later than 1 year after the date on which an eligible unit of local government or Indian tribe receives a grant under this subtitle, the eligible unit of local government or Indian tribe shall submit to the Secretary a proposed energy efficiency and conservation strategy in accordance with this paragraph. Deadline.

(B) INCLUSIONS.—The proposed strategy under subparagraph (A) shall include—

(i) a description of the goals of the eligible unit of local government or Indian tribe, in accordance with the purposes of this subtitle, for increased energy efficiency and conservation in the jurisdiction of the eligible unit of local government or Indian tribe; and

(ii) a plan for the use of the grant to assist the eligible unit of local government or Indian tribe in achieving those goals, in accordance with section 544.

(C) REQUIREMENTS FOR ELIGIBLE UNITS OF LOCAL GOVERNMENT.—In developing the strategy under subparagraph (A), an eligible unit of local government shall—

(i) take into account any plans for the use of funds by adjacent eligible units of local governments that receive grants under the program; and

(ii) coordinate and share information with the State in which the eligible unit of local government is located regarding activities carried out using the grant to maximize the energy efficiency and conservation benefits under this subtitle.

(2) APPROVAL BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall approve or disapprove a proposed strategy under paragraph (1) by not later than 120 days after the date of submission of the proposed strategy. Deadline.

(B) DISAPPROVAL.—If the Secretary disapproves a proposed strategy under subparagraph (A)—

(i) the Secretary shall provide to the eligible unit of local government or Indian tribe the reasons for the disapproval; and

(ii) the eligible unit of local government or Indian tribe may revise and resubmit the proposed strategy as many times as necessary until the Secretary approves a proposed strategy.

(C) REQUIREMENT.—The Secretary shall not provide to an eligible unit of local government or Indian tribe any grant under the program until a proposed strategy of the eligible unit of local government or Indian tribe is approved by the Secretary under this paragraph.

(3) LIMITATIONS ON USE OF FUNDS.—Of amounts provided to an eligible unit of local government or Indian tribe under

the program, an eligible unit of local government or Indian tribe may use—

(A) for administrative expenses, excluding the cost of meeting the reporting requirements of this subtitle, an amount equal to the greater of—

- (i) 10 percent; and
- (ii) \$75,000;

(B) for the establishment of revolving loan funds, an amount equal to the greater of—

- (i) 20 percent; and
- (ii) \$250,000; and

(C) for the provision of subgrants to nongovernmental organizations for the purpose of assisting in the implementation of the energy efficiency and conservation strategy of the eligible unit of local government or Indian tribe, an amount equal to the greater of—

- (i) 20 percent; and
- (ii) \$250,000.

(4) ANNUAL REPORT.—Not later than 2 years after the date on which funds are initially provided to an eligible unit of local government or Indian tribe under the program, and annually thereafter, the eligible unit of local government or Indian tribe shall submit to the Secretary a report describing—

(A) the status of development and implementation of the energy efficiency and conservation strategy of the eligible unit of local government or Indian tribe; and

(B) as practicable, an assessment of energy efficiency gains within the jurisdiction of the eligible unit of local government or Indian tribe.

(c) STATES.—

(1) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—A State that receives a grant under the program shall use not less than 60 percent of the amount received to provide subgrants to units of local government in the State that are not eligible units of local government.

(B) DEADLINE.—The State shall provide the subgrants required under subparagraph (A) by not later than 180 days after the date on which the Secretary approves a proposed energy efficiency and conservation strategy of the State under paragraph (3).

(2) REVISION OF CONSERVATION PLAN; PROPOSED STRATEGY.—Not later than 120 days after the date of enactment of this Act, each State shall—

(A) modify the State energy conservation plan of the State under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) to establish additional goals for increased energy efficiency and conservation in the State; and

(B) submit to the Secretary a proposed energy efficiency and conservation strategy that—

(i) establishes a process for providing subgrants as required under paragraph (1); and

(ii) includes a plan of the State for the use of funds received under the program to assist the State in achieving the goals established under subparagraph (A), in accordance with sections 542(b) and 544.

Deadline.

(3) APPROVAL BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall approve or dis- Deadline.
approve a proposed strategy under paragraph (2)(B) by
not later than 120 days after the date of submission of
the proposed strategy.

(B) DISAPPROVAL.—If the Secretary disapproves a pro-
posed strategy under subparagraph (A)—

(i) the Secretary shall provide to the State the
reasons for the disapproval; and

(ii) the State may revise and resubmit the proposed
strategy as many times as necessary until the Sec-
retary approves a proposed strategy.

(C) REQUIREMENT.—The Secretary shall not provide
to a State any grant under the program until a proposed
strategy of the State is approved by the Secretary under
this paragraph.

(4) LIMITATIONS ON USE OF FUNDS.—A State may use not
more than 10 percent of amounts provided under the program
for administrative expenses.

(5) ANNUAL REPORTS.—Each State that receives a grant
under the program shall submit to the Secretary an annual
report that describes—

(A) the status of development and implementation of
the energy efficiency and conservation strategy of the State
during the preceding calendar year;

(B) the status of the subgrant program of the State
under paragraph (1);

(C) the energy efficiency gains achieved through the
energy efficiency and conservation strategy of the State
during the preceding calendar year; and

(D) specific energy efficiency and conservation goals
of the State for subsequent calendar years.

SEC. 546. COMPETITIVE GRANTS.

42 USC 17156.

(a) IN GENERAL.—Of the total amount made available for each
fiscal year to carry out this subtitle, the Secretary shall use not
less than 2 percent to provide grants under this section, on a
competitive basis, to—

(1) units of local government (including Indian tribes) that
are not eligible entities; and

(2) consortia of units of local government described in para-
graph (1).

(b) APPLICATIONS.—To be eligible to receive a grant under this
section, a unit of local government or consortia shall submit to
the Secretary an application at such time, in such manner, and
containing such information as the Secretary may require, including
a plan of the unit of local government to carry out an activity
described in section 544.

(c) PRIORITY.—In providing grants under this section, the Sec-
retary shall give priority to units of local government—

(1) located in States with populations of less than 2,000,000;

or

(2) that plan to carry out projects that would result in
significant energy efficiency improvements or reductions in
fossil fuel use.

42 USC 17157.

SEC. 547. REVIEW AND EVALUATION.

(a) **IN GENERAL.**—The Secretary may review and evaluate the performance of any eligible entity that receives a grant under the program, including by conducting an audit, as the Secretary determines to be appropriate.

(b) **WITHHOLDING OF FUNDS.**—The Secretary may withhold from an eligible entity any portion of a grant to be provided to the eligible entity under the program if the Secretary determines that the eligible entity has failed to achieve compliance with—

(1) any applicable guideline or regulation of the Secretary relating to the program, including the misuse or misappropriation of funds provided under the program; or

(2) the energy efficiency and conservation strategy of the eligible entity.

42 USC 17158.

SEC. 548. FUNDING.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **GRANTS.**—There is authorized to be appropriated to the Secretary for the provision of grants under the program \$2,000,000,000 for each of fiscal years 2008 through 2012; provided that 49 percent of the appropriated funds shall be distributed using the definition of eligible unit of local government-alternative 1 in section 541(3)(A) and 49 percent of the appropriated funds shall be distributed using the definition of eligible unit of local government-alternative 2 in section 541(3)(B).

(2) **ADMINISTRATIVE COSTS.**—There are authorized to be appropriated to the Secretary for administrative expenses of the program—

(A) \$20,000,000 for each of fiscal years 2008 and 2009;

(B) \$25,000,000 for each of fiscal years 2010 and 2011;

and

(C) \$30,000,000 for fiscal year 2012.

(b) **MAINTENANCE OF FUNDING.**—The funding provided under this section shall supplement (and not supplant) other Federal funding provided under—

(1) a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(2) the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.).

TITLE VI—ACCELERATED RESEARCH AND DEVELOPMENT

Subtitle A—Solar Energy

Solar Energy
Research and
Advancement
Act of 2007.
42 USC 17001
note.

SEC. 601. SHORT TITLE.

This subtitle may be cited as the “Solar Energy Research and Advancement Act of 2007”.

42 USC 17171.

SEC. 602. THERMAL ENERGY STORAGE RESEARCH AND DEVELOPMENT PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary shall establish a program of research and development to provide lower cost and more viable

thermal energy storage technologies to enable the shifting of electric power loads on demand and extend the operating time of concentrating solar power electric generating plants.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section \$5,000,000 for fiscal year 2008, \$7,000,000 for fiscal year 2009, \$9,000,000 for fiscal year 2010, \$10,000,000 for fiscal year 2011, and \$12,000,000 for fiscal year 2012.

SEC. 603. CONCENTRATING SOLAR POWER COMMERCIAL APPLICATION STUDIES.

Deadlines.
Reports.

(a) INTEGRATION.—The Secretary shall conduct a study on methods to integrate concentrating solar power and utility-scale photovoltaic systems into regional electricity transmission systems, and to identify new transmission or transmission upgrades needed to bring electricity from high concentrating solar power resource areas to growing electric power load centers throughout the United States. The study shall analyze and assess cost-effective approaches for management and large-scale integration of concentrating solar power and utility-scale photovoltaic systems into regional electric transmission grids to improve electric reliability, to efficiently manage load, and to reduce demand on the natural gas transmission system for electric power. The Secretary shall submit a report to Congress on the results of this study not later than 12 months after the date of enactment of this Act.

(b) WATER CONSUMPTION.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Energy shall transmit to Congress a report on the results of a study on methods to reduce the amount of water consumed by concentrating solar power systems.

SEC. 604. SOLAR ENERGY CURRICULUM DEVELOPMENT AND CERTIFICATION GRANTS.

42 USC 17172.

(a) ESTABLISHMENT.—The Secretary shall establish in the Office of Solar Energy Technologies a competitive grant program to create and strengthen solar industry workforce training and internship programs in installation, operation, and maintenance of solar energy products. The goal of this program is to ensure a supply of well-trained individuals to support the expansion of the solar energy industry.

(b) AUTHORIZED ACTIVITIES.—Grant funds may be used to support the following activities:

(1) Creation and development of a solar energy curriculum appropriate for the local educational, entrepreneurial, and environmental conditions, including curriculum for community colleges.

(2) Support of certification programs for individual solar energy system installers, instructors, and training programs.

(3) Internship programs that provide hands-on participation by students in commercial applications.

(4) Activities required to obtain certification of training programs and facilities by an industry-accepted quality-control certification program.

(5) Incorporation of solar-specific learning modules into traditional occupational training and internship programs for construction-related trades.

(6) The purchase of equipment necessary to carry out activities under this section.

(7) Support of programs that provide guidance and updates to solar energy curriculum instructors.

(c) ADMINISTRATION OF GRANTS.—Grants may be awarded under this section for up to 3 years. The Secretary shall award grants to ensure sufficient geographic distribution of training programs nationally. Grants shall only be awarded for programs certified by an industry-accepted quality-control certification institution, or for new and growing programs with a credible path to certification. Due consideration shall be given to women, underrepresented minorities, and persons with disabilities.

(d) REPORT.—The Secretary shall make public, on the website of the Department or upon request, information on the name and institution for all grants awarded under this section, including a brief description of the project as well as the grant award amount.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section \$10,000,000 for each of the fiscal years 2008 through 2012.

42 USC 17173.

SEC. 605. DAYLIGHTING SYSTEMS AND DIRECT SOLAR LIGHT PIPE TECHNOLOGY.

(a) ESTABLISHMENT.—The Secretary shall establish a program of research and development to provide assistance in the demonstration and commercial application of direct solar renewable energy sources to provide alternatives to traditional power generation for lighting and illumination, including light pipe technology, and to promote greater energy conservation and improved efficiency. All direct solar renewable energy devices supported under this program shall have the capability to provide measurable data on the amount of kilowatt-hours saved over the traditionally powered light sources they have replaced.

(b) REPORTING.—The Secretary shall transmit to Congress an annual report assessing the measurable data derived from each project in the direct solar renewable energy sources program and the energy savings resulting from its use.

(c) DEFINITIONS.—For purposes of this section—

(1) the term “direct solar renewable energy” means energy from a device that converts sunlight into useable light within a building, tunnel, or other enclosed structure, replacing artificial light generated by a light fixture and doing so without the conversion of the sunlight into another form of energy; and

(2) the term “light pipe” means a device designed to transport visible solar radiation from its collection point to the interior of a building while excluding interior heat gain in the nonheating season.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section \$3,500,000 for each of the fiscal years 2008 through 2012.

42 USC 17174.

SEC. 606. SOLAR AIR CONDITIONING RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a research, development, and demonstration program to promote less costly and more reliable decentralized distributed solar-powered air conditioning for individuals and businesses.

(b) AUTHORIZED ACTIVITIES.—Grants made available under this section may be used to support the following activities:

(1) Advancing solar thermal collectors, including concentrating solar thermal and electric systems, flat plate and evacuated tube collector performance.

(2) Achieving technical and economic integration of solar-powered distributed air-conditioning systems with existing hot water and storage systems for residential applications.

(3) Designing and demonstrating mass manufacturing capability to reduce costs of modular standardized solar-powered distributed air conditioning systems and components.

(4) Improving the efficiency of solar-powered distributed air-conditioning to increase the effectiveness of solar-powered absorption chillers, solar-driven compressors and condensers, and cost-effective precooling approaches.

(5) Researching and comparing performance of solar-powered distributed air conditioning systems in different regions of the country, including potential integration with other onsite systems, such as solar, biogas, geothermal heat pumps, and propane assist or combined propane fuel cells, with a goal to develop site-specific energy production and management systems that ease fuel and peak utility loading.

(c) **COST SHARING.**—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to a project carried out under this section. Applicability.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for carrying out this section \$2,500,000 for each of the fiscal years 2008 through 2012.

SEC. 607. PHOTOVOLTAIC DEMONSTRATION PROGRAM.

42 USC 17175.

(a) **IN GENERAL.**—The Secretary shall establish a program of grants to States to demonstrate advanced photovoltaic technology.

(b) **REQUIREMENTS.**—

(1) **ABILITY TO MEET REQUIREMENTS.**—To receive funding under the program under this section, a State must submit a proposal that demonstrates, to the satisfaction of the Secretary, that the State will meet the requirements of subsection (f).

(2) **COMPLIANCE WITH REQUIREMENTS.**—If a State has received funding under this section for the preceding year, the State must demonstrate, to the satisfaction of the Secretary, that it complied with the requirements of subsection (f) in carrying out the program during that preceding year, and that it will do so in the future, before it can receive further funding under this section.

(c) **COMPETITION.**—The Secretary shall award grants on a competitive basis to the States with the proposals the Secretary considers most likely to encourage the widespread adoption of photovoltaic technologies. The Secretary shall take into consideration the geographic distribution of awards. Grants.

(d) **PROPOSALS.**—Not later than 6 months after the date of enactment of this Act, and in each subsequent fiscal year for the life of the program, the Secretary shall solicit proposals from the States to participate in the program under this section. Deadline.

(e) **COMPETITIVE CRITERIA.**—In awarding funds in a competitive allocation under subsection (c), the Secretary shall consider—

(1) the likelihood of a proposal to encourage the demonstration of, or lower the costs of, advanced photovoltaic technologies; and

Reports.

- (2) the extent to which a proposal is likely to—
 - (A) maximize the amount of photovoltaics demonstrated;
 - (B) maximize the proportion of non-Federal cost share; and
 - (C) limit State administrative costs.
- (f) STATE PROGRAM.—A program operated by a State with funding under this section shall provide competitive awards for the demonstration of advanced photovoltaic technologies. Each State program shall—
 - (1) require a contribution of at least 60 percent per award from non-Federal sources, which may include any combination of State, local, and private funds, except that at least 10 percent of the funding must be supplied by the State;
 - (2) endeavor to fund recipients in the commercial, industrial, institutional, governmental, and residential sectors;
 - (3) limit State administrative costs to no more than 10 percent of the grant;
 - (4) report annually to the Secretary on—
 - (A) the amount of funds disbursed;
 - (B) the amount of photovoltaics purchased; and
 - (C) the results of the monitoring under paragraph (5);
 - (5) provide for measurement and verification of the output of a representative sample of the photovoltaics systems demonstrated throughout the average working life of the systems, or at least 20 years; and
 - (6) require that applicant buildings must have received an independent energy efficiency audit during the 6-month period preceding the filing of the application.
- (g) UNEXPENDED FUNDS.—If a State fails to expend any funds received under this section within 3 years of receipt, such remaining funds shall be returned to the Treasury.
- (h) REPORTS.—The Secretary shall report to Congress 5 years after funds are first distributed to the States under this section—
 - (1) the amount of photovoltaics demonstrated;
 - (2) the number of projects undertaken;
 - (3) the administrative costs of the program;
 - (4) the results of the monitoring under subsection (f)(5); and
 - (5) the total amount of funds distributed, including a breakdown by State.
- (i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of carrying out this section—
 - (1) \$15,000,000 for fiscal year 2008;
 - (2) \$30,000,000 for fiscal year 2009;
 - (3) \$45,000,000 for fiscal year 2010;
 - (4) \$60,000,000 for fiscal year 2011; and
 - (5) \$70,000,000 for fiscal year 2012.

Advanced
Geothermal
Energy Research
and Development
Act of 2007.
42 USC 17001
note.

Subtitle B—Geothermal Energy

SEC. 611. SHORT TITLE.

This subtitle may be cited as the “Advanced Geothermal Energy Research and Development Act of 2007”.

SEC. 612. DEFINITIONS.

42 USC 17191.

For purposes of this subtitle:

(1) **ENGINEERED.**—When referring to enhanced geothermal systems, the term “engineered” means subjected to intervention, including intervention to address one or more of the following issues:

(A) Lack of effective permeability or porosity or open fracture connectivity within the reservoir.

(B) Insufficient contained geofluid in the reservoir.

(C) A low average geothermal gradient, which necessitates deeper drilling.

(2) **ENHANCED GEOTHERMAL SYSTEMS.**—The term “enhanced geothermal systems” means geothermal reservoir systems that are engineered, as opposed to occurring naturally.

(3) **GEOFLUID.**—The term “geofluid” means any fluid used to extract thermal energy from the Earth which is transported to the surface for direct use or electric power generation, except that such term shall not include oil or natural gas.

(4) **GEOPRESSURED RESOURCES.**—The term “geopressured resources” mean geothermal deposits found in sedimentary rocks under higher than normal pressure and saturated with gas or methane.

(5) **GEOTHERMAL.**—The term “geothermal” refers to heat energy stored in the Earth’s crust that can be accessed for direct use or electric power generation.

(6) **HYDROTHERMAL.**—The term “hydrothermal” refers to naturally occurring subsurface reservoirs of hot water or steam.

(7) **SYSTEMS APPROACH.**—The term “systems approach” means an approach to solving problems or designing systems that attempts to optimize the performance of the overall system, rather than a particular component of the system.

SEC. 613. HYDROTHERMAL RESEARCH AND DEVELOPMENT.

42 USC 17192.

(a) **IN GENERAL.**—The Secretary shall support programs of research, development, demonstration, and commercial application to expand the use of geothermal energy production from hydrothermal systems, including the programs described in subsection (b).

(b) **PROGRAMS.**—

(1) **ADVANCED HYDROTHERMAL RESOURCE TOOLS.**—The Secretary, in consultation with other appropriate agencies, shall support a program to develop advanced geophysical, geochemical, and geologic tools to assist in locating hidden hydrothermal resources, and to increase the reliability of site characterization before, during, and after initial drilling. The program shall develop new prospecting techniques to assist in prioritization of targets for characterization. The program shall include a field component.

(2) **INDUSTRY COUPLED EXPLORATORY DRILLING.**—The Secretary shall support a program of cost-shared field demonstration programs, to be pursued, simultaneously and independently, in collaboration with industry partners, for the demonstration of advanced technologies and techniques of siting and exploratory drilling for undiscovered resources in a variety of geologic settings. The program shall include incentives to encourage the use of advanced technologies and techniques.

42 USC 17193.

SEC. 614. GENERAL GEOTHERMAL SYSTEMS RESEARCH AND DEVELOPMENT.

(a) **SUBSURFACE COMPONENTS AND SYSTEMS.**—The Secretary shall support a program of research, development, demonstration, and commercial application of components and systems capable of withstanding extreme geothermal environments and necessary to cost-effectively develop, produce, and monitor geothermal reservoirs and produce geothermal energy. These components and systems shall include advanced casing systems (expandable tubular casing, low-clearance casing designs, and others), high-temperature cements, high-temperature submersible pumps, and high-temperature packers, as well as technologies for under-reaming, multilateral completions, high-temperature and high-pressure logging, logging while drilling, deep fracture stimulation, and reservoir system diagnostics.

(b) **RESERVOIR PERFORMANCE MODELING.**—The Secretary shall support a program of research, development, demonstration, and commercial application of models of geothermal reservoir performance, with an emphasis on accurately modeling performance over time. Models shall be developed to assist both in the development of geothermal reservoirs and to more accurately account for stress-related effects in stimulated hydrothermal and enhanced geothermal systems production environments.

(c) **ENVIRONMENTAL IMPACTS.**—The Secretary shall—

(1) support a program of research, development, demonstration, and commercial application of technologies and practices designed to mitigate or preclude potential adverse environmental impacts of geothermal energy development, production or use, and seek to ensure that geothermal energy development is consistent with the highest practicable standards of environmental stewardship;

(2) in conjunction with the Assistant Administrator for Research and Development at the Environmental Protection Agency, support a research program to identify potential environmental impacts of geothermal energy development, production, and use, and ensure that the program described in paragraph (1) addresses such impacts, including effects on groundwater and local hydrology; and

(3) support a program of research to compare the potential environmental impacts identified as part of the development, production, and use of geothermal energy with the potential emission reductions of greenhouse gases gained by geothermal energy development, production, and use.

42 USC 17194.

SEC. 615. ENHANCED GEOTHERMAL SYSTEMS RESEARCH AND DEVELOPMENT.

(a) **IN GENERAL.**—The Secretary shall support a program of research, development, demonstration, and commercial application for enhanced geothermal systems, including the programs described in subsection (b).

(b) **PROGRAMS.**—

(1) **ENHANCED GEOTHERMAL SYSTEMS TECHNOLOGIES.**—The Secretary shall support a program of research, development, demonstration, and commercial application of the technologies and knowledge necessary for enhanced geothermal systems to advance to a state of commercial readiness, including advances in—

- (A) reservoir stimulation;
- (B) reservoir characterization, monitoring, and modeling;
- (C) stress mapping;
- (D) tracer development;
- (E) three-dimensional tomography; and
- (F) understanding seismic effects of reservoir engineering and stimulation.

(2) ENHANCED GEOTHERMAL SYSTEMS RESERVOIR STIMULATION.—

(A) PROGRAM.—In collaboration with industry partners, the Secretary shall support a program of research, development, and demonstration of enhanced geothermal systems reservoir stimulation technologies and techniques. A minimum of 4 sites shall be selected in locations that show particular promise for enhanced geothermal systems development. Each site shall—

- (i) represent a different class of subsurface geologic environments; and
- (ii) take advantage of an existing site where subsurface characterization has been conducted or existing drill holes can be utilized, if possible.

(B) CONSIDERATION OF EXISTING SITE.—The Desert Peak, Nevada, site, where a Department of Energy and industry cooperative enhanced geothermal systems project is already underway, may be considered for inclusion among the sites selected under subparagraph (A).

SEC. 616. GEOTHERMAL ENERGY PRODUCTION FROM OIL AND GAS FIELDS AND RECOVERY AND PRODUCTION OF GEOPRESSURED GAS RESOURCES.

42 USC 17195.

(a) IN GENERAL.—The Secretary shall establish a program of research, development, demonstration, and commercial application to support development of geothermal energy production from oil and gas fields and production and recovery of energy, including electricity, from geopressured resources. In addition, the Secretary shall conduct such supporting activities including research, resource characterization, and technology development as necessary.

(b) GEOTHERMAL ENERGY PRODUCTION FROM OIL AND GAS FIELDS.—The Secretary shall implement a grant program in support of geothermal energy production from oil and gas fields. The program shall include grants for a total of not less than three demonstration projects of the use of geothermal techniques such as advanced organic rankine cycle systems at marginal, unproductive, and productive oil and gas wells. The Secretary shall, to the extent practicable and in the public interest, make awards that—

Grants.

- (1) include not less than five oil or gas well sites per project award;
- (2) use a range of oil or gas well hot water source temperatures from 150 degrees Fahrenheit to 300 degrees Fahrenheit;
- (3) cover a range of sizes up to one megawatt;
- (4) are located at a range of sites;
- (5) can be replicated at a wide range of sites;
- (6) facilitate identification of optimum techniques among competing alternatives;

(7) include business commercialization plans that have the potential for production of equipment at high volumes and operation and support at a large number of sites; and

(8) satisfy other criteria that the Secretary determines are necessary to carry out the program and collect necessary data and information.

The Secretary shall give preference to assessments that address multiple elements contained in paragraphs (1) through (8).

(c) GRANT AWARDS.—Each grant award for demonstration of geothermal technology such as advanced organic rankine cycle systems at oil and gas wells made by the Secretary under subsection (b) shall include—

(1) necessary and appropriate site engineering study;

(2) detailed economic assessment of site specific conditions;

(3) appropriate feasibility studies to determine whether the demonstration can be replicated;

(4) design or adaptation of existing technology for site specific circumstances or conditions;

(5) installation of equipment, service, and support;

(6) operation for a minimum of 1 year and monitoring for the duration of the demonstration; and

(7) validation of technical and economic assumptions and documentation of lessons learned.

(d) GEOPRESSURED GAS RESOURCE RECOVERY AND PRODUCTION.—(1) The Secretary shall implement a program to support the research, development, demonstration, and commercial application of cost-effective techniques to produce energy from geopressured resources.

(2) The Secretary shall solicit preliminary engineering designs for geopressured resources production and recovery facilities.

(3) Based upon a review of the preliminary designs, the Secretary shall award grants, which may be cost-shared, to support the detailed development and completion of engineering, architectural and technical plans needed to support construction of new designs.

(4) Based upon a review of the final design plans above, the Secretary shall award cost-shared development and construction grants for demonstration geopressured production facilities that show potential for economic recovery of the heat, kinetic energy and gas resources from geopressured resources.

Deadline.

(e) COMPETITIVE GRANT SELECTION.—Not less than 90 days after the date of the enactment of this Act, the Secretary shall conduct a national solicitation for applications for grants under the programs outlined in subsections (b) and (d). Grant recipients shall be selected on a competitive basis based on criteria in the respective subsection.

(f) WELL DRILLING.—No funds may be used under this section for the purpose of drilling new wells.

42 USC 17196.

SEC. 617. COST SHARING AND PROPOSAL EVALUATION.

(a) FEDERAL SHARE.—The Federal share of costs of projects funded under this subtitle shall be in accordance with section 988 of the Energy Policy Act of 2005.

(b) ORGANIZATION AND ADMINISTRATION OF PROGRAMS.—Programs under this subtitle shall incorporate the following elements:

(1) The Secretary shall coordinate with, and where appropriate may provide funds in furtherance of the purposes of

this subtitle to, other Department of Energy research and development programs focused on drilling, subsurface characterization, and other related technologies.

(2) In evaluating proposals, the Secretary shall give priority to proposals that demonstrate clear evidence of employing a systems approach.

(3) The Secretary shall coordinate and consult with the appropriate Federal land management agencies in selecting proposals for funding under this subtitle.

(4) Nothing in this subtitle shall be construed to alter or affect any law relating to the management or protection of Federal lands.

SEC. 618. CENTER FOR GEOTHERMAL TECHNOLOGY TRANSFER.

42 USC 17197.

(a) **IN GENERAL.**—The Secretary shall award to an institution of higher education (or consortium thereof) a grant to establish a Center for Geothermal Technology Transfer (referred to in this section as the “Center”).

Grants.

(b) **DUTIES.**—The Center shall—

(1) serve as an information clearinghouse for the geothermal industry by collecting and disseminating information on best practices in all areas relating to developing and utilizing geothermal resources;

(2) make data collected by the Center available to the public; and

(3) seek opportunities to coordinate efforts and share information with domestic and international partners engaged in research and development of geothermal systems and related technology.

(c) **SELECTION CRITERIA.**—In awarding the grant under subsection (a) the Secretary shall select an institution of higher education (or consortium thereof) best suited to provide national leadership on geothermal related issues and perform the duties enumerated under subsection (b).

(d) **DURATION OF GRANT.**—A grant made under subsection (a)—

(1) shall be for an initial period of 5 years; and

(2) may be renewed for additional 5-year periods on the basis of—

(A) satisfactory performance in meeting the duties outlined in subsection (b); and

(B) any other requirements specified by the Secretary.

SEC. 619. GEOPOWERING AMERICA.

42 USC 17198.

The Secretary shall expand the Department of Energy’s GeoPowering the West program to extend its geothermal technology transfer activities throughout the entire United States. The program shall be renamed “GeoPowering America”. The program shall continue to be based in the Department of Energy office in Golden, Colorado.

SEC. 620. EDUCATIONAL PILOT PROGRAM.

42 USC 17199.

The Secretary shall seek to award grant funding, on a competitive basis, to an institution of higher education for a geothermal-powered energy generation facility on the institution’s campus. The purpose of the facility shall be to provide electricity and space heating. The facility shall also serve as an educational resource to students in relevant fields of study, and the data generated

by the facility shall be available to students and the general public. The total funding award shall not exceed \$2,000,000.

42 USC 17200.

SEC. 621. REPORTS.

(a) **REPORTS ON ADVANCED USES OF GEOTHERMAL ENERGY.**—Not later than 3 years and 5 years after the date of enactment of this Act, the Secretary shall report to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on advanced concepts and technologies to maximize the geothermal resource potential of the United States. The reports shall include—

(1) the use of carbon dioxide as an alternative geofluid with potential carbon sequestration benefits;

(2) mineral recovery from geofluids;

(3) use of geothermal energy to produce hydrogen;

(4) use of geothermal energy to produce biofuels;

(5) use of geothermal heat for oil recovery from oil shales and tar sands; and

(6) other advanced geothermal technologies, including advanced drilling technologies and advanced power conversion technologies.

(b) **PROGRESS REPORTS.**—(1) Not later than 36 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an interim report describing the progress made under this subtitle. At the end of 60 months, the Secretary shall submit to Congress a report on the results of projects undertaken under this subtitle and other such information the Secretary considers appropriate.

(2) As necessary, the Secretary shall report to the Congress on any legal, regulatory, or other barriers encountered that hinder economic development of these resources, and provide recommendations on legislative or other actions needed to address such impediments.

42 USC 17201.

SEC. 622. APPLICABILITY OF OTHER LAWS.

Nothing in this subtitle shall be construed as waiving, modifying, or superseding the applicability of any requirement under any environmental or other Federal or State law. To the extent that activities authorized in this subtitle take place in coastal and ocean areas, the Secretary shall consult with the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, regarding the potential marine environmental impacts and measures to address such impacts.

42 USC 17202.

SEC. 623. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle \$90,000,000 for each of the fiscal years 2008 through 2012, of which \$10,000,000 for each fiscal year shall be for carrying out section 616. There are also authorized to be appropriated to the Secretary for the Intermountain West Geothermal Consortium \$5,000,000 for each of the fiscal years 2008 through 2012.

42 USC 17203.

SEC. 624. INTERNATIONAL GEOTHERMAL ENERGY DEVELOPMENT.

(a) **IN GENERAL.**—The Secretary of Energy, in coordination with other appropriate Federal and multilateral agencies (including

the United States Agency for International Development) shall support international collaborative efforts to promote the research, development, and deployment of geothermal technologies used to develop hydrothermal and enhanced geothermal system resources, including as partners (as appropriate) the African Rift Geothermal Development Facility, Australia, China, France, the Republic of Iceland, India, Japan, and the United Kingdom.

(b) UNITED STATES TRADE AND DEVELOPMENT AGENCY.—The Director of the United States Trade and Development Agency may—

(1) encourage participation by United States firms in actions taken to carry out subsection (a); and

(2) provide grants and other financial support for feasibility and resource assessment studies conducted in, or intended to benefit, less developed countries.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2008 through 2012.

SEC. 625. HIGH COST REGION GEOTHERMAL ENERGY GRANT PROGRAM. 42 USC 17204.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means—

- (A) a utility;
- (B) an electric cooperative;
- (C) a State;
- (D) a political subdivision of a State;
- (E) an Indian tribe; or
- (F) a Native corporation.

(2) HIGH-COST REGION.—The term “high-cost region” means a region in which the average cost of electrical power exceeds 150 percent of the national average retail cost, as determined by the Secretary.

(b) PROGRAM.—The Secretary shall use amounts made available to carry out this section to make grants to eligible entities for activities described in subsection (c).

(c) ELIGIBLE ACTIVITIES.—An eligible entity may use grant funds under this section, with respect to a geothermal energy project in a high-cost region, only—

(1) to conduct a feasibility study, including a study of exploration, geochemical testing, geomagnetic surveys, geologic information gathering, baseline environmental studies, well drilling, resource characterization, permitting, and economic analysis;

(2) for design and engineering costs, relating to the project; and

(3) to demonstrate and promote commercial application of technologies related to geothermal energy as part of the project.

(d) COST SHARING.—The cost-sharing requirements of section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to any project carried out under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Marine and
Hydrokinetic
Renewable
Energy Research
and Development
Act.
42 USC 17001
note.

Subtitle C—Marine and Hydrokinetic Renewable Energy Technologies

SEC. 631. SHORT TITLE.

This subtitle may be cited as the “Marine and Hydrokinetic Renewable Energy Research and Development Act”.

42 USC 17211.

SEC. 632. DEFINITION.

For purposes of this subtitle, the term “marine and hydrokinetic renewable energy” means electrical energy from—

- (1) waves, tides, and currents in oceans, estuaries, and tidal areas;
- (2) free flowing water in rivers, lakes, and streams;
- (3) free flowing water in man-made channels; and
- (4) differentials in ocean temperature (ocean thermal energy conversion).

The term “marine and hydrokinetic renewable energy” does not include energy from any source that uses a dam, diversionary structure, or impoundment for electric power purposes.

42 USC 17212.

SEC. 633. MARINE AND HYDROKINETIC RENEWABLE ENERGY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior and the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, shall establish a program of research, development, demonstration, and commercial application to expand marine and hydrokinetic renewable energy production, including programs to—

- (1) study and compare existing marine and hydrokinetic renewable energy technologies;
- (2) research, develop, and demonstrate marine and hydrokinetic renewable energy systems and technologies;
- (3) reduce the manufacturing and operation costs of marine and hydrokinetic renewable energy technologies;
- (4) investigate efficient and reliable integration with the utility grid and intermittency issues;
- (5) advance wave forecasting technologies;
- (6) conduct experimental and numerical modeling for optimization of marine energy conversion devices and arrays;
- (7) increase the reliability and survivability of marine and hydrokinetic renewable energy technologies, including development of corrosive-resistant materials;
- (8) identify, in conjunction with the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, and other Federal agencies as appropriate, the potential environmental impacts, including potential impacts on fisheries and other marine resources, of marine and hydrokinetic renewable energy technologies, measures to prevent adverse impacts, and technologies and other means available for monitoring and determining environmental impacts;

(9) identify, in conjunction with the Secretary of the Department in which the United States Coast Guard is operating, acting through the Commandant of the United States Coast Guard, the potential navigational impacts of marine and

hydrokinetic renewable energy technologies and measures to prevent adverse impacts on navigation;

(10) develop power measurement standards for marine and hydrokinetic renewable energy;

(11) develop identification standards for marine and hydrokinetic renewable energy devices;

(12) address standards development, demonstration, and technology transfer for advanced systems engineering and system integration methods to identify critical interfaces;

(13) identifying opportunities for cross fertilization and development of economies of scale between other renewable sources and marine and hydrokinetic renewable energy sources; and

(14) providing public information and opportunity for public comment concerning all technologies.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary, in conjunction with the Secretary of Commerce, acting through the Undersecretary of Commerce for Oceans and Atmosphere, and the Secretary of the Interior, shall provide to the Congress a report that addresses—

(1) the potential environmental impacts, including impacts to fisheries and marine resources, of marine and hydrokinetic renewable energy technologies;

(2) options to prevent adverse environmental impacts;

(3) the potential role of monitoring and adaptive management in identifying and addressing any adverse environmental impacts; and

(4) the necessary components of such an adaptive management program.

SEC. 634. NATIONAL MARINE RENEWABLE ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION CENTERS. 42 USC 17213.

(a) CENTERS.—The Secretary shall award grants to institutions of higher education (or consortia thereof) for the establishment of 1 or more National Marine Renewable Energy Research, Development, and Demonstration Centers. In selecting locations for Centers, the Secretary shall consider sites that meet one of the following criteria: Grants.

(1) Hosts an existing marine renewable energy research and development program in coordination with an engineering program at an institution of higher education.

(2) Has proven expertise to support environmental and policy-related issues associated with harnessing of energy in the marine environment.

(3) Has access to and utilizes the marine resources in the Gulf of Mexico, the Atlantic Ocean, or the Pacific Ocean.

The Secretary may give special consideration to historically black colleges and universities and land grant universities that also meet one of these criteria. In establishing criteria for the selection of the Centers, the Secretary shall consult with the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, on the criteria related to ocean waves, tides, and currents including those for advancing wave forecasting technologies, ocean temperature differences, and studying the compatibility of marine renewable energy technologies and systems with the environment, fisheries, and other marine resources.

(b) **PURPOSES.**—The Centers shall advance research, development, demonstration, and commercial application of marine renewable energy, and shall serve as an information clearinghouse for the marine renewable energy industry, collecting and disseminating information on best practices in all areas related to developing and managing enhanced marine renewable energy systems resources.

(c) **DEMONSTRATION OF NEED.**—When applying for a grant under this section, an applicant shall include a description of why Federal support is necessary for the Center, including evidence that the research of the Center will not be conducted in the absence of Federal support.

42 USC 17214.

SEC. 635. APPLICABILITY OF OTHER LAWS.

Nothing in this subtitle shall be construed as waiving, modifying, or superseding the applicability of any requirement under any environmental or other Federal or State law.

42 USC 17215.

SEC. 636. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle \$50,000,000 for each of the fiscal years 2008 through 2012, except that no funds shall be appropriated under this section for activities that are receiving funds under section 931(a)(2)(E)(i) of the Energy Policy Act of 2005 (42 U.S.C. 16231(a)(2)(E)(i)).

United States
Energy Storage
Competitiveness
Act of 2007.

Subtitle D—Energy Storage for Transportation and Electric Power

42 USC 17231.

SEC. 641. ENERGY STORAGE COMPETITIVENESS.

(a) **SHORT TITLE.**—This section may be cited as the “United States Energy Storage Competitiveness Act of 2007”.

(b) **DEFINITIONS.**—In this section:

(1) **COUNCIL.**—The term “Council” means the Energy Storage Advisory Council established under subsection (e).

(2) **COMPRESSED AIR ENERGY STORAGE.**—The term “compressed air energy storage” means, in the case of an electricity grid application, the storage of energy through the compression of air.

(3) **ELECTRIC DRIVE VEHICLE.**—The term “electric drive vehicle” means—

(A) a vehicle that uses an electric motor for all or part of the motive power of the vehicle, including battery electric, hybrid electric, plug-in hybrid electric, fuel cell, and plug-in fuel cell vehicles and rail transportation vehicles; or

(B) mobile equipment that uses an electric motor to replace an internal combustion engine for all or part of the work of the equipment.

(4) **ISLANDING.**—The term “islanding” means a distributed generator or energy storage device continuing to power a location in the absence of electric power from the primary source.

(5) **FLYWHEEL.**—The term “flywheel” means, in the case of an electricity grid application, a device used to store rotational kinetic energy.

(6) MICROGRID.—The term “microgrid” means an integrated energy system consisting of interconnected loads and distributed energy resources (including generators and energy storage devices), which as an integrated system can operate in parallel with the utility grid or in an intentional islanding mode.

(7) SELF-HEALING GRID.—The term “self-healing grid” means a grid that is capable of automatically anticipating and responding to power system disturbances (including the isolation of failed sections and components), while optimizing the performance and service of the grid to customers.

(8) SPINNING RESERVE SERVICES.—The term “spinning reserve services” means a quantity of electric generating capacity in excess of the quantity needed to meet peak electric demand.

(9) ULTRACAPACITOR.—The term “ultracapacitor” means an energy storage device that has a power density comparable to a conventional capacitor but is capable of exceeding the energy density of a conventional capacitor by several orders of magnitude.

(c) PROGRAM.—The Secretary shall carry out a research, development, and demonstration program to support the ability of the United States to remain globally competitive in energy storage systems for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(d) COORDINATION.—In carrying out the activities of this section, the Secretary shall coordinate relevant efforts with appropriate Federal agencies, including the Department of Transportation.

(e) ENERGY STORAGE ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish an Energy Storage Advisory Council. Deadline.

(2) COMPOSITION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Council shall consist of not less than 15 individuals appointed by the Secretary, based on recommendations of the National Academy of Sciences.

(B) ENERGY STORAGE INDUSTRY.—The Council shall consist primarily of representatives of the energy storage industry of the United States.

(C) CHAIRPERSON.—The Secretary shall select a Chairperson for the Council from among the members appointed under subparagraph (A).

(3) MEETINGS.—

(A) IN GENERAL.—The Council shall meet not less than once a year.

(B) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a meeting of the Council.

(4) PLANS.—No later than 1 year after the date of enactment of this Act and every 5 years thereafter, the Council, in conjunction with the Secretary, shall develop a 5-year plan for integrating basic and applied research so that the United States retains a globally competitive domestic energy storage industry for electric drive vehicles, stationary applications, and electricity transmission and distribution. Deadlines.

(5) REVIEW.—The Council shall—

Deadline.

(A) assess, every 2 years, the performance of the Department in meeting the goals of the plans developed under paragraph (4); and

(B) make specific recommendations to the Secretary on programs or activities that should be established or terminated to meet those goals.

(f) BASIC RESEARCH PROGRAM.—

(1) BASIC RESEARCH.—The Secretary shall conduct a basic research program on energy storage systems to support electric drive vehicles, stationary applications, and electricity transmission and distribution, including—

(A) materials design;

(B) materials synthesis and characterization;

(C) electrode-active materials, including electrolytes and bioelectrolytes;

(D) surface and interface dynamics;

(E) modeling and simulation; and

(F) thermal behavior and life degradation mechanisms.

(2) NANOSCIENCE CENTERS.—The Secretary, in cooperation with the Council, shall coordinate the activities of the nanoscience centers of the Department to help the energy storage research centers of the Department maintain a globally competitive posture in energy storage systems for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(3) FUNDING.—For activities carried out under this subsection, in addition to funding activities at National Laboratories, the Secretary shall award funds to, and coordinate activities with, a range of stakeholders including the public, private, and academic sectors.

(g) APPLIED RESEARCH PROGRAM.—

(1) IN GENERAL.—The Secretary shall conduct an applied research program on energy storage systems to support electric drive vehicles, stationary applications, and electricity transmission and distribution technologies, including—

(A) ultracapacitors;

(B) flywheels;

(C) batteries and battery systems (including flow batteries);

(D) compressed air energy systems;

(E) power conditioning electronics;

(F) manufacturing technologies for energy storage systems;

(G) thermal management systems; and

(H) hydrogen as an energy storage medium.

(2) FUNDING.—For activities carried out under this subsection, in addition to funding activities at National Laboratories, the Secretary shall provide funds to, and coordinate activities with, a range of stakeholders, including the public, private, and academic sectors.

(h) ENERGY STORAGE RESEARCH CENTERS.—

(1) IN GENERAL.—The Secretary shall establish, through competitive bids, not more than 4 energy storage research centers to translate basic research into applied technologies to advance the capability of the United States to maintain a globally competitive posture in energy storage systems for

electric drive vehicles, stationary applications, and electricity transmission and distribution.

(2) PROGRAM MANAGEMENT.—The centers shall be managed by the Under Secretary for Science of the Department.

(3) PARTICIPATION AGREEMENTS.—As a condition of participating in a center, a participant shall enter into a participation agreement with the center that requires that activities conducted by the participant for the center promote the goal of enabling the United States to compete successfully in global energy storage markets.

(4) PLANS.—A center shall conduct activities that promote the achievement of the goals of the plans of the Council under subsection (e)(4).

(5) NATIONAL LABORATORIES.—A national laboratory (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)) may participate in a center established under this subsection, including a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))).

(6) DISCLOSURE.—Section 623 of the Energy Policy Act of 1992 (42 U.S.C. 13293) may apply to any project carried out through a grant, contract, or cooperative agreement under this subsection.

(7) INTELLECTUAL PROPERTY.—In accordance with section 202(a)(ii) of title 35, United States Code, section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), the Secretary may require, for any new invention developed under this subsection, that—

(A) if an industrial participant is active in a energy storage research center established under this subsection relating to the advancement of energy storage technologies carried out, in whole or in part, with Federal funding, the industrial participant be granted the first option to negotiate with the invention owner, at least in the field of energy storage technologies, nonexclusive licenses, and royalties on terms that are reasonable, as determined by the Secretary;

(B) if 1 or more industry participants are active in a center, during a 2-year period beginning on the date on which an invention is made—

(i) the patent holder shall not negotiate any license or royalty agreement with any entity that is not an industrial participant under this subsection; and

(ii) the patent holder shall negotiate nonexclusive licenses and royalties in good faith with any interested industrial participant under this subsection; and

(C) the new invention be developed under such other terms as the Secretary determines to be necessary to promote the accelerated commercialization of inventions made under this subsection to advance the capability of the United States to successfully compete in global energy storage markets.

(i) ENERGY STORAGE SYSTEMS DEMONSTRATIONS.—

(1) IN GENERAL.—The Secretary shall carry out a program of new demonstrations of advanced energy storage systems.

(2) SCOPE.—The demonstrations shall—

(A) be regionally diversified; and

(B) expand on the existing technology demonstration program of the Department.

(3) STAKEHOLDERS.—In carrying out the demonstrations, the Secretary shall, to the maximum extent practicable, include the participation of a range of stakeholders, including—

(A) rural electric cooperatives;

(B) investor owned utilities;

(C) municipally owned electric utilities;

(D) energy storage systems manufacturers;

(E) electric drive vehicle manufacturers;

(F) the renewable energy production industry;

(G) State or local energy offices;

(H) the fuel cell industry; and

(I) institutions of higher education.

(4) OBJECTIVES.—Each of the demonstrations shall include 1 or more of the following:

(A) Energy storage to improve the feasibility of microgrids or islanding, or transmission and distribution capability, to improve reliability in rural areas.

(B) Integration of an energy storage system with a self-healing grid.

(C) Use of energy storage to improve security to emergency response infrastructure and ensure availability of emergency backup power for consumers.

(D) Integration with a renewable energy production source, at the source or away from the source.

(E) Use of energy storage to provide ancillary services, such as spinning reserve services, for grid management.

(F) Advancement of power conversion systems to make the systems smarter, more efficient, able to communicate with other inverters, and able to control voltage.

(G) Use of energy storage to optimize transmission and distribution operation and power quality, which could address overloaded lines and maintenance of transformers and substations.

(H) Use of advanced energy storage for peak load management of homes, businesses, and the grid.

(I) Use of energy storage devices to store energy during nonpeak generation periods to make better use of existing grid assets.

(j) VEHICLE ENERGY STORAGE DEMONSTRATION.—

(1) IN GENERAL.—The Secretary shall carry out a program of electric drive vehicle energy storage technology demonstrations.

(2) CONSORTIA.—The technology demonstrations shall be conducted through consortia, which may include—

(A) energy storage systems manufacturers and suppliers of the manufacturers;

(B) electric drive vehicle manufacturers;

(C) rural electric cooperatives;

(D) investor owned utilities;

(E) municipal and rural electric utilities;

(F) State and local governments;

(G) metropolitan transportation authorities; and

(H) institutions of higher education.

(3) OBJECTIVES.—The program shall demonstrate 1 or more of the following:

(A) Novel, high capacity, high efficiency energy storage, charging, and control systems, along with the collection of data on performance characteristics, such as battery life, energy storage capacity, and power delivery capacity.

(B) Advanced onboard energy management systems and highly efficient battery cooling systems.

(C) Integration of those systems on a prototype vehicular platform, including with drivetrain systems for passenger, commercial, and nonroad electric drive vehicles.

(D) New technologies and processes that reduce manufacturing costs.

(E) Integration of advanced vehicle technologies with electricity distribution system and smart metering technology.

(F) Control systems that minimize emissions profiles in cases in which clean diesel engines are part of a plug-in hybrid drive system.

(k) SECONDARY APPLICATIONS AND DISPOSAL OF ELECTRIC DRIVE VEHICLE BATTERIES.—The Secretary shall carry out a program of research, development, and demonstration of—

(1) secondary applications of energy storage devices following service in electric drive vehicles; and

(2) technologies and processes for final recycling and disposal of the devices.

(l) COST SHARING.—The Secretary shall carry out the programs established under this section in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(m) MERIT REVIEW OF PROPOSALS.—The Secretary shall carry out the programs established under subsections (i), (j), and (k) in accordance with section 989 of the Energy Policy Act of 2005 (42 U.S.C. 16353).

(n) COORDINATION AND NONDUPLICATION.—To the maximum extent practicable, the Secretary shall coordinate activities under this section with other programs and laboratories of the Department and other Federal research programs.

(o) REVIEW BY NATIONAL ACADEMY OF SCIENCES.—On the business day that is 5 years after the date of enactment of this Act, the Secretary shall offer to enter into an arrangement with the National Academy of Sciences to assess the performance of the Department in carrying out this section.

(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out—

(1) the basic research program under subsection (f) \$50,000,000 for each of fiscal years 2009 through 2018;

(2) the applied research program under subsection (g) \$80,000,000 for each of fiscal years 2009 through 2018; and

(3) the energy storage research center program under subsection (h) \$100,000,000 for each of fiscal years 2009 through 2018;

(4) the energy storage systems demonstration program under subsection (i) \$30,000,000 for each of fiscal years 2009 through 2018;

(5) the vehicle energy storage demonstration program under subsection (j) \$30,000,000 for each of fiscal years 2009 through 2018; and

Deadline.
Contracts.

(6) the secondary applications and disposal of electric drive vehicle batteries program under subsection (k) \$5,000,000 for each of fiscal years 2009 through 2018.

Subtitle E—Miscellaneous Provisions

42 USC 17241.

SEC. 651. LIGHTWEIGHT MATERIALS RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Energy shall establish a program to determine ways in which the weight of motor vehicles could be reduced to improve fuel efficiency without compromising passenger safety by conducting research, development, and demonstration relating to—

(1) the development of new materials (including cast metal composite materials formed by autocombustion synthesis) and material processes that yield a higher strength-to-weight ratio or other properties that reduce vehicle weight; and

(2) reducing the cost of—

(A) lightweight materials (including high-strength steel alloys, aluminum, magnesium, metal composites, and carbon fiber reinforced polymer composites) with the properties required for construction of lighter-weight vehicles; and

(B) materials processing, automated manufacturing, joining, and recycling lightweight materials for high-volume applications.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$80,000,000 for the period of fiscal years 2008 through 2012.

42 USC 17242.

SEC. 652. COMMERCIAL INSULATION DEMONSTRATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADVANCED INSULATION.—The term “advanced insulation” means insulation that has an R value of not less than R35 per inch.

(2) COVERED REFRIGERATION UNIT.—The term “covered refrigeration unit” means any—

(A) commercial refrigerated truck;

(B) commercial refrigerated trailer; or

(C) commercial refrigerator, freezer, or refrigerator-freezer described in section 342(c) of the Energy Policy and Conservation Act (42 U.S.C. 6313(c)).

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes an evaluation of—

(1) the state of technological advancement of advanced insulation; and

(2) the projected amount of cost savings that would be generated by implementing advanced insulation into covered refrigeration units.

(c) DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT.—If the Secretary determines in the report described in subsection (b) that the implementation of advanced insulation into covered refrigeration units would generate an economically justifiable amount of cost savings, the

Secretary, in cooperation with manufacturers of covered refrigeration units, shall establish a demonstration program under which the Secretary shall demonstrate the cost-effectiveness of advanced insulation.

(2) DISCLOSURE.—The Secretary may, for a period of up to 5 years after an award is granted under the demonstration program, exempt from mandatory disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act) information that the Secretary determines would be a privileged or confidential trade secret or commercial or financial information under subsection (b)(4) of such section if the information had been obtained from a non-Government party.

(3) COST-SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to any project carried out under this subsection.

Applicability.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$8,000,000 for the period of fiscal years 2009 through 2014.

SEC. 653. TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.

Section 402(b)(1)(B)(ii) of the Energy Policy Act of 2005 (42 U.S.C. 15962(b)(1)(B)(ii)) is amended by striking subclause (I) and inserting the following:

“(I)(aa) to remove at least 99 percent of sulfur dioxide; or

“(bb) to emit not more than 0.04 pound SO₂ per million Btu, based on a 30-day average;”.

SEC. 654. H-PRIZE.

Section 1008 of the Energy Policy Act of 2005 (42 U.S.C. 16396) is amended by adding at the end the following new subsection:

“(f) H-PRIZE.—

“(1) PRIZE AUTHORITY.—

“(A) IN GENERAL.—As part of the program under this section, the Secretary shall carry out a program to competitively award cash prizes in conformity with this subsection to advance the research, development, demonstration, and commercial application of hydrogen energy technologies.

“(B) ADVERTISING AND SOLICITATION OF COMPETITORS.—

“(i) ADVERTISING.—The Secretary shall widely advertise prize competitions under this subsection to encourage broad participation, including by individuals, universities (including historically Black colleges and universities and other minority serving institutions), and large and small businesses (including businesses owned or controlled by socially and economically disadvantaged persons).

“(ii) ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.—The Secretary shall announce each prize competition under this subsection by publishing a notice in the Federal Register. This notice shall include essential elements of the competition such as the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize.

Contracts.

“(C) ADMINISTERING THE COMPETITIONS.—The Secretary shall enter into an agreement with a private, non-profit entity to administer the prize competitions under this subsection, subject to the provisions of this subsection (in this subsection referred to as the ‘administering entity’). The duties of the administering entity under the agreement shall include—

“(i) advertising prize competitions under this subsection and their results;

“(ii) raising funds from private entities and individuals to pay for administrative costs and to contribute to cash prizes, including funds provided in exchange for the right to name a prize awarded under this subsection;

“(iii) developing, in consultation with and subject to the final approval of the Secretary, the criteria for selecting winners in prize competitions under this subsection, based on goals provided by the Secretary;

“(iv) determining, in consultation with the Secretary, the appropriate amount and funding sources for each prize to be awarded under this subsection, subject to the final approval of the Secretary with respect to Federal funding;

“(v) providing advice and consultation to the Secretary on the selection of judges in accordance with paragraph (2)(D), using criteria developed in consultation with and subject to the final approval of the Secretary; and

“(vi) protecting against the administering entity’s unauthorized use or disclosure of a registered participant’s trade secrets and confidential business information. Any information properly identified as trade secrets or confidential business information that is submitted by a participant as part of a competitive program under this subsection may be withheld from public disclosure.

“(D) FUNDING SOURCES.—Prizes under this subsection shall consist of Federal appropriated funds and any funds provided by the administering entity (including funds raised pursuant to subparagraph (C)(ii)) for such cash prize programs. The Secretary may accept funds from other Federal agencies for such cash prizes and, notwithstanding section 3302(b) of title 31, United States Code, may use such funds for the cash prize program under this subsection. Other than publication of the names of prize sponsors, the Secretary may not give any special consideration to any private sector entity or individual in return for a donation to the Secretary or administering entity.

“(E) ANNOUNCEMENT OF PRIZES.—The Secretary may not issue a notice required by subparagraph (B)(ii) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by the administering entity. The Secretary may increase the amount of a prize after an initial announcement is made under subparagraph (B)(ii) if—

“(i) notice of the increase is provided in the same manner as the initial notice of the prize; and

“(ii) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by the administering entity.

“(F) SUNSET.—The authority to announce prize competitions under this subsection shall terminate on September 30, 2018.

“(2) PRIZE CATEGORIES.—

“(A) CATEGORIES.—The Secretary shall establish prizes under this subsection for—

“(i) advancements in technologies, components, or systems related to—

“(I) hydrogen production;

“(II) hydrogen storage;

“(III) hydrogen distribution; and

“(IV) hydrogen utilization;

“(ii) prototypes of hydrogen-powered vehicles or other hydrogen-based products that best meet or exceed objective performance criteria, such as completion of a race over a certain distance or terrain or generation of energy at certain levels of efficiency; and

“(iii) transformational changes in technologies for the distribution or production of hydrogen that meet or exceed far-reaching objective criteria, which shall include minimal carbon emissions and which may include cost criteria designed to facilitate the eventual market success of a winning technology.

“(B) AWARDS.—

“(i) ADVANCEMENTS.—To the extent permitted under paragraph (1)(E), the prizes authorized under subparagraph (A)(i) shall be awarded biennially to the most significant advance made in each of the four subcategories described in subclauses (I) through (IV) of subparagraph (A)(i) since the submission deadline of the previous prize competition in the same category under subparagraph (A)(i) or the date of enactment of this subsection, whichever is later, unless no such advance is significant enough to merit an award. No one such prize may exceed \$1,000,000. If less than \$4,000,000 is available for a prize competition under subparagraph (A)(i), the Secretary may omit one or more subcategories, reduce the amount of the prizes, or not hold a prize competition.

“(ii) PROTOTYPES.—To the extent permitted under paragraph (1)(E), prizes authorized under subparagraph (A)(ii) shall be awarded biennially in alternate years from the prizes authorized under subparagraph (A)(i). The Secretary is authorized to award up to one prize in this category in each 2-year period. No such prize may exceed \$4,000,000. If no registered participants meet the objective performance criteria established pursuant to subparagraph (C) for a competition under this clause, the Secretary shall not award a prize.

“(iii) TRANSFORMATIONAL TECHNOLOGIES.—To the extent permitted under paragraph (1)(E), the Secretary shall announce one prize competition authorized under

subparagraph (A)(iii) as soon after the date of enactment of this subsection as is practicable. A prize offered under this clause shall be not less than \$10,000,000, paid to the winner in a lump sum, and an additional amount paid to the winner as a match for each dollar of private funding raised by the winner for the hydrogen technology beginning on the date the winner was named. The match shall be provided for 3 years after the date the prize winner is named or until the full amount of the prize has been paid out, whichever occurs first. A prize winner may elect to have the match amount paid to another entity that is continuing the development of the winning technology. The Secretary shall announce the rules for receiving the match in the notice required by paragraph (1)(B)(ii). The Secretary shall award a prize under this clause only when a registered participant has met the objective criteria established for the prize pursuant to subparagraph (C) and announced pursuant to paragraph (1)(B)(ii). Not more than \$10,000,000 in Federal funds may be used for the prize award under this clause. The administering entity shall seek to raise \$40,000,000 toward the matching award under this clause.

“(C) CRITERIA.—In establishing the criteria required by this subsection, the Secretary—

“(i) shall consult with the Department’s Hydrogen Technical and Fuel Cell Advisory Committee;

“(ii) shall consult with other Federal agencies, including the National Science Foundation; and

“(iii) may consult with other experts such as private organizations, including professional societies, industry associations, and the National Academy of Sciences and the National Academy of Engineering.

“(D) JUDGES.—For each prize competition under this subsection, the Secretary in consultation with the administering entity shall assemble a panel of qualified judges to select the winner or winners on the basis of the criteria established under subparagraph (C). Judges for each prize competition shall include individuals from outside the Department, including from the private sector. A judge, spouse, minor children, and members of the judge’s household may not—

“(i) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in the prize competition for which he or she will serve as a judge; or

“(ii) have a familial or financial relationship with an individual who is a registered participant in the prize competition for which he or she will serve as a judge.

“(3) ELIGIBILITY.—To be eligible to win a prize under this subsection, an individual or entity—

“(A) shall have complied with all the requirements in accordance with the Federal Register notice required under paragraph (1)(B)(ii);

“(B) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen of, or an alien lawfully admitted for permanent residence in, the United States; and

“(C) shall not be a Federal entity, a Federal employee acting within the scope of his employment, or an employee of a national laboratory acting within the scope of his employment.

“(4) INTELLECTUAL PROPERTY.—The Federal Government shall not, by virtue of offering or awarding a prize under this subsection, be entitled to any intellectual property rights derived as a consequence of, or direct relation to, the participation by a registered participant in a competition authorized by this subsection. This paragraph shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this subsection.

“(5) LIABILITY.—

“(A) WAIVER OF LIABILITY.—The Secretary may require registered participants to waive claims against the Federal Government and the administering entity (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the registered participants’ participation in a competition under this subsection. The Secretary shall give notice of any waiver required under this subparagraph in the notice required by paragraph (1)(B)(ii). The Secretary may not require a registered participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the administering entity of the registered participant’s trade secrets or confidential business information.

“(B) LIABILITY INSURANCE.—

“(i) REQUIREMENTS.—Registered participants in a prize competition under this subsection shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

“(I) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with participation in a competition under this subsection; and

“(II) the Federal Government for damage or loss to Government property resulting from such an activity.

“(ii) FEDERAL GOVERNMENT INSURED.—The Federal Government shall be named as an additional insured under a registered participant’s insurance policy required under clause (i)(I), and registered participants shall be required to agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities under this subsection.

“(6) REPORT TO CONGRESS.—Not later than 60 days after the awarding of the first prize under this subsection, and

annually thereafter, the Secretary shall transmit to the Congress a report that—

“(A) identifies each award recipient;

“(B) describes the technologies developed by each award recipient; and

“(C) specifies actions being taken toward commercial application of all technologies with respect to which a prize has been awarded under this subsection.

“(7) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—

“(i) AWARDS.—There are authorized to be appropriated to the Secretary for the period encompassing fiscal years 2008 through 2017 for carrying out this subsection—

“(I) \$20,000,000 for awards described in paragraph (2)(A)(i);

“(II) \$20,000,000 for awards described in paragraph (2)(A)(ii); and

“(III) \$10,000,000 for the award described in paragraph (2)(A)(iii).

“(ii) ADMINISTRATION.—In addition to the amounts authorized in clause (i), there are authorized to be appropriated to the Secretary for each of fiscal years 2008 and 2009 \$2,000,000 for the administrative costs of carrying out this subsection.

“(B) CARRYOVER OF FUNDS.—Funds appropriated for prize awards under this subsection shall remain available until expended, and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 10 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this subsection permits obligation or payment of funds in violation of section 1341 of title 31 of the United States Code (commonly referred to as the Anti-Deficiency Act).

“(8) NONSUBSTITUTION.—The programs created under this subsection shall not be considered a substitute for Federal research and development programs.”.

42 USC 17243.

SEC. 655. BRIGHT TOMORROW LIGHTING PRIZES.

Deadline.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, as part of the program carried out under section 1008 of the Energy Policy Act of 2005 (42 U.S.C. 16396), the Secretary shall establish and award Bright Tomorrow Lighting Prizes for solid state lighting in accordance with this section.

(b) PRIZE SPECIFICATIONS.—

(1) 60-WATT INCANDESCENT REPLACEMENT LAMP PRIZE.—The Secretary shall award a 60-Watt Incandescent Replacement Lamp Prize to an entrant that produces a solid-state-light package simultaneously capable of—

(A) producing a luminous flux greater than 900 lumens;

(B) consuming less than or equal to 10 watts;

(C) having an efficiency greater than 90 lumens per watt;

(D) having a color rendering index greater than 90;

(E) having a correlated color temperature of not less than 2,750, and not more than 3,000, degrees Kelvin;

(F) having 70 percent of the lumen value under subparagraph (A) exceeding 25,000 hours under typical conditions expected in residential use;

(G) having a light distribution pattern similar to a soft 60-watt incandescent A19 bulb;

(H) having a size and shape that fits within the maximum dimensions of an A19 bulb in accordance with American National Standards Institute standard C78.20-2003, figure C78.20-211;

(I) using a single contact medium screw socket; and

(J) mass production for a competitive sales commercial market satisfied by producing commercially accepted quality control lots of such units equal to or exceeding the criteria described in subparagraphs (A) through (I).

(2) PAR TYPE 38 HALOGEN REPLACEMENT LAMP PRIZE.—

The Secretary shall award a Parabolic Aluminized Reflector Type 38 Halogen Replacement Lamp Prize (referred to in this section as the “PAR Type 38 Halogen Replacement Lamp Prize”) to an entrant that produces a solid-state-light package simultaneously capable of—

(A) producing a luminous flux greater than or equal to 1,350 lumens;

(B) consuming less than or equal to 11 watts;

(C) having an efficiency greater than 123 lumens per watt;

(D) having a color rendering index greater than or equal to 90;

(E) having a correlated color coordinate temperature of not less than 2,750, and not more than 3,000, degrees Kelvin;

(F) having 70 percent of the lumen value under subparagraph (A) exceeding 25,000 hours under typical conditions expected in residential use;

(G) having a light distribution pattern similar to a PAR 38 halogen lamp;

(H) having a size and shape that fits within the maximum dimensions of a PAR 38 halogen lamp in accordance with American National Standards Institute standard C78-21-2003, figure C78.21-238;

(I) using a single contact medium screw socket; and

(J) mass production for a competitive sales commercial market satisfied by producing commercially accepted quality control lots of such units equal to or exceeding the criteria described in subparagraphs (A) through (I).

(3) TWENTY-FIRST CENTURY LAMP PRIZE.—The Secretary shall award a Twenty-First Century Lamp Prize to an entrant that produces a solid-state-light capable of—

(A) producing a light output greater than 1,200 lumens;

(B) having an efficiency greater than 150 lumens per watt;

(C) having a color rendering index greater than 90;

(D) having a color coordinate temperature between 2,800 and 3,000 degrees Kelvin; and

(E) having a lifetime exceeding 25,000 hours.

(c) PRIVATE FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), and notwithstanding section 3302 of title 31, United States Code, the Secretary may accept, retain, and use funds contributed by any person, government entity, or organization for purposes of carrying out this subsection—

(A) without further appropriation; and

(B) without fiscal year limitation.

(2) PRIZE COMPETITION.—A private source of funding may not participate in the competition for prizes awarded under this section.

Establishment.

(d) TECHNICAL REVIEW.—The Secretary shall establish a technical review committee composed of non-Federal officers to review entrant data submitted under this section to determine whether the data meets the prize specifications described in subsection (b).

(e) THIRD PARTY ADMINISTRATION.—The Secretary may competitively select a third party to administer awards under this section.

(f) ELIGIBILITY FOR PRIZES.—To be eligible to be awarded a prize under this section—

(1) in the case of a private entity, the entity shall be incorporated in and maintain a primary place of business in the United States; and

(2) in the case of an individual (whether participating as a single individual or in a group), the individual shall be a citizen or lawful permanent resident of the United States.

(g) AWARD AMOUNTS.—Subject to the availability of funds to carry out this section, the amount of—

(1) the 60-Watt Incandescent Replacement Lamp Prize described in subsection (b)(1) shall be \$10,000,000;

(2) the PAR Type 38 Halogen Replacement Lamp Prize described in subsection (b)(2) shall be \$5,000,000; and

(3) the Twenty-First Century Lamp Prize described in subsection (b)(3) shall be \$5,000,000.

Deadline.

(h) FEDERAL PROCUREMENT OF SOLID-STATE-LIGHTS.—

(1) 60-WATT INCANDESCENT REPLACEMENT.—Subject to paragraph (3), as soon as practicable after the successful award of the 60-Watt Incandescent Replacement Lamp Prize under subsection (b)(1), the Secretary (in consultation with the Administrator of General Services) shall develop governmentwide Federal purchase guidelines with a goal of replacing the use of 60-watt incandescent lamps in Federal Government buildings with a solid-state-light package described in subsection (b)(1) by not later than the date that is 5 years after the date the award is made.

(2) PAR 38 HALOGEN REPLACEMENT LAMP REPLACEMENT.—Subject to paragraph (3), as soon as practicable after the successful award of the PAR Type 38 Halogen Replacement Lamp Prize under subsection (b)(2), the Secretary (in consultation with the Administrator of General Services) shall develop governmentwide Federal purchase guidelines with the goal of replacing the use of PAR 38 halogen lamps in Federal Government buildings with a solid-state-light package described in subsection (b)(2) by not later than the date that is 5 years after the date the award is made.

(3) WAIVERS.—

(A) IN GENERAL.—The Secretary or the Administrator of General Services may waive the application of paragraph (1) or (2) if the Secretary or Administrator determines

that the return on investment from the purchase of a solid-state-light package described in paragraph (1) or (2) of subsection (b), respectively, is cost prohibitive.

(B) REPORT OF WAIVER.—If the Secretary or Administrator waives the application of paragraph (1) or (2), the Secretary or Administrator, respectively, shall submit to Congress an annual report that describes the waiver and provides a detailed justification for the waiver.

(i) REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Administrator of General Services shall submit to the Energy Information Agency a report describing the quantity, type, and cost of each lighting product purchased by the Federal Government.

(j) BRIGHT TOMORROW LIGHTING AWARD FUND.—

(1) ESTABLISHMENT.—There is established in the United States Treasury a Bright Tomorrow Lighting permanent fund without fiscal year limitation to award prizes under paragraphs (1), (2), and (3) of subsection (b).

(2) SOURCES OF FUNDING.—The fund established under paragraph (1) shall accept—

(A) fiscal year appropriations; and

(B) private contributions authorized under subsection

(c).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 656. RENEWABLE ENERGY INNOVATION MANUFACTURING PARTNERSHIP.

42 USC 17244.

(a) ESTABLISHMENT.—The Secretary shall carry out a program, to be known as the Renewable Energy Innovation Manufacturing Partnership Program (referred to in this section as the “Program”), to make assistance awards to eligible entities for use in carrying out research, development, and demonstration relating to the manufacturing of renewable energy technologies.

(b) SOLICITATION.—To carry out the Program, the Secretary shall annually conduct a competitive solicitation for assistance awards for an eligible project described in subsection (e).

(c) PROGRAM PURPOSES.—The purposes of the Program are—

(1) to develop, or aid in the development of, advanced manufacturing processes, materials, and infrastructure;

(2) to increase the domestic production of renewable energy technology and components; and

(3) to better coordinate Federal, State, and private resources to meet regional and national renewable energy goals through advanced manufacturing partnerships.

(d) ELIGIBLE ENTITIES.—An entity shall be eligible to receive an assistance award under the Program to carry out an eligible project described in subsection (e) if the entity is composed of—

(1) 1 or more public or private nonprofit institutions or national laboratories engaged in research, development, demonstration, or technology transfer, that would participate substantially in the project; and

(2) 1 or more private entities engaged in the manufacturing or development of renewable energy system components (including solar energy, wind energy, biomass, geothermal energy, energy storage, or fuel cells).

(e) **ELIGIBLE PROJECTS.**—An eligible entity may use an assistance award provided under this section to carry out a project relating to—

(1) the conduct of studies of market opportunities for component manufacturing of renewable energy systems;

(2) the conduct of multiyear applied research, development, demonstration, and deployment projects for advanced manufacturing processes, materials, and infrastructure for renewable energy systems; and

(3) other similar ventures, as approved by the Secretary, that promote advanced manufacturing of renewable technologies.

(f) **CRITERIA AND GUIDELINES.**—The Secretary shall establish criteria and guidelines for the submission, evaluation, and funding of proposed projects under the Program.

Applicability.

(g) **COST SHARING.**—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to a project carried out under this section.

(h) **DISCLOSURE.**—The Secretary may, for a period of up to 5 years after an award is granted under this section, exempt from mandatory disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act) information that the Secretary determines would be a privileged or confidential trade secret or commercial or financial information under subsection (b)(4) of such section if the information had been obtained from a non-Government party.

(i) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that the Secretary should ensure that small businesses engaged in renewable manufacturing be given priority consideration for the assistance awards provided under this section.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated out of funds already authorized to carry out this section \$25,000,000 for each of fiscal years 2008 through 2013, to remain available until expended.

TITLE VII—CARBON CAPTURE AND SEQUESTRATION

Subtitle A—Carbon Capture and Sequestration Research, Development, and Demonstration

Department of Energy Carbon Capture and Sequestration Research, Development, and Demonstration Act of 2007.
42 USC 17001 note.

SEC. 701. SHORT TITLE.

This subtitle may be cited as the “Department of Energy Carbon Capture and Sequestration Research, Development, and Demonstration Act of 2007”.

SEC. 702. CARBON CAPTURE AND SEQUESTRATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) **AMENDMENT.**—Section 963 of the Energy Policy Act of 2005 (42 U.S.C. 16293) is amended—

(1) in the section heading, by striking “**RESEARCH AND DEVELOPMENT**” and inserting “**AND SEQUESTRATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION**”;

(2) in subsection (a)—

(A) by striking “research and development” and inserting “and sequestration research, development, and demonstration”; and

(B) by striking “capture technologies on combustion-based systems” and inserting “capture and sequestration technologies related to industrial sources of carbon dioxide”;

(3) in subsection (b)—

(A) in paragraph (3), by striking “and” at the end;

(B) in paragraph (4), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(5) to expedite and carry out large-scale testing of carbon sequestration systems in a range of geologic formations that will provide information on the cost and feasibility of deployment of sequestration technologies.”; and

(4) by striking subsection (c) and inserting the following:

“(c) PROGRAMMATIC ACTIVITIES.—

“(1) FUNDAMENTAL SCIENCE AND ENGINEERING RESEARCH AND DEVELOPMENT AND DEMONSTRATION SUPPORTING CARBON CAPTURE AND SEQUESTRATION TECHNOLOGIES AND CARBON USE ACTIVITIES.—

“(A) IN GENERAL.—The Secretary shall carry out fundamental science and engineering research (including laboratory-scale experiments, numeric modeling, and simulations) to develop and document the performance of new approaches to capture and sequester, or use carbon dioxide to lead to an overall reduction of carbon dioxide emissions.

“(B) PROGRAM INTEGRATION.—The Secretary shall ensure that fundamental research carried out under this paragraph is appropriately applied to energy technology development activities, the field testing of carbon sequestration, and carbon use activities, including—

“(i) development of new or advanced technologies for the capture and sequestration of carbon dioxide;

“(ii) development of new or advanced technologies that reduce the cost and increase the efficacy of advanced compression of carbon dioxide required for the sequestration of carbon dioxide;

“(iii) modeling and simulation of geologic sequestration field demonstrations;

“(iv) quantitative assessment of risks relating to specific field sites for testing of sequestration technologies;

“(v) research and development of new and advanced technologies for carbon use, including recycling and reuse of carbon dioxide; and

“(vi) research and development of new and advanced technologies for the separation of oxygen from air.

“(2) FIELD VALIDATION TESTING ACTIVITIES.—

“(A) IN GENERAL.—The Secretary shall promote, to the maximum extent practicable, regional carbon sequestration partnerships to conduct geologic sequestration tests involving carbon dioxide injection and monitoring, mitigation, and verification operations in a variety of candidate geologic settings, including—

- “(i) operating oil and gas fields;
- “(ii) depleted oil and gas fields;
- “(iii) unmineable coal seams;
- “(iv) deep saline formations;
- “(v) deep geologic systems that may be used as engineered reservoirs to extract economical quantities of heat from geothermal resources of low permeability or porosity; and
- “(vi) deep geologic systems containing basalt formations.

“(B) OBJECTIVES.—The objectives of tests conducted under this paragraph shall be—

- “(i) to develop and validate geophysical tools, analysis, and modeling to monitor, predict, and verify carbon dioxide containment;
- “(ii) to validate modeling of geologic formations;
- “(iii) to refine sequestration capacity estimated for particular geologic formations;
- “(iv) to determine the fate of carbon dioxide concurrent with and following injection into geologic formations;
- “(v) to develop and implement best practices for operations relating to, and monitoring of, carbon dioxide injection and sequestration in geologic formations;
- “(vi) to assess and ensure the safety of operations related to geologic sequestration of carbon dioxide;
- “(vii) to allow the Secretary to promulgate policies, procedures, requirements, and guidance to ensure that the objectives of this subparagraph are met in large-scale testing and deployment activities for carbon capture and sequestration that are funded by the Department of Energy; and
- “(viii) to provide information to States, the Environmental Protection Agency, and other appropriate entities to support development of a regulatory framework for commercial-scale sequestration operations that ensure the protection of human health and the environment.

“(3) LARGE-SCALE CARBON DIOXIDE SEQUESTRATION TESTING.—

“(A) IN GENERAL.—The Secretary shall conduct not less than 7 initial large-scale sequestration tests, not including the FutureGen project, for geologic containment of carbon dioxide to collect and validate information on the cost and feasibility of commercial deployment of technologies for geologic containment of carbon dioxide. These 7 tests may include any Regional Partnership projects awarded as of the date of enactment of the Department of Energy Carbon Capture and Sequestration Research, Development, and Demonstration Act of 2007.

“(B) DIVERSITY OF FORMATIONS TO BE STUDIED.—In selecting formations for study under this paragraph, the Secretary shall consider a variety of geologic formations across the United States, and require characterization and modeling of candidate formations, as determined by the Secretary.

“(C) SOURCE OF CARBON DIOXIDE FOR LARGE-SCALE SEQUESTRATION TESTS.—In the process of any acquisition of carbon dioxide for sequestration tests under subparagraph (A), the Secretary shall give preference to sources of carbon dioxide from industrial sources. To the extent feasible, the Secretary shall prefer tests that would facilitate the creation of an integrated system of capture, transportation and sequestration of carbon dioxide. The preference provided for under this subparagraph shall not delay the implementation of the large-scale sequestration tests under this paragraph.

“(D) DEFINITION.—For purposes of this paragraph, the term ‘large-scale’ means the injection of more than 1,000,000 tons of carbon dioxide from industrial sources annually or a scale that demonstrates the ability to inject and sequester several million metric tons of industrial source carbon dioxide for a large number of years.

“(4) PREFERENCE IN PROJECT SELECTION FROM MERITORIOUS PROPOSALS.—In making competitive awards under this subsection, subject to the requirements of section 989, the Secretary shall—

“(A) give preference to proposals from partnerships among industrial, academic, and government entities; and

“(B) require recipients to provide assurances that all laborers and mechanics employed by contractors and subcontractors in the construction, repair, or alteration of new or existing facilities performed in order to carry out a demonstration or commercial application activity authorized under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code, and the Secretary of Labor shall, with respect to the labor standards in this paragraph, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 Fed. Reg. 3176; 5 U.S.C. Appendix) and section 3145 of title 40, United States Code.

“(5) COST SHARING.—Activities under this subsection shall be considered research and development activities that are subject to the cost sharing requirements of section 988(b).

“(6) PROGRAM REVIEW AND REPORT.—During fiscal year 2011, the Secretary shall—

“(A) conduct a review of programmatic activities carried out under this subsection; and

“(B) make recommendations with respect to continuation of the activities.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$240,000,000 for fiscal year 2008;

“(2) \$240,000,000 for fiscal year 2009;

“(3) \$240,000,000 for fiscal year 2010;

“(4) \$240,000,000 for fiscal year 2011; and

“(5) \$240,000,000 for fiscal year 2012.”.

(b) **TABLE OF CONTENTS AMENDMENT.**—The item relating to section 963 in the table of contents for the Energy Policy Act of 2005 is amended to read as follows:

“Sec. 963. Carbon capture and sequestration research, development, and demonstration program.”.

42 USC 17251.

SEC. 703. CARBON CAPTURE.

(a) **PROGRAM ESTABLISHMENT.**—

(1) **IN GENERAL.**—The Secretary shall carry out a program to demonstrate technologies for the large-scale capture of carbon dioxide from industrial sources. In making awards under this program, the Secretary shall select, as appropriate, a diversity of capture technologies to address the need to capture carbon dioxide from a range of industrial sources.

(2) **SCOPE OF AWARD.**—Awards under this section shall be only for the portion of the project that—

(A) carries out the large-scale capture (including purification and compression) of carbon dioxide from industrial sources;

(B) provides for the transportation and injection of carbon dioxide; and

(C) incorporates a comprehensive measurement, monitoring, and validation program.

(3) **PREFERENCES FOR AWARD.**—To ensure reduced carbon dioxide emissions, the Secretary shall take necessary actions to provide for the integration of the program under this paragraph with the large-scale carbon dioxide sequestration tests described in section 963(c)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16293(c)(3)), as added by section 702 of this subtitle. These actions should not delay implementation of these tests. The Secretary shall give priority consideration to projects with the following characteristics:

(A) **CAPACITY.**—Projects that will capture a high percentage of the carbon dioxide in the treated stream and large volumes of carbon dioxide as determined by the Secretary.

(B) **SEQUESTRATION.**—Projects that capture carbon dioxide from industrial sources that are near suitable geological reservoirs and could continue sequestration including—

(i) a field testing validation activity under section 963 of the Energy Policy Act of 2005 (42 U.S.C. 16293), as amended by this Act; or

(ii) other geologic sequestration projects approved by the Secretary.

(4) **REQUIREMENT.**—For projects that generate carbon dioxide that is to be sequestered, the carbon dioxide stream shall be of a sufficient purity level to allow for safe transport and sequestration.

(5) **COST-SHARING.**—The cost-sharing requirements of section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) for research and development projects shall apply to this section.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to carry out this section \$200,000,000 per year for fiscal years 2009 through 2013.

Applicability.

SEC. 704. REVIEW OF LARGE-SCALE PROGRAMS.

42 USC 17252.

The Secretary shall enter into an arrangement with the National Academy of Sciences for an independent review and oversight, beginning in 2011, of the programs under section 963(c)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16293(c)(3)), as added by section 702 of this subtitle, and under section 703 of this subtitle, to ensure that the benefits of such programs are maximized. Not later than January 1, 2012, the Secretary shall transmit to the Congress a report on the results of such review and oversight.

Contracts.

Deadline.
Reports.**SEC. 705. GEOLOGIC SEQUESTRATION TRAINING AND RESEARCH.**

42 USC 17253.

(a) STUDY.—

(1) **IN GENERAL.**—The Secretary shall enter into an arrangement with the National Academy of Sciences to undertake a study that—

Contracts.

(A) defines an interdisciplinary program in geology, engineering, hydrology, environmental science, and related disciplines that will support the Nation's capability to capture and sequester carbon dioxide from anthropogenic sources;

(B) addresses undergraduate and graduate education, especially to help develop graduate level programs of research and instruction that lead to advanced degrees with emphasis on geologic sequestration science;

(C) develops guidelines for proposals from colleges and universities with substantial capabilities in the required disciplines that seek to implement geologic sequestration science programs that advance the Nation's capacity to address carbon management through geologic sequestration science; and

(D) outlines a budget and recommendations for how much funding will be necessary to establish and carry out the grant program under subsection (b).

(2) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Congress a copy of the results of the study provided by the National Academy of Sciences under paragraph (1).

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for carrying out this subsection \$1,000,000 for fiscal year 2008.

(b) GRANT PROGRAM.—

(1) **ESTABLISHMENT.**—The Secretary shall establish a competitive grant program through which colleges and universities may apply for and receive 4-year grants for—

(A) salary and startup costs for newly designated faculty positions in an integrated geologic carbon sequestration science program; and

(B) internships for graduate students in geologic sequestration science.

(2) **RENEWAL.**—Grants under this subsection shall be renewable for up to 2 additional 3-year terms, based on performance criteria, established by the National Academy of Sciences study conducted under subsection (a), that include the number of graduates of such programs.

(3) **INTERFACE WITH REGIONAL GEOLOGIC CARBON SEQUESTRATION PARTNERSHIPS.**—To the greatest extent possible, geologic carbon sequestration science programs supported under

this subsection shall interface with the research of the Regional Carbon Sequestration Partnerships operated by the Department to provide internships and practical training in carbon capture and geologic sequestration.

(4) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for carrying out this subsection such sums as may be necessary.

42 USC 17254.

SEC. 706. RELATION TO SAFE DRINKING WATER ACT.

The injection and geologic sequestration of carbon dioxide pursuant to this subtitle and the amendments made by this subtitle shall be subject to the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.), including the provisions of part C of such Act (42 U.S.C. 300h et seq.; relating to protection of underground sources of drinking water). Nothing in this subtitle and the amendments made by this subtitle imposes or authorizes the promulgation of any requirement that is inconsistent or in conflict with the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or regulations thereunder.

42 USC 17255.

SEC. 707. SAFETY RESEARCH.

(a) **PROGRAM.**—The Administrator of the Environmental Protection Agency shall conduct a research program to address public health, safety, and environmental impacts that may be associated with capture, injection, and sequestration of greenhouse gases in geologic reservoirs.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for carrying out this section \$5,000,000 for each fiscal year.

42 USC 17256.

SEC. 708. UNIVERSITY BASED RESEARCH AND DEVELOPMENT GRANT PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary, in consultation with other appropriate agencies, shall establish a university based research and development program to study carbon capture and sequestration using the various types of coal.

(b) **RURAL AND AGRICULTURAL INSTITUTIONS.**—The Secretary shall give special consideration to rural or agricultural based institutions in areas that have regional sources of coal and that offer interdisciplinary programs in the area of environmental science to study carbon capture and sequestration.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are to be authorized to be appropriated \$10,000,000 to carry out this section.

Subtitle B—Carbon Capture and Sequestration Assessment and Framework

42 USC 17271.

SEC. 711. CARBON DIOXIDE SEQUESTRATION CAPACITY ASSESSMENT.

(a) **DEFINITIONS.**—In this section—

(1) **ASSESSMENT.**—The term “assessment” means the national assessment of onshore capacity for carbon dioxide completed under subsection (f).

(2) **CAPACITY.**—The term “capacity” means the portion of a sequestration formation that can retain carbon dioxide in accordance with the requirements (including physical,

geological, and economic requirements) established under the methodology developed under subsection (b).

(3) ENGINEERED HAZARD.—The term “engineered hazard” includes the location and completion history of any well that could affect potential sequestration.

(4) RISK.—The term “risk” includes any risk posed by geomechanical, geochemical, hydrogeological, structural, and engineered hazards.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(6) SEQUESTRATION FORMATION.—The term “sequestration formation” means a deep saline formation, unmineable coal seam, or oil or gas reservoir that is capable of accommodating a volume of industrial carbon dioxide.

(b) METHODOLOGY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a methodology for conducting an assessment under subsection (f), taking into consideration—

Deadline.

(1) the geographical extent of all potential sequestration formations in all States;

(2) the capacity of the potential sequestration formations;

(3) the injectivity of the potential sequestration formations;

(4) an estimate of potential volumes of oil and gas recoverable by injection and sequestration of industrial carbon dioxide in potential sequestration formations;

(5) the risk associated with the potential sequestration formations; and

(6) the work done to develop the Carbon Sequestration Atlas of the United States and Canada that was completed by the Department.

(c) COORDINATION.—

(1) FEDERAL COORDINATION.—

(A) CONSULTATION.—The Secretary shall consult with the Secretary of Energy and the Administrator of the Environmental Protection Agency on issues of data sharing, format, development of the methodology, and content of the assessment required under this section to ensure the maximum usefulness and success of the assessment.

(B) COOPERATION.—The Secretary of Energy and the Administrator shall cooperate with the Secretary to ensure, to the maximum extent practicable, the usefulness and success of the assessment.

(2) STATE COORDINATION.—The Secretary shall consult with State geological surveys and other relevant entities to ensure, to the maximum extent practicable, the usefulness and success of the assessment.

(d) EXTERNAL REVIEW AND PUBLICATION.—On completion of the methodology under subsection (b), the Secretary shall—

(1) publish the methodology and solicit comments from the public and the heads of affected Federal and State agencies;

(2) establish a panel of individuals with expertise in the matters described in paragraphs (1) through (5) of subsection (b) composed, as appropriate, of representatives of Federal agencies, institutions of higher education, nongovernmental organizations, State organizations, industry, and international

Establishment.

- geoscience organizations to review the methodology and comments received under paragraph (1); and
- Federal Register, publication. (3) on completion of the review under paragraph (2), publish in the Federal Register the revised final methodology.
- (e) PERIODIC UPDATES.—The methodology developed under this section shall be updated periodically (including at least once every 5 years) to incorporate new data as the data becomes available.
- (f) NATIONAL ASSESSMENT.—
- Deadline. (1) IN GENERAL.—Not later than 2 years after the date of publication of the methodology under subsection (d)(1), the Secretary, in consultation with the Secretary of Energy and State geological surveys, shall complete a national assessment of capacity for carbon dioxide in accordance with the methodology.
- (2) GEOLOGICAL VERIFICATION.—As part of the assessment under this subsection, the Secretary shall carry out a drilling program to supplement the geological data relevant to determining sequestration capacity of carbon dioxide in geological sequestration formations, including—
- (A) well log data;
 - (B) core data; and
 - (C) fluid sample data.
- (3) PARTNERSHIP WITH OTHER DRILLING PROGRAMS.—As part of the drilling program under paragraph (2), the Secretary shall enter, as appropriate, into partnerships with other entities to collect and integrate data from other drilling programs relevant to the sequestration of carbon dioxide in geological formations.
- (4) INCORPORATION INTO NATCARB.—
- (A) IN GENERAL.—On completion of the assessment, the Secretary of Energy and the Secretary of the Interior shall incorporate the results of the assessment using—
- (i) the NatCarb database, to the maximum extent practicable; or
 - (ii) a new database developed by the Secretary of Energy, as the Secretary of Energy determines to be necessary.
- (B) RANKING.—The database shall include the data necessary to rank potential sequestration sites for capacity and risk, across the United States, within each State, by formation, and within each basin.
- (5) REPORT.—Not later than 180 days after the date on which the assessment is completed, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report describing the findings under the assessment.
- (6) PERIODIC UPDATES.—The national assessment developed under this section shall be updated periodically (including at least once every 5 years) to support public and private sector decisionmaking.
- (g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$30,000,000 for the period of fiscal years 2008 through 2012.

SEC. 712. ASSESSMENT OF CARBON SEQUESTRATION AND METHANE AND NITROUS OXIDE EMISSIONS FROM ECOSYSTEMS. 42 USC 17272.

(a) **DEFINITIONS.**—In this section:

(1) **ADAPTATION STRATEGY.**—The term “adaptation strategy” means a land use and management strategy that can be used—

(A) to increase the sequestration capabilities of covered greenhouse gases of any ecosystem; or

(B) to reduce the emissions of covered greenhouse gases from any ecosystem.

(2) **ASSESSMENT.**—The term “assessment” means the national assessment authorized under subsection (b).

(3) **COVERED GREENHOUSE GAS.**—The term “covered greenhouse gas” means carbon dioxide, nitrous oxide, and methane gas.

(4) **ECOSYSTEM.**—The term “ecosystem” means any terrestrial, freshwater aquatic, or coastal ecosystem, including an estuary.

(5) **NATIVE PLANT SPECIES.**—The term “native plant species” means any noninvasive, naturally occurring plant species within an ecosystem.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(b) **AUTHORIZATION OF ASSESSMENT.**—Not later than 2 years after the date on which the final methodology is published under subsection (f)(3)(D), the Secretary shall complete a national assessment of—

Deadline.

(1) the quantity of carbon stored in and released from ecosystems, including from man-caused and natural fires; and

(2) the annual flux of covered greenhouse gases in and out of ecosystems.

(c) **COMPONENTS.**—In conducting the assessment under subsection (b), the Secretary shall—

(1) determine the processes that control the flux of covered greenhouse gases in and out of each ecosystem;

(2) estimate the potential for increasing carbon sequestration in natural and managed ecosystems through management activities or restoration activities in each ecosystem;

(3) develop near-term and long-term adaptation strategies or mitigation strategies that can be employed—

(A) to enhance the sequestration of carbon in each ecosystem;

(B) to reduce emissions of covered greenhouse gases from ecosystems; and

(C) to adapt to climate change; and

(4) estimate the annual carbon sequestration capacity of ecosystems under a range of policies in support of management activities to optimize sequestration.

(d) **USE OF NATIVE PLANT SPECIES.**—In developing restoration activities under subsection (c)(2) and management strategies and adaptation strategies under subsection (c)(3), the Secretary shall emphasize the use of native plant species (including mixtures of many native plant species) for sequestering covered greenhouse gas in each ecosystem.

(e) **CONSULTATION.**—

(1) **IN GENERAL.**—In conducting the assessment under subsection (b) and developing the methodology under subsection (f), the Secretary shall consult with—

- (A) the Secretary of Energy;
 - (B) the Secretary of Agriculture;
 - (C) the Administrator of the Environmental Protection Agency;
 - (D) the Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere; and
 - (E) the heads of other relevant agencies.
 - (2) OCEAN AND COASTAL ECOSYSTEMS.—In carrying out this section with respect to ocean and coastal ecosystems (including estuaries), the Secretary shall work jointly with the Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere.
 - (f) METHODOLOGY.—
 - (1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a methodology for conducting the assessment.
 - (2) REQUIREMENTS.—The methodology developed under paragraph (1)—
 - (A) shall—
 - (i) determine the method for measuring, monitoring, and quantifying covered greenhouse gas emissions and reductions;
 - (ii) estimate the total capacity of each ecosystem to sequester carbon; and
 - (iii) estimate the ability of each ecosystem to reduce emissions of covered greenhouse gases through management practices; and
 - (B) may employ economic and other systems models, analyses, and estimates, to be developed in consultation with each of the individuals described in subsection (e).
 - (3) EXTERNAL REVIEW AND PUBLICATION.—On completion of a proposed methodology, the Secretary shall—
 - (A) publish the proposed methodology;
 - (B) at least 60 days before the date on which the final methodology is published, solicit comments from—
 - (i) the public; and
 - (ii) heads of affected Federal and State agencies;
 - (C) establish a panel to review the proposed methodology published under subparagraph (A) and any comments received under subparagraph (B), to be composed of members—
 - (i) with expertise in the matters described in subsections (c) and (d); and
 - (ii) that are, as appropriate, representatives of Federal agencies, institutions of higher education, nongovernmental organizations, State organizations, industry, and international organizations; and
 - (D) on completion of the review under subparagraph (C), publish in the Federal Register the revised final methodology.
 - (g) ESTIMATE; REVIEW.—The Secretary shall—
 - (1) based on the assessment, prescribe the data, information, and analysis needed to establish a scientifically sound estimate of the carbon sequestration capacity of relevant ecosystems; and
 - (2) not later than 180 days after the date on which the assessment is completed, submit to the heads of applicable
- Deadline.
- Deadline.
- Establishment.
- Federal Register, publication.
- Deadline. Reports.

Federal agencies and the appropriate committees of Congress a report that describes the results of the assessment.

(h) DATA AND REPORT AVAILABILITY.—On completion of the assessment, the Secretary shall incorporate the results of the assessment into a web-accessible database for public use.

Public
information.
Website.

(i) AUTHORIZATION.—There is authorized to be appropriated to carry out this section \$20,000,000 for the period of fiscal years 2008 through 2012.

SEC. 713. CARBON DIOXIDE SEQUESTRATION INVENTORY.

Section 354 of the Energy Policy Act of 2005 (42 U.S.C. 15910) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

“(d) RECORDS AND INVENTORY.—The Secretary of the Interior, acting through the Bureau of Land Management, shall maintain records on, and an inventory of, the quantity of carbon dioxide stored within Federal mineral leaseholds.”.

SEC. 714. FRAMEWORK FOR GEOLOGICAL CARBON SEQUESTRATION ON PUBLIC LAND.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on a recommended framework for managing geological carbon sequestration activities on public land.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) Recommended criteria for identifying candidate geological sequestration sites in each of the following types of geological settings:

(A) Operating oil and gas fields.

(B) Depleted oil and gas fields.

(C) Unmineable coal seams.

(D) Deep saline formations.

(E) Deep geological systems that may be used as engineered reservoirs to extract economical quantities of heat from geothermal resources of low permeability or porosity.

(F) Deep geological systems containing basalt formations.

(G) Coalbeds being used for methane recovery.

(2) A proposed regulatory framework for the leasing of public land or an interest in public land for the long-term geological sequestration of carbon dioxide, which includes an assessment of options to ensure that the United States receives fair market value for the use of public land or an interest in public land for geological sequestration.

(3) A proposed procedure for ensuring that any geological carbon sequestration activities on public land—

(A) provide for public review and comment from all interested persons; and

(B) protect the quality of natural and cultural resources of the public land overlaying a geological sequestration site.

(4) A description of the status of Federal leasehold or Federal mineral estate liability issues related to the geological subsurface trespass of or caused by carbon dioxide stored in

public land, including any relevant experience from enhanced oil recovery using carbon dioxide on public land.

(5) Recommendations for additional legislation that may be required to ensure that public land management and leasing laws are adequate to accommodate the long-term geological sequestration of carbon dioxide.

(6) An identification of the legal and regulatory issues specific to carbon dioxide sequestration on land in cases in which title to mineral resources is held by the United States but title to the surface estate is not held by the United States.

(7)(A) An identification of the issues specific to the issuance of pipeline rights-of-way on public land under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) for natural or anthropogenic carbon dioxide.

(B) Recommendations for additional legislation that may be required to clarify the appropriate framework for issuing rights-of-way for carbon dioxide pipelines on public land.

(c) CONSULTATION WITH OTHER AGENCIES.—In preparing the report under this section, the Secretary of the Interior shall coordinate with—

(1) the Administrator of the Environmental Protection Agency;

(2) the Secretary of Energy; and

(3) the heads of other appropriate agencies.

(d) COMPLIANCE WITH SAFE DRINKING WATER ACT.—The Secretary shall ensure that all recommendations developed under this section are in compliance with all Federal environmental laws, including the Safe Drinking Water Act (42 U.S.C. 300f et seq.) and regulations under that Act.

TITLE VIII—IMPROVED MANAGEMENT OF ENERGY POLICY

Subtitle A—Management Improvements

42 USC 17281.

SEC. 801. NATIONAL MEDIA CAMPAIGN.

(a) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Energy Efficiency and Renewable Energy (referred to in this section as the “Secretary”), shall develop and conduct a national media campaign—

(1) to increase energy efficiency throughout the economy of the United States during the 10-year period beginning on the date of enactment of this Act;

(2) to promote the national security benefits associated with increased energy efficiency; and

(3) to decrease oil consumption in the United States during the 10-year period beginning on the date of enactment of this Act.

(b) CONTRACT WITH ENTITY.—The Secretary shall carry out subsection (a) directly or through—

(1) competitively bid contracts with 1 or more nationally recognized media firms for the development and distribution of monthly television, radio, and newspaper public service announcements; or

(2) collective agreements with 1 or more nationally recognized institutes, businesses, or nonprofit organizations for the funding, development, and distribution of monthly television, radio, and newspaper public service announcements.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Amounts made available to carry out this section shall be used for—

(A) advertising costs, including—

(i) the purchase of media time and space;

(ii) creative and talent costs;

(iii) testing and evaluation of advertising; and

(iv) evaluation of the effectiveness of the media campaign; and

(B) administrative costs, including operational and management expenses.

(2) LIMITATIONS.—In carrying out this section, the Secretary shall allocate not less than 85 percent of funds made available under subsection (e) for each fiscal year for the advertising functions specified under paragraph (1)(A).

(d) REPORTS.—The Secretary shall annually submit to Congress a report that describes—

(1) the strategy of the national media campaign and whether specific objectives of the campaign were accomplished, including—

(A) determinations concerning the rate of change of energy consumption, in both absolute and per capita terms; and

(B) an evaluation that enables consideration of whether the media campaign contributed to reduction of energy consumption;

(2) steps taken to ensure that the national media campaign operates in an effective and efficient manner consistent with the overall strategy and focus of the campaign;

(3) plans to purchase advertising time and space;

(4) policies and practices implemented to ensure that Federal funds are used responsibly to purchase advertising time and space and eliminate the potential for waste, fraud, and abuse; and

(5) all contracts or cooperative agreements entered into with a corporation, partnership, or individual working on behalf of the national media campaign.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2008 through 2012.

(2) DECREASED OIL CONSUMPTION.—The Secretary shall use not less than 50 percent of the amount that is made available under this section for each fiscal year to develop and conduct a national media campaign to decrease oil consumption in the United States over the next decade.

SEC. 802. ALASKA NATURAL GAS PIPELINE ADMINISTRATION.

Section 106 of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720d) is amended by adding at the end the following:

“(h) ADMINISTRATION.—

“(1) PERSONNEL APPOINTMENTS.—

“(A) IN GENERAL.—The Federal Coordinator may appoint and terminate such personnel as the Federal Coordinator determines to be appropriate.

“(B) AUTHORITY OF FEDERAL COORDINATOR.—Personnel appointed by the Federal Coordinator under subparagraph (A) shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

“(2) COMPENSATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), personnel appointed by the Federal Coordinator under paragraph (1)(A) shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to classification and General Schedule pay rates).

“(B) MAXIMUM LEVEL OF COMPENSATION.—The rate of pay for personnel appointed by the Federal Coordinator under paragraph (1)(A) shall not exceed the maximum level of rate payable for level III of the Executive Schedule (5 U.S.C. 5314).

Applicability.

“(C) ALLOWANCES.—Section 5941 of title 5, United States Code, shall apply to personnel appointed by the Federal Coordinator under paragraph (1)(A).

“(3) TEMPORARY SERVICES.—

“(A) IN GENERAL.—The Federal Coordinator may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code.

“(B) MAXIMUM LEVEL OF COMPENSATION.—The level of compensation of an individual employed on a temporary or intermittent basis under subparagraph (A) shall not exceed the maximum level of rate payable for level III of the Executive Schedule (5 U.S.C. 5314).

“(4) FEES, CHARGES, AND COMMISSIONS.—

“(A) IN GENERAL.—With respect to the duties of the Federal Coordinator, as described in this Act, the Federal Coordinator shall have similar authority to establish, change, and abolish reasonable filing and service fees, charges, and commissions, require deposits of payments, and provide refunds as provided to the Secretary of the Interior in section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734).

“(B) AUTHORITY OF SECRETARY OF THE INTERIOR.—Subparagraph (A) shall not affect the authority of the Secretary of the Interior to establish, change, and abolish reasonable filing and service fees, charges, and commissions, require deposits of payments, and provide refunds under section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734).

“(C) USE OF FUNDS.—The Federal Coordinator is authorized to use, without further appropriation, amounts collected under subparagraph (A) to carry out this section.”.

42 USC 17282.

SEC. 803. RENEWABLE ENERGY DEPLOYMENT.

(a) DEFINITIONS.—In this section:

(1) ALASKA SMALL HYDROELECTRIC POWER.—The term “Alaska small hydroelectric power” means power that—

(A) is generated—

- (i) in the State of Alaska;
- (ii) without the use of a dam or impoundment of water; and
- (iii) through the use of—
 - (I) a lake tap (but not a perched alpine lake);
 - or
 - (II) a run-of-river screened at the point of diversion; and
- (B) has a nameplate capacity rating of a wattage that is not more than 15 megawatts.

(2) ELIGIBLE APPLICANT.—The term “eligible applicant” means any—

- (A) governmental entity;
- (B) private utility;
- (C) public utility;
- (D) municipal utility;
- (E) cooperative utility;
- (F) Indian tribes; and
- (G) Regional Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).

(3) OCEAN ENERGY.—

(A) INCLUSIONS.—The term “ocean energy” includes current, wave, and tidal energy.

(B) EXCLUSION.—The term “ocean energy” excludes thermal energy.

(4) RENEWABLE ENERGY PROJECT.—The term “renewable energy project” means a project—

- (A) for the commercial generation of electricity; and
- (B) that generates electricity from—
 - (i) solar, wind, or geothermal energy or ocean energy;
 - (ii) biomass (as defined in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)));
 - (iii) landfill gas; or
 - (iv) Alaska small hydroelectric power.

(b) RENEWABLE ENERGY CONSTRUCTION GRANTS.—

(1) IN GENERAL.—The Secretary shall use amounts appropriated under this section to make grants for use in carrying out renewable energy projects.

(2) CRITERIA.—Not later than 180 days after the date of enactment of this Act, the Secretary shall set forth criteria for use in awarding grants under this section. Deadline.

(3) APPLICATION.—To receive a grant from the Secretary under paragraph (1), an eligible applicant shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a written assurance that—

(A) all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a grant under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40, United States Code; and

(B) the Secretary of Labor shall, with respect to the labor standards described in this paragraph, have the

authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40, United States Code.

(4) NON-FEDERAL SHARE.—Each eligible applicant that receives a grant under this subsection shall contribute to the total cost of the renewable energy project constructed by the eligible applicant an amount not less than 50 percent of the total cost of the project.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

42 USC 17283.

SEC. 804. COORDINATION OF PLANNED REFINERY OUTAGES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Energy Information Administration.

(2) PLANNED REFINERY OUTAGE.—

(A) IN GENERAL.—The term “planned refinery outage” means a removal, scheduled before the date on which the removal occurs, of a refinery, or any unit of a refinery, from service for maintenance, repair, or modification.

(B) EXCLUSION.—The term “planned refinery outage” does not include any necessary and unplanned removal of a refinery, or any unit of a refinery, from service as a result of a component failure, safety hazard, emergency, or action reasonably anticipated to be necessary to prevent such events.

(3) REFINED PETROLEUM PRODUCT.—The term “refined petroleum product” means any gasoline, diesel fuel, fuel oil, lubricating oil, liquid petroleum gas, or other petroleum distillate that is produced through the refining or processing of crude oil or an oil derived from tar sands, shale, or coal.

(4) REFINERY.—The term “refinery” means a facility used in the production of a refined petroleum product through distillation, cracking, or any other process.

(b) REVIEW AND ANALYSIS OF AVAILABLE INFORMATION.—The Administrator shall, on an ongoing basis—

(1) review information on refinery outages that is available from commercial reporting services;

(2) analyze that information to determine whether the scheduling of a refinery outage may nationally or regionally substantially affect the price or supply of any refined petroleum product by—

(A) decreasing the production of the refined petroleum product; and

(B) causing or contributing to a retail or wholesale supply shortage or disruption;

(3) not less frequently than twice each year, submit to the Secretary a report describing the results of the review and analysis under paragraphs (1) and (2); and

(4) specifically alert the Secretary of any refinery outage that the Administrator determines may nationally or regionally substantially affect the price or supply of a refined petroleum product.

(c) ACTION BY SECRETARY.—On a determination by the Secretary, based on a report or alert under paragraph (3) or (4) of subsection (b), that a refinery outage may affect the price or supply

Deadlines.
Reports.

of a refined petroleum product, the Secretary shall make available to refinery operators information on planned refinery outages to encourage reductions of the quantity of refinery capacity that is out of service at any time.

(d) LIMITATION.—Nothing in this section shall alter any existing legal obligation or responsibility of a refinery operator, or create any legal right of action, nor shall this section authorize the Secretary—

(1) to prohibit a refinery operator from conducting a planned refinery outage; or

(2) to require a refinery operator to continue to operate a refinery.

SEC. 805. ASSESSMENT OF RESOURCES.

42 USC 17284.

(a) 5-YEAR PLAN.—

(1) ESTABLISHMENT.—The Administrator of the Energy Information Administration (referred to in this section as the “Administrator”) shall establish a 5-year plan to enhance the quality and scope of the data collection necessary to ensure the scope, accuracy, and timeliness of the information needed for efficient functioning of energy markets and related financial operations.

(2) REQUIREMENT.—In establishing the plan under paragraph (1), the Administrator shall pay particular attention to—

(A) data series terminated because of budget constraints;

(B) data on demand response;

(C) timely data series of State-level information;

(D) improvements in the area of oil and gas data;

(E) improvements in data on solid byproducts from coal-based energy-producing facilities; and

(F) the ability to meet applicable deadlines under Federal law (including regulations) to provide data required by Congress.

(b) SUBMISSION TO CONGRESS.—The Administrator shall submit to Congress the plan established under subsection (a), including a description of any improvements needed to enhance the ability of the Administrator to collect and process energy information in a manner consistent with the needs of energy markets.

(c) GUIDELINES.—

(1) IN GENERAL.—The Administrator shall—

(A) establish guidelines to ensure the quality, comparability, and scope of State energy data, including data on energy production and consumption by product and sector and renewable and alternative sources, required to provide a comprehensive, accurate energy profile at the State level;

(B) share company-level data collected at the State level with each State involved, in a manner consistent with the legal authorities, confidentiality protections, and stated uses in effect at the time the data were collected, subject to the condition that the State shall agree to reasonable requirements for use of the data, as the Administrator may require;

(C) assess any existing gaps in data obtained and compiled by the Energy Information Administration; and

(D) evaluate the most cost-effective ways to address any data quality and quantity issues in conjunction with State officials.

(2) CONSULTATION.—The Administrator shall consult with State officials and the Federal Energy Regulatory Commission on a regular basis in—

(A) establishing guidelines and determining the scope of State-level data under paragraph (1); and

(B) exploring ways to address data needs and serve data uses.

Deadline.

(d) ASSESSMENT OF STATE DATA NEEDS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress an assessment of State-level data needs, including a plan to address the needs.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts made available to the Administrator, there are authorized to be appropriated to the Administrator to carry out this section—

(1) \$10,000,000 for fiscal year 2008;

(2) \$10,000,000 for fiscal year 2009;

(3) \$10,000,000 for fiscal year 2010;

(4) \$15,000,000 for fiscal year 2011;

(5) \$20,000,000 for fiscal year 2012; and

(6) such sums as are necessary for subsequent fiscal years.

42 USC 17285.

SEC. 806. SENSE OF CONGRESS RELATING TO THE USE OF RENEWABLE RESOURCES TO GENERATE ENERGY.

(a) FINDINGS.—Congress finds that—

(1) the United States has a quantity of renewable energy resources that is sufficient to supply a significant portion of the energy needs of the United States;

(2) the agricultural, forestry, and working land of the United States can help ensure a sustainable domestic energy system;

(3) accelerated development and use of renewable energy technologies provide numerous benefits to the United States, including improved national security, improved balance of payments, healthier rural economies, improved environmental quality, and abundant, reliable, and affordable energy for all citizens of the United States;

(4) the production of transportation fuels from renewable energy would help the United States meet rapidly growing domestic and global energy demands, reduce the dependence of the United States on energy imported from volatile regions of the world that are politically unstable, stabilize the cost and availability of energy, and safeguard the economy and security of the United States;

(5) increased energy production from domestic renewable resources would attract substantial new investments in energy infrastructure, create economic growth, develop new jobs for the citizens of the United States, and increase the income for farm, ranch, and forestry jobs in the rural regions of the United States;

(6) increased use of renewable energy is practical and can be cost effective with the implementation of supportive policies and proper incentives to stimulate markets and infrastructure; and

(7) public policies aimed at enhancing renewable energy production and accelerating technological improvements will further reduce energy costs over time and increase market demand.

(b) SENSE OF CONGRESS.—It is the sense of Congress that it is the goal of the United States that, not later than January 1, 2025, the agricultural, forestry, and working land of the United States should—

(1) provide from renewable resources not less than 25 percent of the total energy consumed in the United States; and

(2) continue to produce safe, abundant, and affordable food, feed, and fiber.

SEC. 807. GEOTHERMAL ASSESSMENT, EXPLORATION INFORMATION, AND PRIORITY ACTIVITIES.

Deadlines.
42 USC 17286.

(a) IN GENERAL.—Not later than January 1, 2012, the Secretary of the Interior, acting through the Director of the United States Geological Survey, shall—

(1) complete a comprehensive nationwide geothermal resource assessment that examines the full range of geothermal resources in the United States; and

(2) submit to the the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the assessment.

Reports.

(b) PERIODIC UPDATES.—At least once every 10 years, the Secretary shall update the national assessment required under this section to support public and private sector decisionmaking.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior to carry out this section—

(1) \$15,000,000 for each of fiscal years 2008 through 2012; and

(2) such sums as are necessary for each of fiscal years 2013 through 2022.

Subtitle B—Prohibitions on Market Manipulation and False Information

SEC. 811. PROHIBITION ON MARKET MANIPULATION.

42 USC 17301.

It is unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of crude oil gasoline or petroleum distillates at wholesale, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Federal Trade Commission may prescribe as necessary or appropriate in the public interest or for the protection of United States citizens.

SEC. 812. PROHIBITION ON FALSE INFORMATION.

42 USC 17302.

It is unlawful for any person to report information related to the wholesale price of crude oil gasoline or petroleum distillates to a Federal department or agency if—

(1) the person knew, or reasonably should have known, the information to be false or misleading;

(2) the information was required by law to be reported; and

(3) the person intended the false or misleading data to affect data compiled by the department or agency for statistical or analytical purposes with respect to the market for crude oil, gasoline, or petroleum distillates.

42 USC 17303.

SEC. 813. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.

(a) **ENFORCEMENT.**—This subtitle shall be enforced by the Federal Trade Commission in the same manner, by the same means, and with the same jurisdiction as though all applicable terms of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this subtitle.

(b) **VIOLATION IS TREATED AS UNFAIR OR DECEPTIVE ACT OR PRACTICE.**—The violation of any provision of this subtitle shall be treated as an unfair or deceptive act or practice proscribed under a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

42 USC 17304.

SEC. 814. PENALTIES.

(a) **CIVIL PENALTY.**—In addition to any penalty applicable under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), any supplier that violates section 811 or 812 shall be punishable by a civil penalty of not more than \$1,000,000.

(b) **METHOD.**—The penalties provided by subsection (a) shall be obtained in the same manner as civil penalties imposed under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(c) **MULTIPLE OFFENSES; MITIGATING FACTORS.**—In assessing the penalty provided by subsection (a)—

(1) each day of a continuing violation shall be considered a separate violation; and

(2) the court shall take into consideration, among other factors—

(A) the seriousness of the violation; and

(B) the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

42 USC 17305.

SEC. 815. EFFECT ON OTHER LAWS.

(a) **OTHER AUTHORITY OF THE COMMISSION.**—Nothing in this subtitle limits or affects the authority of the Federal Trade Commission to bring an enforcement action or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(b) **ANTITRUST LAW.**—Nothing in this subtitle shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of this subsection, the term “antitrust laws” shall have the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that it includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(c) **STATE LAW.**—Nothing in this subtitle preempts any State law.

TITLE IX—INTERNATIONAL ENERGY PROGRAMS

SEC. 901. DEFINITIONS.

42 USC 17321.

In this title:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives; and

(B) the Committee on Foreign Relations, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) **CLEAN AND EFFICIENT ENERGY TECHNOLOGY.**—The term “clean and efficient energy technology” means an energy supply or end-use technology that, compared to a similar technology already in widespread commercial use in a recipient country, will—

(A) reduce emissions of greenhouse gases; or

(B)(i) increase efficiency of energy production; or

(ii) decrease intensity of energy usage.

(3) **GREENHOUSE GAS.**—The term “greenhouse gas” means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons; or

(F) sulfur hexafluoride.

Subtitle A—Assistance to Promote Clean and Efficient Energy Technologies in Foreign Countries

SEC. 911. UNITED STATES ASSISTANCE FOR DEVELOPING COUNTRIES.

42 USC 17331.

(a) **ASSISTANCE AUTHORIZED.**—The Administrator of the United States Agency for International Development shall support policies and programs in developing countries that promote clean and efficient energy technologies—

(1) to produce the necessary market conditions for the private sector delivery of energy and environmental management services;

(2) to create an environment that is conducive to accepting clean and efficient energy technologies that support the overall purpose of reducing greenhouse gas emissions, including—

(A) improving policy, legal, and regulatory frameworks;

(B) increasing institutional abilities to provide energy and environmental management services; and

(C) increasing public awareness and participation in the decision-making of delivering energy and environmental management services; and

(3) to promote the use of American-made clean and efficient energy technologies, products, and energy and environmental management services.

(b) REPORT.—The Administrator of the United States Agency for International Development shall submit to the appropriate congressional committees an annual report on the implementation of this section for each of the fiscal years 2008 through 2012.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Administrator of the United States Agency for International Development \$200,000,000 for each of the fiscal years 2008 through 2012.

42 USC 17332.

SEC. 912. UNITED STATES EXPORTS AND OUTREACH PROGRAMS FOR INDIA, CHINA, AND OTHER COUNTRIES.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Commerce shall direct the United States and Foreign Commercial Service to expand or create a corps of the Foreign Commercial Service officers to promote United States exports in clean and efficient energy technologies and build the capacity of government officials in India, China, and any other country the Secretary of Commerce determines appropriate, to become more familiar with the available technologies—

(1) by assigning or training Foreign Commercial Service attachés, who have expertise in clean and efficient energy technologies from the United States, to embark on business development and outreach efforts to such countries; and

(2) by deploying the attachés described in paragraph (1) to educate provincial, state, and local government officials in such countries on the variety of United States-based technologies in clean and efficient energy technologies for the purposes of promoting United States exports and reducing global greenhouse gas emissions.

(b) REPORT.—The Secretary of Commerce shall submit to the appropriate congressional committees an annual report on the implementation of this section for each of the fiscal years 2008 through 2012.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary for each of the fiscal years 2008 through 2012.

42 USC 17333.

SEC. 913. UNITED STATES TRADE MISSIONS TO ENCOURAGE PRIVATE SECTOR TRADE AND INVESTMENT.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Commerce shall direct the International Trade Administration to expand or create trade missions to and from the United States to encourage private sector trade and investment in clean and efficient energy technologies—

(1) by organizing and facilitating trade missions to foreign countries and by matching United States private sector companies with opportunities in foreign markets so that clean and efficient energy technologies can help to combat increases in global greenhouse gas emissions; and

(2) by creating reverse trade missions in which the Department of Commerce facilitates the meeting of foreign private and public sector organizations with private sector companies in the United States for the purpose of showcasing clean and

efficient energy technologies in use or in development that could be exported to other countries.

(b) REPORT.—The Secretary of Commerce shall submit to the appropriate congressional committees an annual report on the implementation of this section for each of the fiscal years 2008 through 2012.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary for each of the fiscal years 2008 through 2012.

SEC. 914. ACTIONS BY OVERSEAS PRIVATE INVESTMENT CORPORATION. 42 USC 17334.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Overseas Private Investment Corporation should promote greater investment in clean and efficient energy technologies by—

(1) proactively reaching out to United States companies that are interested in investing in clean and efficient energy technologies in countries that are significant contributors to global greenhouse gas emissions;

(2) giving preferential treatment to the evaluation and awarding of projects that involve the investment or utilization of clean and efficient energy technologies; and

(3) providing greater flexibility in supporting projects that involve the investment or utilization of clean and efficient energy technologies, including financing, insurance, and other assistance.

(b) REPORT.—The Overseas Private Investment Corporation shall include in its annual report required under section 240A of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a)—

(1) a description of the activities carried out to implement this section; or

(2) if the Corporation did not carry out any activities to implement this section, an explanation of the reasons therefor.

SEC. 915. ACTIONS BY UNITED STATES TRADE AND DEVELOPMENT AGENCY. 42 USC 17335.

(a) ASSISTANCE AUTHORIZED.—The Director of the Trade and Development Agency shall establish or support policies that—

(1) proactively seek opportunities to fund projects that involve the utilization of clean and efficient energy technologies, including in trade capacity building and capital investment projects;

(2) where appropriate, advance the utilization of clean and efficient energy technologies, particularly to countries that have the potential for significant reduction in greenhouse gas emissions; and

(3) recruit and retain individuals with appropriate expertise or experience in clean, renewable, and efficient energy technologies to identify and evaluate opportunities for projects that involve clean and efficient energy technologies and services.

(b) REPORT.—The President shall include in the annual report on the activities of the Trade and Development Agency required under section 661(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(d)) a description of the activities carried out to implement this section. President.

42 USC 17336.

SEC. 916. DEPLOYMENT OF INTERNATIONAL CLEAN AND EFFICIENT ENERGY TECHNOLOGIES AND INVESTMENT IN GLOBAL ENERGY MARKETS.President.
Deadline.**(a) TASK FORCE.—**

(1) **ESTABLISHMENT.**—Not later than 90 days after the date of the enactment of this Act, the President shall establish a Task Force on International Cooperation for Clean and Efficient Energy Technologies (in this section referred to as the “Task Force”).

(2) **COMPOSITION.**—The Task Force shall be composed of representatives, appointed by the head of the respective Federal department or agency, of—

- (A) the Council on Environmental Quality;
- (B) the Department of Energy;
- (C) the Department of Commerce;
- (D) the Department of the Treasury;
- (E) the Department of State;
- (F) the Environmental Protection Agency;
- (G) the United States Agency for International Development;
- (H) the Export-Import Bank of the United States;
- (I) the Overseas Private Investment Corporation;
- (J) the Trade and Development Agency;
- (K) the Small Business Administration;
- (L) the Office of the United States Trade Representative; and

(M) other Federal departments and agencies, as determined by the President.

(3) **CHAIRPERSON.**—The President shall designate a Chairperson or Co-Chairpersons of the Task Force.

(4) DUTIES.—The Task Force—

(A) shall develop and assist in the implementation of the strategy required under subsection (c); and

(B)(i) shall analyze technology, policy, and market opportunities for the development, demonstration, and deployment of clean and efficient energy technologies on an international basis; and

(ii) shall examine relevant trade, tax, finance, international, and other policy issues to assess which policies, in the United States and in developing countries, would help open markets and improve the export of clean and efficient energy technologies from the United States.

(5) **TERMINATION.**—The Task Force, including any working group established by the Task Force pursuant to subsection (b), shall terminate 12 years after the date of the enactment of this Act.

(b) WORKING GROUPS.—**(1) ESTABLISHMENT.—The Task Force—**

(A) shall establish an Interagency Working Group on the Export of Clean and Efficient Energy Technologies (in this section referred to as the “Interagency Working Group”); and

(B) may establish other working groups as may be necessary to carry out this section.

(2) **COMPOSITION.**—The Interagency Working Group shall be composed of—

(A) the Secretary of Energy, the Secretary of Commerce, and the Secretary of State, who shall serve as Co-Chairpersons of the Interagency Working Group; and

(B) other members, as determined by the Chairperson or Co-Chairpersons of the Task Force.

(3) DUTIES.—The Interagency Working Group shall coordinate the resources and relevant programs of the Department of Energy, the Department of Commerce, the Department of State, and other relevant Federal departments and agencies to support the export of clean and efficient energy technologies developed or demonstrated in the United States to other countries and the deployment of such clean and efficient energy technologies in such other countries.

(4) INTERAGENCY CENTER.—The Interagency Working Group—

(A) shall establish an Interagency Center on the Export of Clean and Efficient Energy Technologies (in this section referred to as the “Interagency Center”) to assist the Interagency Working Group in carrying out its duties required under paragraph (3); and

Establishment.

(B) shall locate the Interagency Center at a site agreed upon by the Co-Chairpersons of the Interagency Working Group, with the approval of the Chairperson or Co-Chairpersons of the Task Force.

(c) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Task Force shall develop and submit to the President and the appropriate congressional committees a strategy to—

Deadline.

(A) support the development and implementation of programs, policies, and initiatives in developing countries to promote the adoption and deployment of clean and efficient energy technologies, with an emphasis on those developing countries that are expected to experience the most significant growth in energy production and use over the next 20 years;

(B) open and expand clean and efficient energy technology markets and facilitate the export of clean and efficient energy technologies to developing countries, in a manner consistent with United States obligations as a member of the World Trade Organization;

(C) integrate into the foreign policy objectives of the United States the promotion of—

(i) the deployment of clean and efficient energy technologies and the reduction of greenhouse gas emissions in developing countries; and

(ii) the export of clean and efficient energy technologies; and

(D) develop financial mechanisms and instruments, including securities that mitigate the political and foreign exchange risks of uses that are consistent with the foreign policy objectives of the United States by combining the private sector market and government enhancements, that—

(i) are cost-effective; and

- (ii) facilitate private capital investment in clean and efficient energy technology projects in developing countries.
- Deadline. (2) **UPDATES.**—Not later than 3 years after the date of submission of the strategy under paragraph (1), and every 3 years thereafter, the Task Force shall update the strategy in accordance with the requirements of paragraph (1).
- (d) **REPORT.**—
- President. (1) **IN GENERAL.**—Not later than 3 years after the date of submission of the strategy under subsection (c)(1), and every 3 years thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this section for the prior 3-year period.
- (2) **MATTERS TO BE INCLUDED.**—The report required under paragraph (1) shall include the following:
- (A) The update of the strategy required under subsection (c)(2) and a description of the actions taken by the Task Force to assist in the implementation of the strategy.
- (B) A description of actions taken by the Task Force to carry out the duties required under subsection (a)(4)(B).
- (C) A description of assistance provided under this section.
- (D) The results of programs, projects, and activities carried out under this section.
- (E) A description of priorities for promoting the diffusion and adoption of clean and efficient energy technologies and strategies in developing countries, taking into account economic and security interests of the United States and opportunities for the export of technology of the United States.
- (F) Recommendations to the heads of appropriate Federal departments and agencies on methods to streamline Federal programs and policies to improve the role of such Federal departments and agencies in the development, demonstration, and deployment of clean and efficient energy technologies on an international basis.
- (G) Strategies to integrate representatives of the private sector and other interested groups on the export and deployment of clean and efficient energy technologies.
- (H) A description of programs to disseminate information to the private sector and the public on clean and efficient energy technologies and opportunities to transfer such clean and efficient energy technologies.
- (e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2008 through 2020.

42 USC 17337.

SEC. 917. UNITED STATES-ISRAEL ENERGY COOPERATION.

- (a) **FINDINGS.**—Congress finds that—
- (1) it is in the highest national security interests of the United States to develop renewable energy sources;
- (2) the State of Israel is a steadfast ally of the United States;
- (3) the special relationship between the United States and Israel is manifested in a variety of cooperative scientific research and development programs, such as—

(A) the United States-Israel Binational Science Foundation; and

(B) the United States-Israel Binational Industrial Research and Development Foundation;

(4) those programs have made possible many scientific, technological, and commercial breakthroughs in the fields of life sciences, medicine, bioengineering, agriculture, biotechnology, communications, and others;

(5) on February 1, 1996, the Secretary of Energy (referred to in this section as the “Secretary”) and the Israeli Minister of Energy and Infrastructure signed an agreement to establish a framework for collaboration between the United States and Israel in energy research and development activities;

(6) Israeli scientists and engineers are at the forefront of research and development in the field of renewable energy sources; and

(7) enhanced cooperation between the United States and Israel for the purpose of research and development of renewable energy sources would be in the national interests of both countries.

(b) GRANT PROGRAM.—

(1) ESTABLISHMENT.—In implementing the agreement entitled the “Agreement between the Department of Energy of the United States of America and the Ministry of Energy and Infrastructure of Israel Concerning Energy Cooperation”, dated February 1, 1996, the Secretary shall establish a grant program in accordance with the requirements of sections 988 and 989 of the Energy Policy Act of 2005 (42 U.S.C. 16352, 16353) to support research, development, and commercialization of renewable energy or energy efficiency.

(2) TYPES OF ENERGY.—In carrying out paragraph (1), the Secretary may make grants to promote—

(A) solar energy;

(B) biomass energy;

(C) energy efficiency;

(D) wind energy;

(E) geothermal energy;

(F) wave and tidal energy; and

(G) advanced battery technology.

(3) ELIGIBLE APPLICANTS.—An applicant shall be eligible to receive a grant under this subsection if the project of the applicant—

(A) addresses a requirement in the area of improved energy efficiency or renewable energy sources, as determined by the Secretary; and

(B) is a joint venture between—

(i)(I) a for-profit business entity, academic institution, National Laboratory (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)), or nonprofit entity in the United States; and

(II) a for-profit business entity, academic institution, or nonprofit entity in Israel; or

(ii)(I) the Federal Government; and

(II) the Government of Israel.

(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an applicant shall submit to the Secretary an application for the grant in accordance with procedures

established by the Secretary, in consultation with the advisory board established under paragraph (5).

(5) **ADVISORY BOARD.**—

(A) **ESTABLISHMENT.**—The Secretary shall establish an advisory board—

(i) to monitor the method by which grants are awarded under this subsection; and

(ii) to provide to the Secretary periodic performance reviews of actions taken to carry out this subsection.

(B) **COMPOSITION.**—The advisory board established under subparagraph (A) shall be composed of 3 members, to be appointed by the Secretary, of whom—

(i) 1 shall be a representative of the Federal Government;

(ii) 1 shall be selected from a list of nominees provided by the United States-Israel Binational Science Foundation; and

(iii) 1 shall be selected from a list of nominees provided by the United States-Israel Binational Industrial Research and Development Foundation.

(6) **CONTRIBUTED FUNDS.**—Notwithstanding section 3302 of title 31, United States Code, the Secretary may accept, retain, and use funds contributed by any person, government entity, or organization for purposes of carrying out this subsection—

(A) without further appropriation; and

(B) without fiscal year limitation.

(7) **REPORT.**—Not later than 180 days after the date of completion of a project for which a grant is provided under this subsection, the grant recipient shall submit to the Secretary a report that contains—

(A) a description of the method by which the recipient used the grant funds; and

(B) an evaluation of the level of success of each project funded by the grant.

(8) **CLASSIFICATION.**—Grants shall be awarded under this subsection only for projects that are considered to be unclassified by both the United States and Israel.

(c) **TERMINATION.**—The grant program and the advisory committee established under this section terminate on the date that is 7 years after the date of enactment of this Act.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—The Secretary shall use amounts authorized to be appropriated under section 931 of the Energy Policy Act of 2005 (42 U.S.C. 16231) to carry out this section.

Subtitle B—International Clean Energy Foundation

42 USC 17351.

SEC. 921. DEFINITIONS.

In this subtitle:

(1) **BOARD.**—The term “Board” means the Board of Directors of the Foundation established pursuant to section 922(c).

(2) **CHIEF EXECUTIVE OFFICER.**—The term “Chief Executive Officer” means the chief executive officer of the Foundation appointed pursuant to section 922(b).

(3) **FOUNDATION.**—The term “Foundation” means the International Clean Energy Foundation established by section 922(a).

SEC. 922. ESTABLISHMENT AND MANAGEMENT OF FOUNDATION.

42 USC 17352.

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—There is established in the executive branch a foundation to be known as the “International Clean Energy Foundation” that shall be responsible for carrying out the provisions of this subtitle. The Foundation shall be a government corporation, as defined in section 103 of title 5, United States Code.

(2) **BOARD OF DIRECTORS.**—The Foundation shall be governed by a Board of Directors in accordance with subsection (c).

(3) **INTENT OF CONGRESS.**—It is the intent of Congress, in establishing the structure of the Foundation set forth in this subsection, to create an entity that serves the long-term foreign policy and energy security goals of reducing global greenhouse gas emissions.

(b) **CHIEF EXECUTIVE OFFICER.**—

(1) **IN GENERAL.**—There shall be in the Foundation a Chief Executive Officer who shall be responsible for the management of the Foundation.

(2) **APPOINTMENT.**—The Chief Executive Officer shall be appointed by the Board, with the advice and consent of the Senate, and shall be a recognized leader in clean and efficient energy technologies and climate change and shall have experience in energy security, business, or foreign policy, chosen on the basis of a rigorous search.

(3) **RELATIONSHIP TO BOARD.**—The Chief Executive Officer shall report to, and be under the direct authority of, the Board.

(4) **COMPENSATION AND RANK.**—

(A) **IN GENERAL.**—The Chief Executive Officer shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) **AMENDMENT.**—Section 5314 of title 5, United States Code, is amended by adding at the end the following: “Chief Executive Officer, International Clean Energy Foundation.”.

(C) **AUTHORITIES AND DUTIES.**—The Chief Executive Officer shall be responsible for the management of the Foundation and shall exercise the powers and discharge the duties of the Foundation.

(D) **AUTHORITY TO APPOINT OFFICERS.**—In consultation and with approval of the Board, the Chief Executive Officer shall appoint all officers of the Foundation.

(c) **BOARD OF DIRECTORS.**—

(1) **ESTABLISHMENT.**—There shall be in the Foundation a Board of Directors.

(2) **DUTIES.**—The Board shall perform the functions specified to be carried out by the Board in this subtitle and may prescribe, amend, and repeal bylaws, rules, regulations, and

procedures governing the manner in which the business of the Foundation may be conducted and in which the powers granted to it by law may be exercised.

(3) MEMBERSHIP.—The Board shall consist of—

(A) the Secretary of State (or the Secretary's designee), the Secretary of Energy (or the Secretary's designee), and the Administrator of the United States Agency for International Development (or the Administrator's designee); and

(B) four other individuals with relevant experience in matters relating to energy security (such as individuals who represent institutions of energy policy, business organizations, foreign policy organizations, or other relevant organizations) who shall be appointed by the President, by and with the advice and consent of the Senate, of whom—

(i) one individual shall be appointed from among a list of individuals submitted by the Majority Leader of the House of Representatives;

(ii) one individual shall be appointed from among a list of individuals submitted by the Minority Leader of the House of Representatives;

(iii) one individual shall be appointed from among a list of individuals submitted by the Majority Leader of the Senate; and

(iv) one individual shall be appointed from among a list of individuals submitted by the Minority Leader of the Senate.

(4) CHIEF EXECUTIVE OFFICER.—The Chief Executive Officer of the Foundation shall serve as a nonvoting, ex officio member of the Board.

(5) TERMS.—

(A) OFFICERS OF THE FEDERAL GOVERNMENT.—Each member of the Board described in paragraph (3)(A) shall serve for a term that is concurrent with the term of service of the individual's position as an officer within the other Federal department or agency.

(B) OTHER MEMBERS.—Each member of the Board described in paragraph (3)(B) shall be appointed for a term of 3 years and may be reappointed for a term of an additional 3 years.

(C) VACANCIES.—A vacancy in the Board shall be filled in the manner in which the original appointment was made.

(D) ACTING MEMBERS.—A vacancy in the Board may be filled with an appointment of an acting member by the Chairperson of the Board for up to 1 year while a nominee is named and awaits confirmation in accordance with paragraph (3)(B).

(6) CHAIRPERSON.—There shall be a Chairperson of the Board. The Secretary of State (or the Secretary's designee) shall serve as the Chairperson.

(7) QUORUM.—A majority of the members of the Board described in paragraph (3) shall constitute a quorum, which, except with respect to a meeting of the Board during the 135-day period beginning on the date of the enactment of this Act, shall include at least 1 member of the Board described in paragraph (3)(B).

(8) MEETINGS.—The Board shall meet at the call of the Chairperson, who shall call a meeting no less than once a year.

(9) COMPENSATION.—

(A) OFFICERS OF THE FEDERAL GOVERNMENT.—

(i) IN GENERAL.—A member of the Board described in paragraph (3)(A) may not receive additional pay, allowances, or benefits by reason of the member's service on the Board.

(ii) TRAVEL EXPENSES.—Each such member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(B) OTHER MEMBERS.—

(i) IN GENERAL.—Except as provided in clause (ii), a member of the Board described in paragraph (3)(B)—

(I) shall be paid compensation out of funds made available for the purposes of this subtitle at the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a member of the Board; and

(II) while away from the member's home or regular place of business on necessary travel in the actual performance of duties as a member of the Board, shall be paid per diem, travel, and transportation expenses in the same manner as is provided under subchapter I of chapter 57 of title 5, United States Code.

(ii) LIMITATION.—A member of the Board may not be paid compensation under clause (i)(II) for more than 90 days in any calendar year.

SEC. 923. DUTIES OF FOUNDATION.

42 USC 17353.

The Foundation shall—

(1) use the funds authorized by this subtitle to make grants to promote projects outside of the United States that serve as models of how to significantly reduce the emissions of global greenhouse gases through clean and efficient energy technologies, processes, and services;

(2) seek contributions from foreign governments, especially those rich in energy resources such as member countries of the Organization of the Petroleum Exporting Countries, and private organizations to supplement funds made available under this subtitle;

(3) harness global expertise through collaborative partnerships with foreign governments and domestic and foreign private actors, including nongovernmental organizations and private sector companies, by leveraging public and private capital, technology, expertise, and services towards innovative models that can be instituted to reduce global greenhouse gas emissions;

(4) create a repository of information on best practices and lessons learned on the utilization and implementation of

clean and efficient energy technologies and processes to be used for future initiatives to tackle the climate change crisis;

(5) be committed to minimizing administrative costs and to maximizing the availability of funds for grants under this subtitle; and

(6) promote the use of American-made clean and efficient energy technologies, processes, and services by giving preference to entities incorporated in the United States and whose technology will be substantially manufactured in the United States.

42 USC 17354.

SEC. 924. ANNUAL REPORT.

(a) **REPORT REQUIRED.**—Not later than March 31, 2008, and each March 31 thereafter, the Foundation shall submit to the appropriate congressional committees a report on the implementation of this subtitle during the prior fiscal year.

(b) **CONTENTS.**—The report required by subsection (a) shall include—

(1) the total financial resources available to the Foundation during the year, including appropriated funds, the value and source of any gifts or donations accepted pursuant to section 925(a)(6), and any other resources;

(2) a description of the Board's policy priorities for the year and the basis upon which competitive grant proposals were solicited and awarded to nongovernmental institutions and other organizations;

(3) a list of grants made to nongovernmental institutions and other organizations that includes the identity of the institutional recipient, the dollar amount, and the results of the program; and

(4) the total administrative and operating expenses of the Foundation for the year, as well as specific information on—

(A) the number of Foundation employees and the cost of compensation for Board members, Foundation employees, and personal service contractors;

(B) costs associated with securing the use of real property for carrying out the functions of the Foundation;

(C) total travel expenses incurred by Board members and Foundation employees in connection with Foundation activities; and

(D) total representational expenses.

42 USC 17355.

SEC. 925. POWERS OF THE FOUNDATION; RELATED PROVISIONS.

(a) **POWERS.**—The Foundation—

(1) shall have perpetual succession unless dissolved by a law enacted after the date of the enactment of this Act;

(2) may adopt, alter, and use a seal, which shall be judicially noticed;

(3) may make and perform such contracts, grants, and other agreements with any person or government however designated and wherever situated, as may be necessary for carrying out the functions of the Foundation;

(4) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation;

(5) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Foundation;

(6) may accept money, funds, services, or property (real, personal, or mixed), tangible or intangible, made available by gift, bequest grant, or otherwise for the purpose of carrying out the provisions of this title from domestic or foreign private individuals, charities, nongovernmental organizations, corporations, or governments;

(7) may use the United States mails in the same manner and on the same conditions as the executive departments;

(8) may contract with individuals for personal services, who shall not be considered Federal employees for any provision of law administered by the Office of Personnel Management;

(9) may hire or obtain passenger motor vehicles; and

(10) shall have such other powers as may be necessary and incident to carrying out this subtitle.

(b) PRINCIPAL OFFICE.—The Foundation shall maintain its principal office in the metropolitan area of Washington, District of Columbia.

(c) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—

(1) IN GENERAL.—The Foundation shall be subject to chapter 91 of subtitle VI of title 31, United States Code, except that the Foundation shall not be authorized to issue obligations or offer obligations to the public.

(2) CONFORMING AMENDMENT.—Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

“(R) the International Clean Energy Foundation.”.

(d) INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of State shall serve as Inspector General of the Foundation, and, in acting in such capacity, may conduct reviews, investigations, and inspections of all aspects of the operations and activities of the Foundation.

(2) AUTHORITY OF THE BOARD.—In carrying out the responsibilities under this subsection, the Inspector General shall report to and be under the general supervision of the Board.

(3) REIMBURSEMENT AND AUTHORIZATION OF SERVICES.—

(A) REIMBURSEMENT.—The Foundation shall reimburse the Department of State for all expenses incurred by the Inspector General in connection with the Inspector General’s responsibilities under this subsection.

(B) AUTHORIZATION FOR SERVICES.—Of the amount authorized to be appropriated under section 927(a) for a fiscal year, up to \$500,000 is authorized to be made available to the Inspector General of the Department of State to conduct reviews, investigations, and inspections of operations and activities of the Foundation.

SEC. 926. GENERAL PERSONNEL AUTHORITIES.

42 USC 17356.

(a) DETAIL OF PERSONNEL.—Upon request of the Chief Executive Officer, the head of an agency may detail any employee of such agency to the Foundation on a reimbursable basis. Any employee so detailed remains, for the purpose of preserving such employee’s allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed.

(b) REEMPLOYMENT RIGHTS.—

(1) IN GENERAL.—An employee of an agency who is serving under a career or career conditional appointment (or the equivalent), and who, with the consent of the head of such agency, transfers to the Foundation, is entitled to be reemployed in such employee's former position or a position of like seniority, status, and pay in such agency, if such employee—

(A) is separated from the Foundation for any reason, other than misconduct, neglect of duty, or malfeasance; and

Deadline.

(B) applies for reemployment not later than 90 days after the date of separation from the Foundation.

Deadline.

(2) SPECIFIC RIGHTS.—An employee who satisfies paragraph (1) is entitled to be reemployed (in accordance with such paragraph) within 30 days after applying for reemployment and, on reemployment, is entitled to at least the rate of basic pay to which such employee would have been entitled had such employee never transferred.

(c) HIRING AUTHORITY.—Of persons employed by the Foundation, no more than 30 persons may be appointed, compensated, or removed without regard to the civil service laws and regulations.

(d) BASIC PAY.—The Chief Executive Officer may fix the rate of basic pay of employees of the Foundation without regard to the provisions of chapter 51 of title 5, United States Code (relating to the classification of positions), subchapter III of chapter 53 of such title (relating to General Schedule pay rates), except that no employee of the Foundation may receive a rate of basic pay that exceeds the rate for level IV of the Executive Schedule under section 5315 of such title.

(e) DEFINITIONS.—In this section—

(1) the term “agency” means an executive agency, as defined by section 105 of title 5, United States Code; and

(2) the term “detail” means the assignment or loan of an employee, without a change of position, from the agency by which such employee is employed to the Foundation.

42 USC 17357.

SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subtitle, there are authorized to be appropriated \$20,000,000 for each of the fiscal years 2009 through 2013.

(b) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Foundation may allocate or transfer to any agency of the United States Government any of the funds available for carrying out this subtitle. Such funds shall be available for obligation and expenditure for the purposes for which the funds were authorized, in accordance with authority granted in this subtitle or under authority governing the activities of the United States Government agency to which such funds are allocated or transferred.

Deadline.

(2) NOTIFICATION.—The Foundation shall notify the appropriate congressional committees not less than 15 days prior to an allocation or transfer of funds pursuant to paragraph (1).

Subtitle C—Miscellaneous Provisions

SEC. 931. ENERGY DIPLOMACY AND SECURITY WITHIN THE DEPARTMENT OF STATE. 42 USC 17371.

(a) STATE DEPARTMENT COORDINATOR FOR INTERNATIONAL ENERGY AFFAIRS.—

(1) IN GENERAL.—The Secretary of State should ensure that energy security is integrated into the core mission of the Department of State.

(2) COORDINATOR FOR INTERNATIONAL ENERGY AFFAIRS.—There is established within the Office of the Secretary of State a Coordinator for International Energy Affairs, who shall be responsible for—

(A) representing the Secretary of State in interagency efforts to develop the international energy policy of the United States;

(B) ensuring that analyses of the national security implications of global energy and environmental developments are reflected in the decision making process within the Department of State;

(C) incorporating energy security priorities into the activities of the Department of State;

(D) coordinating energy activities of the Department of State with relevant Federal agencies; and

(E) coordinating energy security and other relevant functions within the Department of State currently undertaken by offices within—

(i) the Bureau of Economic, Energy and Business Affairs;

(ii) the Bureau of Oceans and International Environmental and Scientific Affairs; and

(iii) other offices within the Department of State.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) ENERGY EXPERTS IN KEY EMBASSIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that includes—

Deadline.
Reports.

(1) a description of the Department of State personnel who are dedicated to energy matters and are stationed at embassies and consulates in countries that are major energy producers or consumers;

(2) an analysis of the need for Federal energy specialist personnel in United States embassies and other United States diplomatic missions; and

(3) recommendations for increasing energy expertise within United States embassies among foreign service officers and options for assigning to such embassies energy attachés from the National Laboratories or other agencies within the Department of Energy.

(c) ENERGY ADVISORS.—The Secretary of Energy may make appropriate arrangements with the Secretary of State to assign personnel from the Department of Energy or the National Laboratories of the Department of Energy to serve as dedicated advisors

on energy matters in embassies of the United States or other United States diplomatic missions.

(d) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, and every 2 years thereafter for the following 20 years, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that describes—

(1) the energy-related activities being conducted by the Department of State, including activities within—

(A) the Bureau of Economic, Energy and Business Affairs;

(B) the Bureau of Oceans and Environmental and Scientific Affairs; and

(C) other offices within the Department of State;

(2) the amount of funds spent on each activity within each office described in paragraph (1); and

(3) the number and qualification of personnel in each embassy (or relevant foreign posting) of the United States whose work is dedicated exclusively to energy matters.

SEC. 932. NATIONAL SECURITY COUNCIL REORGANIZATION.

Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended—

(1) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following:
“(5) the Secretary of Energy;”.

42 USC 17372.

SEC. 933. ANNUAL NATIONAL ENERGY SECURITY STRATEGY REPORT.

(a) **REPORTS.**—

President.

(1) **IN GENERAL.**—Subject to paragraph (2), on the date on which the President submits to Congress the budget for the following fiscal year under section 1105 of title 31, United States Code, the President shall submit to Congress a comprehensive report on the national energy security of the United States.

(2) **NEW PRESIDENTS.**—In addition to the reports required under paragraph (1), the President shall submit a comprehensive report on the national energy security of the United States by not later than 150 days after the date on which the President assumes the office of President after a presidential election.

(b) **CONTENTS.**—Each report under this section shall describe the national energy security strategy of the United States, including a comprehensive description of—

(1) the worldwide interests, goals, and objectives of the United States that are vital to the national energy security of the United States;

(2) the foreign policy, worldwide commitments, and national defense capabilities of the United States necessary—

(A) to deter political manipulation of world energy resources; and

(B) to implement the national energy security strategy of the United States;

(3) the proposed short-term and long-term uses of the political, economic, military, and other authorities of the United States—

(A) to protect or promote energy security; and

(B) to achieve the goals and objectives described in paragraph (1);

(4) the adequacy of the capabilities of the United States to protect the national energy security of the United States, including an evaluation of the balance among the capabilities of all elements of the national authority of the United States to support the implementation of the national energy security strategy; and

(5) such other information as the President determines to be necessary to inform Congress on matters relating to the national energy security of the United States.

(c) **CLASSIFIED AND UNCLASSIFIED FORM.**—Each national energy security strategy report shall be submitted to Congress in—

- (1) a classified form; and
- (2) an unclassified form.

SEC. 934. CONVENTION ON SUPPLEMENTARY COMPENSATION FOR NUCLEAR DAMAGE CONTINGENT COST ALLOCATION. 42 USC 17373.

(a) **FINDINGS AND PURPOSE.**—

(1) **FINDINGS.**—Congress finds that—

(A) section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) (commonly known as the “Price-Anderson Act”)—

(i) provides a predictable legal framework necessary for nuclear projects; and

(ii) ensures prompt and equitable compensation in the event of a nuclear incident in the United States;

(B) the Price-Anderson Act, in effect, provides operators of nuclear powerplants with insurance for damage arising out of a nuclear incident and funds the insurance primarily through the assessment of a retrospective premium from each operator after the occurrence of a nuclear incident;

(C) the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997, will establish a global system—

(i) to provide a predictable legal framework necessary for nuclear energy projects; and

(ii) to ensure prompt and equitable compensation in the event of a nuclear incident;

(D) the Convention benefits United States nuclear suppliers that face potentially unlimited liability for nuclear incidents that are not covered by the Price-Anderson Act by replacing a potentially open-ended liability with a predictable liability regime that, in effect, provides nuclear suppliers with insurance for damage arising out of such an incident;

(E) the Convention also benefits United States nuclear facility operators that may be publicly liable for a Price-Anderson incident by providing an additional early source of funds to compensate damage arising out of the Price-Anderson incident;

(F) the combined operation of the Convention, the Price-Anderson Act, and this section will augment the quantity of assured funds available for victims in a wider variety of nuclear incidents while reducing the potential liability of United States suppliers without increasing potential costs to United States operators;

(G) the cost of those benefits is the obligation of the United States to contribute to the supplementary compensation fund established by the Convention;

(H) any such contribution should be funded in a manner that does not—

(i) upset settled expectations based on the liability regime established under the Price-Anderson Act; or

(ii) shift to Federal taxpayers liability risks for nuclear incidents at foreign installations;

(I) with respect to a Price-Anderson incident, funds already available under the Price-Anderson Act should be used; and

(J) with respect to a nuclear incident outside the United States not covered by the Price-Anderson Act, a retrospective premium should be prorated among nuclear suppliers relieved from potential liability for which insurance is not available.

(2) PURPOSE.—The purpose of this section is to allocate the contingent costs associated with participation by the United States in the international nuclear liability compensation system established by the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997—

(A) with respect to a Price-Anderson incident, by using funds made available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) to cover the contingent costs in a manner that neither increases the burdens nor decreases the benefits under section 170 of that Act; and

(B) with respect to a covered incident outside the United States that is not a Price-Anderson incident, by allocating the contingent costs equitably, on the basis of risk, among the class of nuclear suppliers relieved by the Convention from the risk of potential liability resulting from any covered incident outside the United States.

(b) DEFINITIONS.—In this section:

(1) COMMISSION.—The term “Commission” means the Nuclear Regulatory Commission.

(2) CONTINGENT COST.—The term “contingent cost” means the cost to the United States in the event of a covered incident the amount of which is equal to the amount of funds the United States is obligated to make available under paragraph 1(b) of Article III of the Convention.

(3) CONVENTION.—The term “Convention” means the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) COVERED INCIDENT.—The term “covered incident” means a nuclear incident the occurrence of which results in a request for funds pursuant to Article VII of the Convention.

(5) COVERED INSTALLATION.—The term “covered installation” means a nuclear installation at which the occurrence of a nuclear incident could result in a request for funds under Article VII of the Convention.

(6) COVERED PERSON.—

(A) IN GENERAL.—The term “covered person” means—

(i) a United States person; and

(ii) an individual or entity (including an agency or instrumentality of a foreign country) that—

- (I) is located in the United States; or
 - (II) carries out an activity in the United States.
- (B) EXCLUSIONS.—The term “covered person” does not include—
 - (i) the United States; or
 - (ii) any agency or instrumentality of the United States.
- (7) NUCLEAR SUPPLIER.—The term “nuclear supplier” means a covered person (or a successor in interest of a covered person) that—
 - (A) supplies facilities, equipment, fuel, services, or technology pertaining to the design, construction, operation, or decommissioning of a covered installation; or
 - (B) transports nuclear materials that could result in a covered incident.
- (8) PRICE-ANDERSON INCIDENT.—The term “Price-Anderson incident” means a covered incident for which section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) would make funds available to compensate for public liability (as defined in section 11 of that Act (42 U.S.C. 2014)).
- (9) SECRETARY.—The term “Secretary” means the Secretary of Energy.
- (10) UNITED STATES.—
 - (A) IN GENERAL.—The term “United States” has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).
 - (B) INCLUSIONS.—The term “United States” includes—
 - (i) the Commonwealth of Puerto Rico;
 - (ii) any other territory or possession of the United States;
 - (iii) the Canal Zone; and
 - (iv) the waters of the United States territorial sea under Presidential Proclamation Number 5928, dated December 27, 1988 (43 U.S.C. 1331 note).
- (11) UNITED STATES PERSON.—The term “United States person” means—
 - (A) any individual who is a resident, national, or citizen of the United States (other than an individual residing outside of the United States and employed by a person who is not a United States person); and
 - (B) any corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship that is organized under the laws of the United States.
- (c) USE OF PRICE-ANDERSON FUNDS.—
 - (1) IN GENERAL.—Funds made available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) shall be used to cover the contingent cost resulting from any Price-Anderson incident.
 - (2) EFFECT.—The use of funds pursuant to paragraph (1) shall not reduce the limitation on public liability established under section 170 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)).
- (d) EFFECT ON AMOUNT OF PUBLIC LIABILITY.—
 - (1) IN GENERAL.—Funds made available to the United States under Article VII of the Convention with respect to

a Price-Anderson incident shall be used to satisfy public liability resulting from the Price-Anderson incident.

(2) AMOUNT.—The amount of public liability allowable under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) relating to a Price-Anderson incident under paragraph (1) shall be increased by an amount equal to the difference between—

(A) the amount of funds made available for the Price-Anderson incident under Article VII of the Convention; and

(B) the amount of funds used under subsection (c) to cover the contingent cost resulting from the Price-Anderson incident.

(e) RETROSPECTIVE RISK POOLING PROGRAM.—

(1) IN GENERAL.—Except as provided under paragraph (2), each nuclear supplier shall participate in a retrospective risk pooling program in accordance with this section to cover the contingent cost resulting from a covered incident outside the United States that is not a Price-Anderson incident.

(2) DEFERRED PAYMENT.—

(A) IN GENERAL.—The obligation of a nuclear supplier to participate in the retrospective risk pooling program shall be deferred until the United States is called on to provide funds pursuant to Article VII of the Convention with respect to a covered incident that is not a Price-Anderson incident.

(B) AMOUNT OF DEFERRED PAYMENT.—The amount of a deferred payment of a nuclear supplier under subparagraph (A) shall be based on the risk-informed assessment formula determined under subparagraph (C).

(C) RISK-INFORMED ASSESSMENT FORMULA.—

(i) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, and every 5 years thereafter, the Secretary shall, by regulation, determine the risk-informed assessment formula for the allocation among nuclear suppliers of the contingent cost resulting from a covered incident that is not a Price-Anderson incident, taking into account risk factors such as—

(I) the nature and intended purpose of the goods and services supplied by each nuclear supplier to each covered installation outside the United States;

(II) the quantity of the goods and services supplied by each nuclear supplier to each covered installation outside the United States;

(III) the hazards associated with the supplied goods and services if the goods and services fail to achieve the intended purposes;

(IV) the hazards associated with the covered installation outside the United States to which the goods and services are supplied;

(V) the legal, regulatory, and financial infrastructure associated with the covered installation outside the United States to which the goods and services are supplied; and

Deadline.

(VI) the hazards associated with particular forms of transportation.

(ii) FACTORS FOR CONSIDERATION.—In determining the formula, the Secretary may—

(I) exclude—

(aa) goods and services with negligible risk;

(bb) classes of goods and services not intended specifically for use in a nuclear installation;

(cc) a nuclear supplier with a de minimis share of the contingent cost; and

(dd) a nuclear supplier no longer in existence for which there is no identifiable successor; and

(II) establish the period on which the risk assessment is based.

(iii) APPLICATION.—In applying the formula, the Secretary shall not consider any covered installation or transportation for which funds would be available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210).

(iv) REPORT.—Not later than 5 years after the date of the enactment of this Act, and every 5 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report on whether there is a need for continuation or amendment of this section, taking into account the effects of the implementation of the Convention on the United States nuclear industry and suppliers.

(f) REPORTING.—

(1) COLLECTION OF INFORMATION.—

(A) IN GENERAL.—The Secretary may collect information necessary for developing and implementing the formula for calculating the deferred payment of a nuclear supplier under subsection (e)(2).

(B) PROVISION OF INFORMATION.—Each nuclear supplier and other appropriate persons shall make available to the Secretary such information, reports, records, documents, and other data as the Secretary determines, by regulation, to be necessary or appropriate to develop and implement the formula under subsection (e)(2)(C).

(2) PRIVATE INSURANCE.—The Secretary shall make available to nuclear suppliers, and insurers of nuclear suppliers, information to support the voluntary establishment and maintenance of private insurance against any risk for which nuclear suppliers may be required to pay deferred payments under this section.

(g) EFFECT ON LIABILITY.—Nothing in any other law (including regulations) limits liability for a covered incident to an amount equal to less than the amount prescribed in paragraph 1(a) of Article IV of the Convention, unless the law—

(1) specifically refers to this section; and

(2) explicitly repeals, alters, amends, modifies, impairs, displaces, or supersedes the effect of this subsection.

(h) PAYMENTS TO AND BY THE UNITED STATES.—

(1) ACTION BY NUCLEAR SUPPLIERS.—

(A) NOTIFICATION.—In the case of a request for funds under Article VII of the Convention resulting from a covered incident that is not a Price-Anderson incident, the Secretary shall notify each nuclear supplier of the amount of the deferred payment required to be made by the nuclear supplier.

(B) PAYMENTS.—

Deadline.

(i) IN GENERAL.—Except as provided under clause (ii), not later than 60 days after receipt of a notification under subparagraph (A), a nuclear supplier shall pay to the general fund of the Treasury the deferred payment of the nuclear supplier required under subparagraph (A).

(ii) ANNUAL PAYMENTS.—A nuclear supplier may elect to prorate payment of the deferred payment required under subparagraph (A) in 5 equal annual payments (including interest on the unpaid balance at the prime rate prevailing at the time the first payment is due).

(C) VOUCHERS.—A nuclear supplier shall submit payment certification vouchers to the Secretary of the Treasury in accordance with section 3325 of title 31, United States Code.

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts paid into the Treasury under paragraph (1) shall be available to the Secretary of the Treasury, without further appropriation and without fiscal year limitation, for the purpose of making the contributions of public funds required to be made by the United States under the Convention.

(B) ACTION BY SECRETARY OF TREASURY.—The Secretary of the Treasury shall pay the contribution required under the Convention to the court of competent jurisdiction under Article XIII of the Convention with respect to the applicable covered incident.

(3) FAILURE TO PAY.—If a nuclear supplier fails to make a payment required under this subsection, the Secretary may take appropriate action to recover from the nuclear supplier—

(A) the amount of the payment due from the nuclear supplier;

(B) any applicable interest on the payment; and

(C) a penalty of not more than twice the amount of the deferred payment due from the nuclear supplier.

(i) LIMITATION ON JUDICIAL REVIEW; CAUSE OF ACTION.—

(1) LIMITATION ON JUDICIAL REVIEW.—

(A) IN GENERAL.—In any civil action arising under the Convention over which Article XIII of the Convention grants jurisdiction to the courts of the United States, any appeal or review by writ of mandamus or otherwise with respect to a nuclear incident that is not a Price-Anderson incident shall be in accordance with chapter 83 of title 28, United States Code, except that the appeal or review shall occur in the United States Court of Appeals for the District of Columbia Circuit.

(B) SUPREME COURT JURISDICTION.—Nothing in this paragraph affects the jurisdiction of the Supreme Court of the United States under chapter 81 of title 28, United States Code.

(2) CAUSE OF ACTION.—

(A) IN GENERAL.—Subject to subparagraph (B), in any civil action arising under the Convention over which Article XIII of the Convention grants jurisdiction to the courts of the United States, in addition to any other cause of action that may exist, an individual or entity shall have a cause of action against the operator to recover for nuclear damage suffered by the individual or entity.

(B) REQUIREMENT.—Subparagraph (A) shall apply only if the individual or entity seeks a remedy for nuclear damage (as defined in Article I of the Convention) that was caused by a nuclear incident (as defined in Article I of the Convention) that is not a Price-Anderson incident.

(C) SAVINGS PROVISION.—Nothing in this paragraph may be construed to limit, modify, extinguish, or otherwise affect any cause of action that would have existed in the absence of enactment of this paragraph.

(j) RIGHT OF RECOURSE.—This section does not provide to an operator of a covered installation any right of recourse under the Convention.

(k) PROTECTION OF SENSITIVE UNITED STATES INFORMATION.—Nothing in the Convention or this section requires the disclosure of—

(1) any data that, at any time, was Restricted Data (as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014));

(2) information relating to intelligence sources or methods protected by section 102A(i) of the National Security Act of 1947 (50 U.S.C. 403-1(i)); or

(3) national security information classified under Executive Order 12958 (50 U.S.C. 435 note; relating to classified national security information) (or a successor Executive Order or regulation).

(l) REGULATIONS.—

(1) IN GENERAL.—The Secretary or the Commission, as appropriate, may prescribe regulations to carry out section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and this section.

(2) REQUIREMENT.—Rules prescribed under this subsection shall ensure, to the maximum extent practicable, that—

(A) the implementation of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and this section is consistent and equitable; and

(B) the financial and operational burden on a Commission licensee in complying with section 170 of that Act is not greater as a result of the enactment of this section.

(3) APPLICABILITY OF PROVISION.—Section 553 of title 5, United States Code, shall apply with respect to the promulgation of regulations under this subsection.

(4) EFFECT OF SUBSECTION.—The authority provided under this subsection is in addition to, and does not impair or otherwise affect, any other authority of the Secretary or the Commission to prescribe regulations.

(m) **EFFECTIVE DATE.**—This section shall take effect on the date of the enactment of this Act.

42 USC 17374.

SEC. 935. TRANSPARENCY IN EXTRACTIVE INDUSTRIES RESOURCE PAYMENTS.

(a) **PURPOSE.**—The purpose of this section is to—

(1) ensure greater United States energy security by combating corruption in the governments of foreign countries that receive revenues from the sale of their natural resources; and

(2) enhance the development of democracy and increase political and economic stability in such resource rich foreign countries.

(b) **STATEMENT OF POLICY.**—It is the policy of the United States—

(1) to increase energy security by promoting anti-corruption initiatives in oil and natural gas rich countries; and

(2) to promote global energy security through promotion of programs such as the Extractive Industries Transparency Initiative (EITI) that seek to instill transparency and accountability into extractive industries resource payments.

(c) **SENSE OF CONGRESS.**—It is the sense of Congress that the United States should further global energy security and promote democratic development in resource-rich foreign countries by—

(1) encouraging further participation in the EITI by eligible countries and companies; and

(2) promoting the efficacy of the EITI program by ensuring a robust and candid review mechanism.

(d) **REPORT.**—

(1) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in consultation with the Secretary of Energy, shall submit to the appropriate congressional committees a report on progress made in promoting transparency in extractive industries resource payments.

(2) **MATTERS TO BE INCLUDED.**—The report required by paragraph (1) shall include a detailed description of United States participation in the EITI, bilateral and multilateral diplomatic efforts to further participation in the EITI, and other United States initiatives to strengthen energy security, deter energy kleptocracy, and promote transparency in the extractive industries.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$3,000,000 for the purposes of United States contributions to the Multi-Donor Trust Fund of the EITI.

Green Jobs Act
of 2007.

29 USC 2801
note.

TITLE X—GREEN JOBS

SEC. 1001. SHORT TITLE.

This title may be cited as the “Green Jobs Act of 2007”.

SEC. 1002. ENERGY EFFICIENCY AND RENEWABLE ENERGY WORKER TRAINING PROGRAM.

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by adding at the end the following:

“(e) **ENERGY EFFICIENCY AND RENEWABLE ENERGY WORKER TRAINING PROGRAM.**—

“(1) **GRANT PROGRAM.**—

“(A) IN GENERAL.—Not later than 6 months after the date of enactment of the Green Jobs Act of 2007, the Secretary, in consultation with the Secretary of Energy, shall establish an energy efficiency and renewable energy worker training program under which the Secretary shall carry out the activities described in paragraph (2) to achieve the purposes of this subsection. Deadline.

“(B) ELIGIBILITY.—For purposes of providing assistance and services under the program established under this subsection—

“(i) target populations of eligible individuals to be given priority for training and other services shall include—

“(I) workers impacted by national energy and environmental policy;

“(II) individuals in need of updated training related to the energy efficiency and renewable energy industries;

“(III) veterans, or past and present members of reserve components of the Armed Forces;

“(IV) unemployed individuals;

“(V) individuals, including at-risk youth, seeking employment pathways out of poverty and into economic self-sufficiency; and

“(VI) formerly incarcerated, adjudicated, non-violent offenders; and

“(ii) energy efficiency and renewable energy industries eligible to participate in a program under this subsection include—

“(I) the energy-efficient building, construction, and retrofits industries;

“(II) the renewable electric power industry;

“(III) the energy efficient and advanced drive train vehicle industry;

“(IV) the biofuels industry;

“(V) the deconstruction and materials use industries;

“(VI) the energy efficiency assessment industry serving the residential, commercial, or industrial sectors; and

“(VII) manufacturers that produce sustainable products using environmentally sustainable processes and materials.

“(2) ACTIVITIES.—

“(A) NATIONAL RESEARCH PROGRAM.—Under the program established under paragraph (1), the Secretary, acting through the Bureau of Labor Statistics, where appropriate, shall collect and analyze labor market data to track workforce trends resulting from energy-related initiatives carried out under this subsection. Activities carried out under this paragraph shall include—

“(i) tracking and documentation of academic and occupational competencies as well as future skill needs with respect to renewable energy and energy efficiency technology;

“(ii) tracking and documentation of occupational information and workforce training data with respect to renewable energy and energy efficiency technology;

“(iii) collaborating with State agencies, workforce investments boards, industry, organized labor, and community and nonprofit organizations to disseminate information on successful innovations for labor market services and worker training with respect to renewable energy and energy efficiency technology;

“(iv) serving as a clearinghouse for best practices in workforce development, job placement, and collaborative training partnerships;

“(v) encouraging the establishment of workforce training initiatives with respect to renewable energy and energy efficiency technologies;

“(vi) linking research and development in renewable energy and energy efficiency technology with the development of standards and curricula for current and future jobs;

“(vii) assessing new employment and work practices including career ladder and upgrade training as well as high performance work systems; and

“(viii) providing technical assistance and capacity building to national and State energy partnerships, including industry and labor representatives.

“(B) NATIONAL ENERGY TRAINING PARTNERSHIP GRANTS.—

“(i) IN GENERAL.—Under the program established under paragraph (1), the Secretary shall award National Energy Training Partnerships Grants on a competitive basis to eligible entities to enable such entities to carry out training that leads to economic self-sufficiency and to develop an energy efficiency and renewable energy industries workforce. Grants shall be awarded under this subparagraph so as to ensure geographic diversity with at least 2 grants awarded to entities located in each of the 4 Petroleum Administration for Defense Districts with no subdistricts, and at least 1 grant awarded to an entity located in each of the subdistricts of the Petroleum Administration for Defense District with subdistricts.

“(ii) ELIGIBILITY.—To be eligible to receive a grant under clause (i), an entity shall be a nonprofit partnership that—

“(I) includes the equal participation of industry, including public or private employers, and labor organizations, including joint labor-management training programs, and may include workforce investment boards, community-based organizations, qualified service and conservation corps, educational institutions, small businesses, cooperatives, State and local veterans agencies, and veterans service organizations; and

“(II) demonstrates—

“(aa) experience in implementing and operating worker skills training and education programs;

“(bb) the ability to identify and involve in training programs carried out under this grant, target populations of individuals who would benefit from training and be actively involved in activities related to energy efficiency and renewable energy industries; and

“(cc) the ability to help individuals achieve economic self-sufficiency.

“(iii) PRIORITY.—Priority shall be given to partnerships which leverage additional public and private resources to fund training programs, including cash or in-kind matches from participating employers.

“(C) STATE LABOR MARKET RESEARCH, INFORMATION, AND LABOR EXCHANGE RESEARCH PROGRAM.—

“(i) IN GENERAL.—Under the program established under paragraph (1), the Secretary shall award competitive grants to States to enable such States to administer labor market and labor exchange information programs that include the implementation of the activities described in clause (ii), in coordination with the one-stop delivery system.

“(ii) ACTIVITIES.—A State shall use amounts awarded under a grant under this subparagraph to provide funding to the State agency that administers the Wagner-Peyser Act and State unemployment compensation programs to carry out the following activities using State agency merit staff:

“(I) The identification of job openings in the renewable energy and energy efficiency sector.

“(II) The administration of skill and aptitude testing and assessment for workers.

“(III) The counseling, case management, and referral of qualified job seekers to openings and training programs, including energy efficiency and renewable energy training programs.

“(D) STATE ENERGY TRAINING PARTNERSHIP PROGRAM.—

“(i) IN GENERAL.—Under the program established under paragraph (1), the Secretary shall award competitive grants to States to enable such States to administer renewable energy and energy efficiency workforce development programs that include the implementation of the activities described in clause (ii).

“(ii) PARTNERSHIPS.—A State shall use amounts awarded under a grant under this subparagraph to award competitive grants to eligible State Energy Sector Partnerships to enable such Partnerships to coordinate with existing apprenticeship and labor management training programs and implement training programs that lead to the economic self-sufficiency of trainees.

“(iii) ELIGIBILITY.—To be eligible to receive a grant under this subparagraph, a State Energy Sector Partnership shall—

“(I) consist of nonprofit organizations that include equal participation from industry, including public or private nonprofit employers,

and labor organizations, including joint labor-management training programs, and may include representatives from local governments, the workforce investment system, including one-stop career centers, community based organizations, qualified service and conservation corps, community colleges, and other post-secondary institutions, small businesses, cooperatives, State and local veterans agencies, and veterans service organizations;

“(II) demonstrate experience in implementing and operating worker skills training and education programs; and

“(III) demonstrate the ability to identify and involve in training programs, target populations of workers who would benefit from training and be actively involved in activities related to energy efficiency and renewable energy industries.

“(iv) PRIORITY.—In awarding grants under this subparagraph, the Secretary shall give priority to States that demonstrate that activities under the grant—

“(I) meet national energy policies associated with energy efficiency, renewable energy, and the reduction of emissions of greenhouse gases;

“(II) meet State energy policies associated with energy efficiency, renewable energy, and the reduction of emissions of greenhouse gases; and

“(III) leverage additional public and private resources to fund training programs, including cash or in-kind matches from participating employers.

“(v) COORDINATION.—A grantee under this subparagraph shall coordinate activities carried out under the grant with existing other appropriate training programs, including apprenticeship and labor management training programs, including such activities referenced in paragraph (3)(A), and implement training programs that lead to the economic self-sufficiency of trainees.

“(E) PATHWAYS OUT OF POVERTY DEMONSTRATION PROGRAM.—

Grants.

“(i) IN GENERAL.—Under the program established under paragraph (1), the Secretary shall award competitive grants of sufficient size to eligible entities to enable such entities to carry out training that leads to economic self-sufficiency. The Secretary shall give priority to entities that serve individuals in families with income of less than 200 percent of the sufficiency standard for the local areas where the training is conducted that specifies, as defined by the State, or where such standard is not established, the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations. Grants shall be awarded to ensure geographic diversity.

“(ii) ELIGIBLE ENTITIES.—To be eligible to receive a grant an entity shall be a partnership that—

“(I) includes community-based nonprofit organizations, educational institutions with expertise in serving low-income adults or youth, public or private employers from the industry sectors described in paragraph (1)(B)(ii), and labor organizations representing workers in such industry sectors;

“(II) demonstrates a record of successful experience in implementing and operating worker skills training and education programs;

“(III) coordinates activities, where appropriate, with the workforce investment system; and

“(IV) demonstrates the ability to recruit individuals for training and to support such individuals to successful completion in training programs carried out under this grant, targeting populations of workers who are or will be engaged in activities related to energy efficiency and renewable energy industries.

“(iii) PRIORITIES.—In awarding grants under this paragraph, the Secretary shall give priority to applicants that—

“(I) target programs to benefit low-income workers, unemployed youth and adults, high school dropouts, or other underserved sectors of the workforce within areas of high poverty;

“(II) ensure that supportive services are integrated with education and training, and delivered by organizations with direct access to and experience with targeted populations;

“(III) leverage additional public and private resources to fund training programs, including cash or in-kind matches from participating employers;

“(IV) involve employers and labor organizations in the determination of relevant skills and competencies and ensure that the certificates or credentials that result from the training are employer-recognized;

“(V) deliver courses at alternative times (such as evening and weekend programs) and locations most convenient and accessible to participants and link adult remedial education with occupational skills training; and

“(VI) demonstrate substantial experience in administering local, municipal, State, Federal, foundation, or private entity grants.

“(iv) DATA COLLECTION.—Grantees shall collect and report the following information: Reports.

“(I) The number of participants.

“(II) The demographic characteristics of participants, including race, gender, age, parenting status, participation in other Federal programs, education and literacy level at entry, significant barriers to employment (such as limited English proficiency, criminal record, addiction or mental

health problem requiring treatment, or mental disability).

“(III) The services received by participants, including training, education, and supportive services.

“(IV) The amount of program spending per participant.

“(V) Program completion rates.

“(VI) Factors determined as significantly interfering with program participation or completion.

“(VII) The rate of job placement and the rate of employment retention after 1 year.

“(VIII) The average wage at placement, including any benefits, and the rate of average wage increase after 1 year.

“(IX) Any post-employment supportive services provided.

The Secretary shall assist grantees in the collection of data under this clause by making available, where practicable, low-cost means of tracking the labor market outcomes of participants, and by providing standardized reporting forms, where appropriate.

“(3) ACTIVITIES.—

“(A) IN GENERAL.—Activities to be carried out under a program authorized by subparagraph (B), (D), or (E) of paragraph (2) shall be coordinated with existing systems or providers, as appropriate. Such activities may include—

“(i) occupational skills training, including curriculum development, on-the-job training, and classroom training;

“(ii) safety and health training;

“(iii) the provision of basic skills, literacy, GED, English as a second language, and job readiness training;

“(iv) individual referral and tuition assistance for a community college training program, or any training program leading to an industry-recognized certificate;

“(v) internship programs in fields related to energy efficiency and renewable energy;

“(vi) customized training in conjunction with an existing registered apprenticeship program or labor-management partnership;

“(vii) incumbent worker and career ladder training and skill upgrading and retraining;

“(viii) the implementation of transitional jobs strategies; and

“(ix) the provision of supportive services.

“(B) OUTREACH ACTIVITIES.—In addition to the activities authorized under subparagraph (A), activities authorized for programs under subparagraph (E) of paragraph (2) may include the provision of outreach, recruitment, career guidance, and case management services.

“(4) WORKER PROTECTIONS AND NONDISCRIMINATION REQUIREMENTS.—

“(A) APPLICATION OF WIA.—The provisions of sections 181 and 188 of the Workforce Investment Act of 1998

Applicability.

(29 U.S.C. 2931 and 2938) shall apply to all programs carried out with assistance under this subsection.

“(B) CONSULTATION WITH LABOR ORGANIZATIONS.—If a labor organization represents a substantial number of workers who are engaged in similar work or training in an area that is the same as the area that is proposed to be funded under this Act, the labor organization shall be provided an opportunity to be consulted and to submit comments in regard to such a proposal.

“(5) PERFORMANCE MEASURES.—

“(A) IN GENERAL.—The Secretary shall negotiate and reach agreement with the eligible entities that receive grants and assistance under this section on performance measures for the indicators of performance referred to in subparagraphs (A) and (B) of section 136(b)(2) that will be used to evaluate the performance of the eligible entity in carrying out the activities described in subsection (e)(2). Each performance measure shall consist of such an indicator of performance, and a performance level referred to in subparagraph (B).

“(B) PERFORMANCE LEVELS.—The Secretary shall negotiate and reach agreement with the eligible entity regarding the levels of performance expected to be achieved by the eligible entity on the indicators of performance.

“(6) REPORT.—

“(A) STATUS REPORT.—Not later than 18 months after the date of enactment of the Green Jobs Act of 2007, the Secretary shall transmit a report to the Senate Committee on Energy and Natural Resources, the Senate Committee on Health, Education, Labor, and Pensions, the House Committee on Education and Labor, and the House Committee on Energy and Commerce on the training program established by this subsection. The report shall include a description of the entities receiving funding and the activities carried out by such entities.

“(B) EVALUATION.—Not later than 3 years after the date of enactment of such Act, the Secretary shall transmit to the Senate Committee on Energy and Natural Resources, the Senate Committee on Health, Education, Labor, and Pensions, the House Committee on Education and Labor, and the House Committee on Energy and Commerce an assessment of such program and an evaluation of the activities carried out by entities receiving funding from such program.

Deadline.

“(7) DEFINITION.—As used in this subsection, the term ‘renewable energy’ has the meaning given such term in section 203(b)(2) of the Energy Policy Act of 2005 (Public Law 109-58).

“(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, \$125,000,000 for each fiscal year, of which—

“(A) not to exceed 20 percent of the amount appropriated in each such fiscal year shall be made available for, and shall be equally divided between, national labor market research and information under paragraph (2)(A) and State labor market information and labor exchange research under paragraph (2)(C), and not more than 2

percent of such amount shall be for the evaluation and report required under paragraph (4);

“(B) 20 percent shall be dedicated to Pathways Out of Poverty Demonstration Programs under paragraph (2)(E); and

“(C) the remainder shall be divided equally between National Energy Partnership Training Grants under paragraph (2)(B) and State energy training partnership grants under paragraph (2)(D).”.

TITLE XI—ENERGY TRANSPORTATION AND INFRASTRUCTURE

Subtitle A—Department of Transportation

SEC. 1101. OFFICE OF CLIMATE CHANGE AND ENVIRONMENT.

(a) IN GENERAL.—Section 102 of title 49, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

“(g) OFFICE OF CLIMATE CHANGE AND ENVIRONMENT.—

“(1) ESTABLISHMENT.—There is established in the Department an Office of Climate Change and Environment to plan, coordinate, and implement—

“(A) department-wide research, strategies, and actions under the Department’s statutory authority to reduce transportation-related energy use and mitigate the effects of climate change; and

“(B) department-wide research strategies and actions to address the impacts of climate change on transportation systems and infrastructure.

Establishment.

“(2) CLEARINGHOUSE.—The Office shall establish a clearinghouse of solutions, including cost-effective congestion reduction approaches, to reduce air pollution and transportation-related energy use and mitigate the effects of climate change.”.

49 USC 102 note.

(b) COORDINATION.—The Office of Climate Change and Environment of the Department of Transportation shall coordinate its activities with the United States Global Change Research Program.

(c) TRANSPORTATION SYSTEM’S IMPACT ON CLIMATE CHANGE AND FUEL EFFICIENCY.—

(1) STUDY.—The Office of Climate Change and Environment, in coordination with the Environmental Protection Agency and in consultation with the United States Global Change Research Program, shall conduct a study to examine the impact of the Nation’s transportation system on climate change and the fuel efficiency savings and clean air impacts of major transportation projects, to identify solutions to reduce air pollution and transportation-related energy use and mitigate the effects of climate change, and to examine the potential fuel savings that could result from changes in the current transportation system and through the use of intelligent transportation systems that help businesses and consumers to plan their travel and avoid delays, including Web-based real-time transit information systems, congestion information

systems, carpool information systems, parking information systems, freight route management systems, and traffic management systems.

(2) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Administrator of the Environmental Protection Agency, shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate a report that contains the results of the study required under this section.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Transportation for the Office of Climate Change and Environment to carry out its duties under section 102(g) of title 49, United States Code (as amended by this Act), such sums as may be necessary for fiscal years 2008 through 2011.

Subtitle B—Railroads

SEC. 1111. ADVANCED TECHNOLOGY LOCOMOTIVE GRANT PILOT PROGRAM.

42 USC 16101
note.

(a) **IN GENERAL.**—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall establish and carry out a pilot program for making grants to railroad carriers (as defined in section 20102 of title 49, United States Code) and State and local governments—

(1) for assistance in purchasing hybrid or other energy-efficient locomotives, including hybrid switch and generator-set locomotives; and

(2) to demonstrate the extent to which such locomotives increase fuel economy, reduce emissions, and lower costs of operation.

(b) **LIMITATION.**—Notwithstanding subsection (a), no grant under this section may be used to fund the costs of emissions reductions that are mandated under Federal law.

(c) **GRANT CRITERIA.**—In selecting applicants for grants under this section, the Secretary of Transportation shall consider—

(1) the level of energy efficiency that would be achieved by the proposed project;

(2) the extent to which the proposed project would assist in commercial deployment of hybrid or other energy-efficient locomotive technologies;

(3) the extent to which the proposed project complements other private or governmental partnership efforts to improve air quality or fuel efficiency in a particular area; and

(4) the extent to which the applicant demonstrates innovative strategies and a financial commitment to increasing energy efficiency and reducing greenhouse gas emissions of its railroad operations.

(d) **COMPETITIVE GRANT SELECTION PROCESS.**—

(1) **APPLICATIONS.**—A railroad carrier or State or local government seeking a grant under this section shall submit for approval by the Secretary of Transportation an application

for the grant containing such information as the Secretary of Transportation may require.

(2) COMPETITIVE SELECTION.—The Secretary of Transportation shall conduct a national solicitation for applications for grants under this section and shall select grantees on a competitive basis.

(e) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall not exceed 80 percent of the project cost.

(f) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the results of the pilot program carried out under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation \$10,000,000 for each of the fiscal years 2008 through 2011 to carry out this section. Such funds shall remain available until expended.

SEC. 1112. CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS.

(a) AMENDMENT.—Chapter 223 of title 49, United States Code, is amended to read as follows:

“CHAPTER 223—CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS

“Sec.

“22301. Capital grants for class II and class III railroads.

“§ 22301. Capital grants for class II and class III railroads

“(a) ESTABLISHMENT OF PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program for making capital grants to class II and class III railroads. Such grants shall be for projects in the public interest that—

“(A)(i) rehabilitate, preserve, or improve railroad track (including roadbed, bridges, and related track structures) used primarily for freight transportation;

“(ii) facilitate the continued or greater use of railroad transportation for freight shipments; and

“(iii) reduce the use of less fuel efficient modes of transportation in the transportation of such shipments; and

“(B) demonstrate innovative technologies and advanced research and development that increase fuel economy, reduce greenhouse gas emissions, and lower the costs of operation.

“(2) PROVISION OF GRANTS.—Grants may be provided under this chapter—

“(A) directly to the class II or class III railroad; or

“(B) with the concurrence of the class II or class III railroad, to a State or local government.

“(3) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

“(4) REGULATIONS.—Not later than October 1, 2008, the Secretary shall issue final regulations to implement the program under this section. Deadline.

“(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case-by-case basis consistent with this chapter.

“(c) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

“(d) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of this chapter.

“(e) LABOR STANDARDS.—

“(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under subchapter IV of chapter 31 of title 40 (commonly known as the ‘Davis-Bacon Act’). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

“(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the subchapter IV of chapter 31 of title 40.

“(f) STUDY.—The Secretary shall conduct a study of the projects carried out with grant assistance under this section to determine the extent to which the program helps promote a reduction in fuel use associated with the transportation of freight and demonstrates innovative technologies that increase fuel economy, reduce greenhouse gas emissions, and lower the costs of operation. Not later than March 31, 2009, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the study, including any recommendations the Secretary considers appropriate regarding the program. Deadline. Reports.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$50,000,000 for each of fiscal years 2008 through 2011 for carrying out this section.”

(b) CLERICAL AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

“223. CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS22301”.

Subtitle C—Marine Transportation

SEC. 1121. SHORT SEA TRANSPORTATION INITIATIVE.

(a) IN GENERAL.—Title 46, United States Code, is amended by adding after chapter 555 the following:

“CHAPTER 556—SHORT SEA TRANSPORTATION

“Sec. 55601. Short sea transportation program.

“Sec. 55602. Cargo and shippers.

“Sec. 55603. Interagency coordination.

“Sec. 55604. Research on short sea transportation.

“Sec. 55605. Short sea transportation defined.

“§ 55601. Short sea transportation program

“(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a short sea transportation program and designate short sea transportation projects to be conducted under the program to mitigate landside congestion.

“(b) PROGRAM ELEMENTS.—The program shall encourage the use of short sea transportation through the development and expansion of—

“(1) documented vessels;

“(2) shipper utilization;

“(3) port and landside infrastructure; and

“(4) marine transportation strategies by State and local governments.

Designation.

“(c) SHORT SEA TRANSPORTATION ROUTES.—The Secretary shall designate short sea transportation routes as extensions of the surface transportation system to focus public and private efforts to use the waterways to relieve landside congestion along coastal corridors. The Secretary may collect and disseminate data for the designation and delineation of short sea transportation routes.

“(d) PROJECT DESIGNATION.—The Secretary may designate a project to be a short sea transportation project if the Secretary determines that the project may—

“(1) offer a waterborne alternative to available landside transportation services using documented vessels; and

“(2) provide transportation services for passengers or freight (or both) that may reduce congestion on landside infrastructure using documented vessels.

“(e) ELEMENTS OF PROGRAM.—For a short sea transportation project designated under this section, the Secretary may—

“(1) promote the development of short sea transportation services;

“(2) coordinate, with ports, State departments of transportation, localities, other public agencies, and the private sector and on the development of landside facilities and infrastructure to support short sea transportation services; and

“(3) develop performance measures for the short sea transportation program.

“(f) MULTISTATE, STATE AND REGIONAL TRANSPORTATION PLANNING.—The Secretary, in consultation with Federal entities and State and local governments, shall develop strategies to encourage the use of short sea transportation for transportation of passengers and cargo. The Secretary shall—

“(1) assess the extent to which States and local governments include short sea transportation and other marine transportation solutions in their transportation planning;

“(2) encourage State departments of transportation to develop strategies, where appropriate, to incorporate short sea transportation, ferries, and other marine transportation solutions for regional and interstate transport of freight and passengers in their transportation planning; and

“(3) encourage groups of States and multi-State transportation entities to determine how short sea transportation can address congestion, bottlenecks, and other interstate transportation challenges.

“§ 55602. Cargo and shippers

“(a) MEMORANDUMS OF AGREEMENT.—The Secretary of Transportation shall enter into memorandums of understanding with the heads of other Federal entities to transport federally owned or generated cargo using a short sea transportation project designated under section 55601 when practical or available.

“(b) SHORT-TERM INCENTIVES.—The Secretary shall consult shippers and other participants in transportation logistics and develop proposals for short-term incentives to encourage the use of short sea transportation.

“§ 55603. Interagency coordination

Establishment.

“The Secretary of Transportation shall establish a board to identify and seek solutions to impediments hindering effective use of short sea transportation. The board shall include representatives of the Environmental Protection Agency and other Federal, State, and local governmental entities and private sector entities.

“§ 55604. Research on short sea transportation

“The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, may conduct research on short sea transportation, regarding—

“(1) the environmental and transportation benefits to be derived from short sea transportation alternatives for other forms of transportation;

“(2) technology, vessel design, and other improvements that would reduce emissions, increase fuel economy, and lower costs of short sea transportation and increase the efficiency of intermodal transfers; and

“(3) solutions to impediments to short sea transportation projects designated under section 55601.

“§ 55605. Short sea transportation defined

“In this chapter, the term ‘short sea transportation’ means the carriage by vessel of cargo—

“(1) that is—

“(A) contained in intermodal cargo containers and loaded by crane on the vessel; or

“(B) loaded on the vessel by means of wheeled technology; and

“(2) that is—

“(A) loaded at a port in the United States and unloaded either at another port in the United States or at a port

in Canada located in the Great Lakes Saint Lawrence Seaway System; or

“(B) loaded at a port in Canada located in the Great Lakes Saint Lawrence Seaway System and unloaded at a port in the United States.”.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle V of such title is amended by inserting after the item relating to chapter 555 the following:

“556. Short Sea Transportation55601”.

(c) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall issue temporary regulations to implement the program under this section. Subchapter II of chapter 5 of title 5, United States Code, does not apply to a temporary regulation issued under this paragraph or to an amendment to such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than October 1, 2008, the Secretary of Transportation shall issue final regulations to implement the program under this section.

SEC. 1122. SHORT SEA SHIPPING ELIGIBILITY FOR CAPITAL CONSTRUCTION FUND.

(a) DEFINITION OF QUALIFIED VESSEL.—Section 53501 of title 46, United States Code, is amended—

(1) in paragraph (5)(A)(iii) by striking “or noncontiguous domestic” and inserting “noncontiguous domestic, or short sea transportation trade”; and

(2) by inserting after paragraph (6) the following:

“(7) SHORT SEA TRANSPORTATION TRADE.—The term ‘short sea transportation trade’ means the carriage by vessel of cargo—

“(A) that is—

“(i) contained in intermodal cargo containers and loaded by crane on the vessel; or

“(ii) loaded on the vessel by means of wheeled technology; and

“(B) that is—

“(i) loaded at a port in the United States and unloaded either at another port in the United States or at a port in Canada located in the Great Lakes Saint Lawrence Seaway System; or

“(ii) loaded at a port in Canada located in the Great Lakes Saint Lawrence Seaway System and unloaded at a port in the United States.”.

(b) ALLOWABLE PURPOSE.—Section 53503(b) of such title is amended by striking “or noncontiguous domestic trade” and inserting “noncontiguous domestic, or short sea transportation trade”.

SEC. 1123. SHORT SEA TRANSPORTATION REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and

Deadlines.
46 USC 55601
note.

Transportation of the Senate a report on the short sea transportation program established under the amendments made by section 1121. The report shall include a description of the activities conducted under the program, and any recommendations for further legislative or administrative action that the Secretary of Transportation considers appropriate.

Subtitle D—Highways

SEC. 1131. INCREASED FEDERAL SHARE FOR CMAQ PROJECTS.

Section 120(c) of title 23, United States Code, is amended—

(1) in the subsection heading by striking “FOR CERTAIN SAFETY PROJECTS”;

(2) by striking “The Federal share” and inserting the following:

“(1) CERTAIN SAFETY PROJECTS.—The Federal share”; and

(3) by adding at the end the following:

“(2) CMAQ PROJECTS.—The Federal share payable on account of a project or program carried out under section 149 with funds obligated in fiscal year 2008 or 2009, or both, shall be not less than 80 percent and, at the discretion of the State, may be up to 100 percent of the cost thereof.”.

SEC. 1132. DISTRIBUTION OF RESCISSIONS.

(a) IN GENERAL.—Any unobligated balances of amounts that are appropriated from the Highway Trust Fund for a fiscal year, and apportioned under chapter 1 of title 23, United States Code, before, on, or after the date of enactment of this Act and that are rescinded in fiscal year 2008 or fiscal year 2009 shall be distributed by the Secretary of Transportation within each State (as defined in section 101 of such title) among all programs for which funds are apportioned under such chapter for such fiscal year, to the extent sufficient funds remain available for obligation, in the ratio that the amount of funds apportioned for each program under such chapter for such fiscal year, bears to the amount of funds apportioned for all such programs under such chapter for such fiscal year.

(b) ADJUSTMENTS.—A State may make adjustments to the distribution of a rescission within the State for a fiscal year under subsection (a) by transferring the amounts to be rescinded among the programs for which funds are apportioned under chapter 1 of title 23, United States Code, for such fiscal year, except that in making such adjustments the State may not rescind from any such program more than 110 percent of the funds to be rescinded from the program for the fiscal year as determined by the Secretary of Transportation under subsection (a).

(c) TREATMENT OF TRANSPORTATION ENHANCEMENT SET-ASIDE AND FUNDS SUBALLOCATED TO SUBSTATE AREAS.—Funds set aside under sections 133(d)(2) and 133(d)(3) of title 23, United States Code, shall be treated as being apportioned under chapter 1 of such title for purposes of subsection (a).

SEC. 1133. SENSE OF CONGRESS REGARDING USE OF COMPLETE STREETS DESIGN TECHNIQUES.

It is the sense of Congress that in constructing new roadways or rehabilitating existing facilities, State and local governments should consider policies designed to accommodate all users,

including motorists, pedestrians, cyclists, transit riders, and people of all ages and abilities, in order to—

- (1) serve all surface transportation users by creating a more interconnected and intermodal system;
- (2) create more viable transportation options; and
- (3) facilitate the use of environmentally friendly options, such as public transportation, walking, and bicycling.

TITLE XII—SMALL BUSINESS ENERGY PROGRAMS

SEC. 1201. EXPRESS LOANS FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY.

Section 7(a)(31) of the Small Business Act (15 U.S.C. 636(a)(31)) is amended by adding at the end the following:

“(F) EXPRESS LOANS FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY.—

“(i) DEFINITIONS.—In this subparagraph—

“(I) the term ‘biomass’—

“(aa) means any organic material that is available on a renewable or recurring basis, including—

“(AA) agricultural crops;

“(BB) trees grown for energy production;

“(CC) wood waste and wood residues;

“(DD) plants (including aquatic plants and grasses);

“(EE) residues;

“(FF) fibers;

“(GG) animal wastes and other waste materials; and

“(HH) fats, oils, and greases (including recycled fats, oils, and greases); and

“(bb) does not include—

“(AA) paper that is commonly recycled; or

“(BB) unsegregated solid waste;

“(II) the term ‘energy efficiency project’ means the installation or upgrading of equipment that results in a significant reduction in energy usage; and

“(III) the term ‘renewable energy system’ means a system of energy derived from—

“(aa) a wind, solar, biomass (including biodiesel), or geothermal source; or

“(bb) hydrogen derived from biomass or water using an energy source described in item (aa).

“(ii) LOANS.—The Administrator may make a loan under the Express Loan Program for the purpose of—

“(I) purchasing a renewable energy system;

or

“(II) carrying out an energy efficiency project for a small business concern.”.

SEC. 1202. PILOT PROGRAM FOR REDUCED 7(a) FEES FOR PURCHASE OF ENERGY EFFICIENT TECHNOLOGIES.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

“(32) LOANS FOR ENERGY EFFICIENT TECHNOLOGIES.—

“(A) DEFINITIONS.—In this paragraph—

“(i) the term ‘cost’ has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a);

“(ii) the term ‘covered energy efficiency loan’ means a loan—

“(I) made under this subsection; and

“(II) the proceeds of which are used to purchase energy efficient designs, equipment, or fixtures, or to reduce the energy consumption of the borrower by 10 percent or more; and

“(iii) the term ‘pilot program’ means the pilot program established under subparagraph (B)

“(B) ESTABLISHMENT.—The Administrator shall establish and carry out a pilot program under which the Administrator shall reduce the fees for covered energy efficiency loans.

“(C) DURATION.—The pilot program shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the pilot program.

“(D) MAXIMUM PARTICIPATION.—A covered energy efficiency loan shall include the maximum participation levels by the Administrator permitted for loans made under this subsection.

“(E) FEES.—

“(i) IN GENERAL.—The fee on a covered energy efficiency loan shall be equal to 50 percent of the fee otherwise applicable to that loan under paragraph (18).

“(ii) WAIVER.—The Administrator may waive clause (i) for a fiscal year if—

“(I) for the fiscal year before that fiscal year, the annual rate of default of covered energy efficiency loans exceeds that of loans made under this subsection that are not covered energy efficiency loans;

“(II) the cost to the Administration of making loans under this subsection is greater than zero and such cost is directly attributable to the cost of making covered energy efficiency loans; and

“(III) no additional sources of revenue authority are available to reduce the cost of making loans under this subsection to zero.

“(iii) EFFECT OF WAIVER.—If the Administrator waives the reduction of fees under clause (ii), the Administrator—

“(I) shall not assess or collect fees in an amount greater than necessary to ensure that the cost of the program under this subsection is not greater than zero; and

“(II) shall reinstate the fee reductions under clause (i) when the conditions in clause (ii) no longer apply.

“(iv) NO INCREASE OF FEES.—The Administrator shall not increase the fees under paragraph (18) on loans made under this subsection that are not covered energy efficiency loans as a direct result of the pilot program.

“(F) GAO REPORT.—

“(i) IN GENERAL.—Not later than 1 year after the date that the pilot program terminates, the Comptroller General of the United States shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the pilot program.

“(ii) CONTENTS.—The report submitted under clause (i) shall include—

“(I) the number of covered energy efficiency loans for which fees were reduced under the pilot program;

“(II) a description of the energy efficiency savings with the pilot program;

“(III) a description of the impact of the pilot program on the program under this subsection;

“(IV) an evaluation of the efficacy and potential fraud and abuse of the pilot program; and

“(V) recommendations for improving the pilot program.”.

15 USC 657h.

SEC. 1203. SMALL BUSINESS ENERGY EFFICIENCY.

(a) DEFINITIONS.—In this section—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term “association” means the association of small business development centers established under section 21(a)(3)(A) of the Small Business Act (15 U.S.C. 648(a)(3)(A));

(3) the term “disability” has the meaning given that term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102);

(4) the term “Efficiency Program” means the Small Business Energy Efficiency Program established under subsection (c)(1);

(5) the term “electric utility” has the meaning given that term in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602);

(6) the term “high performance green building” has the meaning given that term in section 401;

(7) the term “on-bill financing” means a low interest or no interest financing agreement between a small business concern and an electric utility for the purchase or installation of equipment, under which the regularly scheduled payment of that small business concern to that electric utility is not reduced by the amount of the reduction in cost attributable to the new equipment and that amount is credited to the

electric utility, until the cost of the purchase or installation is repaid;

(8) the term “small business concern” has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632);

(9) the term “small business development center” means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648);

(10) the term “telecommuting” means the use of telecommunications to perform work functions under circumstances which reduce or eliminate the need to commute;

(11) the term “Telecommuting Pilot Program” means the pilot program established under subsection (d)(1)(A); and

(12) the term “veteran” has the meaning given that term in section 101 of title 38, United States Code.

(b) IMPLEMENTATION OF SMALL BUSINESS ENERGY EFFICIENCY PROGRAM.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall promulgate final rules establishing the Government-wide program authorized under subsection (d) of section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) that ensure compliance with that subsection by not later than 6 months after such date of enactment.

Deadlines.
Regulations.

(2) PROGRAM REQUIRED.—The Administrator shall develop and coordinate a Government-wide program, building on the Energy Star for Small Business program, to assist small business concerns in—

(A) becoming more energy efficient;

(B) understanding the cost savings from improved energy efficiency; and

(C) identifying financing options for energy efficiency upgrades.

(3) CONSULTATION AND COOPERATION.—The program required by paragraph (2) shall be developed and coordinated—

(A) in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency; and

(B) in cooperation with any entities the Administrator considers appropriate, such as industry trade associations, industry members, and energy efficiency organizations.

(4) AVAILABILITY OF INFORMATION.—The Administrator shall make available the information and materials developed under the program required by paragraph (2) to—

(A) small business concerns, including smaller design, engineering, and construction firms; and

(B) other Federal programs for energy efficiency, such as the Energy Star for Small Business program.

(5) STRATEGY AND REPORT.—

(A) STRATEGY REQUIRED.—The Administrator shall develop a strategy to educate, encourage, and assist small business concerns in adopting energy efficient building fixtures and equipment.

(B) REPORT.—Not later than December 31, 2008, the Administrator shall submit to Congress a report containing a plan to implement the strategy developed under subparagraph (A).

(c) SMALL BUSINESS SUSTAINABILITY INITIATIVE.—

(1) AUTHORITY.—The Administrator shall establish a Small Business Energy Efficiency Program to provide energy efficiency assistance to small business concerns through small business development centers.

(2) SMALL BUSINESS DEVELOPMENT CENTERS.—

Contracts.

(A) IN GENERAL.—In carrying out the Efficiency Program, the Administrator shall enter into agreements with small business development centers under which such centers shall—

(i) provide access to information and resources on energy efficiency practices, including on-bill financing options;

(ii) conduct training and educational activities;

(iii) offer confidential, free, one-on-one, in-depth energy audits to the owners and operators of small business concerns regarding energy efficiency practices;

(iv) give referrals to certified professionals and other providers of energy efficiency assistance who meet such standards for educational, technical, and professional competency as the Administrator shall establish;

(v) to the extent not inconsistent with controlling State public utility regulations, act as a facilitator between small business concerns, electric utilities, lenders, and the Administration to facilitate on-bill financing arrangements;

(vi) provide necessary support to small business concerns to—

(I) evaluate energy efficiency opportunities and opportunities to design or construct high performance green buildings;

(II) evaluate renewable energy sources, such as the use of solar and small wind to supplement power consumption;

(III) secure financing to achieve energy efficiency or to design or construct high performance green buildings; and

(IV) implement energy efficiency projects;

(vii) assist owners of small business concerns with the development and commercialization of clean technology products, goods, services, and processes that use renewable energy sources, dramatically reduce the use of natural resources, and cut or eliminate greenhouse gas emissions through—

(I) technology assessment;

(II) intellectual property;

(III) Small Business Innovation Research submissions under section 9 of the Small Business Act (15 U.S.C. 638);

(IV) strategic alliances;

(V) business model development; and

(VI) preparation for investors; and

(viii) help small business concerns improve environmental performance by shifting to less hazardous materials and reducing waste and emissions, including by providing assistance for small business

concerns to adapt the materials they use, the processes they operate, and the products and services they produce.

(B) REPORTS.—Each small business development center participating in the Efficiency Program shall submit to the Administrator and the Administrator of the Environmental Protection Agency an annual report that includes—

(i) a summary of the energy efficiency assistance provided by that center under the Efficiency Program;

(ii) the number of small business concerns assisted by that center under the Efficiency Program;

(iii) statistics on the total amount of energy saved as a result of assistance provided by that center under the Efficiency Program; and

(iv) any additional information determined necessary by the Administrator, in consultation with the association.

(C) REPORTS TO CONGRESS.—Not later than 60 days after the date on which all reports under subparagraph (B) relating to a year are submitted, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report summarizing the information regarding the Efficiency Program submitted by small business development centers participating in that program.

(3) ELIGIBILITY.—A small business development center shall be eligible to participate in the Efficiency Program only if that center is certified under section 21(k)(2) of the Small Business Act (15 U.S.C. 648(k)(2)).

(4) SELECTION OF PARTICIPATING STATE PROGRAMS.—From among small business development centers submitting applications to participate in the Efficiency Program, the Administrator—

(A) shall, to the maximum extent practicable, select small business development centers in such a manner so as to promote a nationwide distribution of centers participating in the Efficiency Program; and

(B) may not select more than 1 small business development center in a State to participate in the Efficiency Program.

(5) MATCHING REQUIREMENT.—Subparagraphs (A) and (B) of section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) shall apply to assistance made available under the Efficiency Program. Applicability.

(6) GRANT AMOUNTS.—Each small business development center selected to participate in the Efficiency Program under paragraph (4) shall be eligible to receive a grant in an amount equal to—

(A) not less than \$100,000 in each fiscal year; and

(B) not more than \$300,000 in each fiscal year.

(7) EVALUATION AND REPORT.—The Comptroller General of the United States shall—

(A) not later than 30 months after the date of disbursement of the first grant under the Efficiency Program, initiate an evaluation of that program; and

(B) not later than 6 months after the date of the initiation of the evaluation under subparagraph (A), submit to the Administrator, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives, a report containing—

- (i) the results of the evaluation; and
- (ii) any recommendations regarding whether the Efficiency Program, with or without modification, should be extended to include the participation of all small business development centers.

(8) **GUARANTEE.**—To the extent not inconsistent with State law, the Administrator may guarantee the timely payment of a loan made to a small business concern through an on-bill financing agreement on such terms and conditions as the Administrator shall establish through a formal rulemaking, after providing notice and an opportunity for comment.

(9) **IMPLEMENTATION.**—Subject to amounts approved in advance in appropriations Acts and separate from amounts approved to carry out section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)), the Administrator may make grants or enter into cooperative agreements to carry out this subsection.

(10) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to make grants and enter into cooperative agreements to carry out this subsection.

(11) **TERMINATION.**—The authority under this subsection shall terminate 4 years after the date of disbursement of the first grant under the Efficiency Program.

(d) **SMALL BUSINESS TELECOMMUTING.**—

(1) **PILOT PROGRAM.**—

(A) **IN GENERAL.**—The Administrator shall conduct, in not more than 5 of the regions of the Administration, a pilot program to provide information regarding telecommuting to employers that are small business concerns and to encourage such employers to offer telecommuting options to employees.

(B) **SPECIAL OUTREACH TO INDIVIDUALS WITH DISABILITIES.**—In carrying out the Telecommuting Pilot Program, the Administrator shall make a concerted effort to provide information to—

(i) small business concerns owned by or employing individuals with disabilities, particularly veterans who are individuals with disabilities;

(ii) Federal, State, and local agencies having knowledge and expertise in assisting individuals with disabilities, including veterans who are individuals with disabilities; and

(iii) any group or organization, the primary purpose of which is to aid individuals with disabilities or veterans who are individuals with disabilities.

(C) **PERMISSIBLE ACTIVITIES.**—In carrying out the Telecommuting Pilot Program, the Administrator may—

(i) produce educational materials and conduct presentations designed to raise awareness in the small

business community of the benefits and the ease of telecommuting;

(ii) conduct outreach—

(I) to small business concerns that are considering offering telecommuting options; and

(II) as provided in subparagraph (B); and

(iii) acquire telecommuting technologies and equipment to be used for demonstration purposes.

(D) SELECTION OF REGIONS.—In determining which regions will participate in the Telecommuting Pilot Program, the Administrator shall give priority consideration to regions in which Federal agencies and private-sector employers have demonstrated a strong regional commitment to telecommuting.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date on which funds are first appropriated to carry out this subsection, the Administrator shall transmit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing the results of an evaluation of the Telecommuting Pilot Program and any recommendations regarding whether the pilot program, with or without modification, should be extended to include the participation of all regions of the Administration.

(3) TERMINATION.—The Telecommuting Pilot Program shall terminate 4 years after the date on which funds are first appropriated to carry out this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administration \$5,000,000 to carry out this subsection.

(e) ENCOURAGING INNOVATION IN ENERGY EFFICIENCY.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

“(z) ENCOURAGING INNOVATION IN ENERGY EFFICIENCY.—

“(1) FEDERAL AGENCY ENERGY-RELATED PRIORITY.—In carrying out its duties under this section relating to SBIR and STTR solicitations by Federal departments and agencies, the Administrator shall—

“(A) ensure that such departments and agencies give high priority to small business concerns that participate in or conduct energy efficiency or renewable energy system research and development projects; and

“(B) include in the annual report to Congress under subsection (b)(7) a determination of whether the priority described in subparagraph (A) is being carried out.

“(2) CONSULTATION REQUIRED.—The Administrator shall consult with the heads of other Federal departments and agencies in determining whether priority has been given to small business concerns that participate in or conduct energy efficiency or renewable energy system research and development projects, as required by this subsection.

“(3) GUIDELINES.—The Administrator shall, as soon as is practicable after the date of enactment of this subsection, issue guidelines and directives to assist Federal agencies in meeting the requirements of this subsection.

“(4) DEFINITIONS.—In this subsection—

“(A) the term ‘biomass’—

“(i) means any organic material that is available on a renewable or recurring basis, including—

“(I) agricultural crops;

“(II) trees grown for energy production;

“(III) wood waste and wood residues;

“(IV) plants (including aquatic plants and grasses);

“(V) residues;

“(VI) fibers;

“(VII) animal wastes and other waste materials; and

“(VIII) fats, oils, and greases (including recycled fats, oils, and greases); and

“(ii) does not include—

“(I) paper that is commonly recycled; or

“(II) unsegregated solid waste;

“(B) the term ‘energy efficiency project’ means the installation or upgrading of equipment that results in a significant reduction in energy usage; and

“(C) the term ‘renewable energy system’ means a system of energy derived from—

“(i) a wind, solar, biomass (including biodiesel), or geothermal source; or

“(ii) hydrogen derived from biomass or water using an energy source described in clause (i).”.

SEC. 1204. LARGER 504 LOAN LIMITS TO HELP BUSINESS DEVELOP ENERGY EFFICIENT TECHNOLOGIES AND PURCHASES.

(a) **ELIGIBILITY FOR ENERGY EFFICIENCY PROJECTS.**—Section 501(d)(3) of the Small Business Investment Act of 1958 (15 U.S.C. 695(d)(3)) is amended—

(1) in subparagraph (G) by striking “or” at the end;

(2) in subparagraph (H) by striking the period at the end and inserting a comma;

(3) by inserting after subparagraph (H) the following:

“(I) reduction of energy consumption by at least 10 percent,

“(J) increased use of sustainable design, including designs that reduce the use of greenhouse gas emitting fossil fuels, or low-impact design to produce buildings that reduce the use of non-renewable resources and minimize environmental impact, or

“(K) plant, equipment and process upgrades of renewable energy sources such as the small-scale production of energy for individual buildings or communities consumption, commonly known as micropower, or renewable fuels producers including biodiesel and ethanol producers.”; and

(4) by adding at the end the following: “In subparagraphs (J) and (K), terms have the meanings given those terms under the Leadership in Energy and Environmental Design (LEED) standard for green building certification, as determined by the Administrator.”.

(b) **LOANS FOR PLANT PROJECTS USED FOR ENERGY-EFFICIENT PURPOSES.**—Section 502(2)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

(1) in clause (ii) by striking “and” at the end;

(2) in clause (iii) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(iv) \$4,000,000 for each project that reduces the borrower’s energy consumption by at least 10 percent; and

“(v) \$4,000,000 for each project that generates renewable energy or renewable fuels, such as biodiesel or ethanol production.”.

SEC. 1205. ENERGY SAVING DEBENTURES.

(a) **IN GENERAL.**—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended by adding at the end the following:

“(k) **ENERGY SAVING DEBENTURES.**—In addition to any other authority under this Act, a small business investment company licensed in the first fiscal year after the date of enactment of this subsection or any fiscal year thereafter may issue Energy Saving debentures.”.

(b) **DEFINITIONS.**—Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended—

(1) in paragraph (16), by striking “and” at the end;

(2) in paragraph (17), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(18) the term ‘Energy Saving debenture’ means a deferred interest debenture that—

“(A) is issued at a discount;

“(B) has a 5-year maturity or a 10-year maturity;

“(C) requires no interest payment or annual charge for the first 5 years;

“(D) is restricted to Energy Saving qualified investments; and

“(E) is issued at no cost (as defined in section 502 of the Credit Reform Act of 1990) with respect to purchasing and guaranteeing the debenture; and

“(19) the term ‘Energy Saving qualified investment’ means investment in a small business concern that is primarily engaged in researching, manufacturing, developing, or providing products, goods, or services that reduce the use or consumption of non-renewable energy resources.”.

SEC. 1206. INVESTMENTS IN ENERGY SAVING SMALL BUSINESSES.

(a) **MAXIMUM LEVERAGE.**—Section 303(b)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 303(b)(2)) is amended by adding at the end the following:

“(D) **INVESTMENTS IN ENERGY SAVING SMALL BUSINESSES.**—

“(i) **IN GENERAL.**—Subject to clause (ii), in calculating the outstanding leverage of a company for purposes of subparagraph (A), the Administrator shall exclude the amount of the cost basis of any Energy Saving qualified investment in a smaller enterprise made in the first fiscal year after the date of enactment of this subparagraph or any fiscal year thereafter by a company licensed in the applicable fiscal year.

“(ii) **LIMITATIONS.**—

15 USC 683.

“(I) AMOUNT OF EXCLUSION.—The amount excluded under clause (i) for a company shall not exceed 33 percent of the private capital of that company.

“(II) MAXIMUM INVESTMENT.—A company shall not make an Energy Saving qualified investment in any one entity in an amount equal to more than 20 percent of the private capital of that company.

“(III) OTHER TERMS.—The exclusion of amounts under clause (i) shall be subject to such terms as the Administrator may impose to ensure that there is no cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) with respect to purchasing or guaranteeing any debenture involved.”.

15 USC 683. (b) MAXIMUM AGGREGATE AMOUNT OF LEVERAGE.—Section 303(b)(4) of the Small Business Investment Act of 1958 (15 U.S.C. 303(b)(4)) is amended by adding at the end the following:

“(E) INVESTMENTS IN ENERGY SAVING SMALL BUSINESSES.—

“(i) IN GENERAL.—Subject to clause (ii), in calculating the aggregate outstanding leverage of a company for purposes of subparagraph (A), the Administrator shall exclude the amount of the cost basis of any Energy Saving qualified investment in a smaller enterprise made in the first fiscal year after the date of enactment of this subparagraph or any fiscal year thereafter by a company licensed in the applicable fiscal year.

“(ii) LIMITATIONS.—

“(I) AMOUNT OF EXCLUSION.—The amount excluded under clause (i) for a company shall not exceed 33 percent of the private capital of that company.

“(II) MAXIMUM INVESTMENT.—A company shall not make an Energy Saving qualified investment in any one entity in an amount equal to more than 20 percent of the private capital of that company.

“(III) OTHER TERMS.—The exclusion of amounts under clause (i) shall be subject to such terms as the Administrator may impose to ensure that there is no cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) with respect to purchasing or guaranteeing any debenture involved.”.

SEC. 1207. RENEWABLE FUEL CAPITAL INVESTMENT COMPANY.

Title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding at the end the following:

“PART C—RENEWABLE FUEL CAPITAL INVESTMENT PILOT PROGRAM

15 USC 690.

“SEC. 381. DEFINITIONS.

“In this part:

“(1) OPERATIONAL ASSISTANCE.—The term ‘operational assistance’ means management, marketing, and other technical assistance that assists a small business concern with business development.

“(2) PARTICIPATION AGREEMENT.—The term ‘participation agreement’ means an agreement, between the Administrator and a company granted final approval under section 384(e), that—

“(A) details the operating plan and investment criteria of the company; and

“(B) requires the company to make investments in smaller enterprises primarily engaged in researching, manufacturing, developing, producing, or bringing to market goods, products, or services that generate or support the production of renewable energy.

“(3) RENEWABLE ENERGY.—The term ‘renewable energy’ means energy derived from resources that are regenerative or that cannot be depleted, including solar, wind, ethanol, and biodiesel fuels.

“(4) RENEWABLE FUEL CAPITAL INVESTMENT COMPANY.—The term ‘Renewable Fuel Capital Investment company’ means a company—

“(A) that—

“(i) has been granted final approval by the Administrator under section 384(e); and

“(ii) has entered into a participation agreement with the Administrator; or

“(B) that has received conditional approval under section 384(c).

“(5) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

“(6) VENTURE CAPITAL.—The term ‘venture capital’ means capital in the form of equity capital investments, as that term is defined in section 303(g)(4).

“SEC. 382. PURPOSES.

15 USC 690a.

“The purposes of the Renewable Fuel Capital Investment Program established under this part are—

“(1) to promote the research, development, manufacture, production, and bringing to market of goods, products, or services that generate or support the production of renewable energy by encouraging venture capital investments in smaller enterprises primarily engaged such activities; and

“(2) to establish a venture capital program, with the mission of addressing the unmet equity investment needs of smaller enterprises engaged in researching, developing, manufacturing, producing, and bringing to market goods, products, or services that generate or support the production of renewable energy, to be administered by the Administrator—

“(A) to enter into participation agreements with Renewable Fuel Capital Investment companies;

“(B) to guarantee debentures of Renewable Fuel Capital Investment companies to enable each such company to make venture capital investments in smaller enterprises

engaged in the research, development, manufacture, production, and bringing to market of goods, products, or services that generate or support the production of renewable energy; and

“(C) to make grants to Renewable Fuel Investment Capital companies, and to other entities, for the purpose of providing operational assistance to smaller enterprises financed, or expected to be financed, by such companies.

15 USC 690b.

“SEC. 383. ESTABLISHMENT.

“The Administrator shall establish a Renewable Fuel Capital Investment Program, under which the Administrator may—

“(1) enter into participation agreements for the purposes described in section 382; and

“(2) guarantee the debentures issued by Renewable Fuel Capital Investment companies as provided in section 385.

15 USC 690c.

“SEC. 384. SELECTION OF RENEWABLE FUEL CAPITAL INVESTMENT COMPANIES.

“(a) ELIGIBILITY.—A company is eligible to apply to be designated as a Renewable Fuel Capital Investment company if the company—

“(1) is a newly formed for-profit entity or a newly formed for-profit subsidiary of an existing entity;

“(2) has a management team with experience in alternative energy financing or relevant venture capital financing; and

“(3) has a primary objective of investment in smaller enterprises that research, manufacture, develop, produce, or bring to market goods, products, or services that generate or support the production of renewable energy.

“(b) APPLICATION.—A company desiring to be designated as a Renewable Fuel Capital Investment company shall submit an application to the Administrator that includes—

“(1) a business plan describing how the company intends to make successful venture capital investments in smaller enterprises primarily engaged in the research, manufacture, development, production, or bringing to market of goods, products, or services that generate or support the production of renewable energy;

“(2) information regarding the relevant venture capital qualifications and general reputation of the management of the company;

“(3) a description of how the company intends to seek to address the unmet capital needs of the smaller enterprises served;

“(4) a proposal describing how the company intends to use the grant funds provided under this part to provide operational assistance to smaller enterprises financed by the company, including information regarding whether the company has employees with appropriate professional licenses or will contract with another entity when the services of such an individual are necessary;

“(5) with respect to binding commitments to be made to the company under this part, an estimate of the ratio of cash to in-kind contributions;

“(6) a description of whether and to what extent the company meets the criteria under subsection (c)(2) and the objectives of the program established under this part;

“(7) information regarding the management and financial strength of any parent firm, affiliated firm, or any other firm essential to the success of the business plan of the company; and

“(8) such other information as the Administrator may require.

“(c) CONDITIONAL APPROVAL.—

“(1) IN GENERAL.—From among companies submitting applications under subsection (b), the Administrator shall conditionally approve companies to operate as Renewable Fuel Capital Investment companies.

“(2) SELECTION CRITERIA.—In conditionally approving companies under paragraph (1), the Administrator shall consider—

“(A) the likelihood that the company will meet the goal of its business plan;

“(B) the experience and background of the management team of the company;

“(C) the need for venture capital investments in the geographic areas in which the company intends to invest;

“(D) the extent to which the company will concentrate its activities on serving the geographic areas in which it intends to invest;

“(E) the likelihood that the company will be able to satisfy the conditions under subsection (d);

“(F) the extent to which the activities proposed by the company will expand economic opportunities in the geographic areas in which the company intends to invest;

“(G) the strength of the proposal by the company to provide operational assistance under this part as the proposal relates to the ability of the company to meet applicable cash requirements and properly use in-kind contributions, including the use of resources for the services of licensed professionals, when necessary, whether provided by employees or contractors; and

“(H) any other factor determined appropriate by the Administrator.

“(3) NATIONWIDE DISTRIBUTION.—From among companies submitting applications under subsection (b), the Administrator shall consider the selection criteria under paragraph (2) and shall, to the maximum extent practicable, approve at least one company from each geographic region of the Administration.

“(d) REQUIREMENTS TO BE MET FOR FINAL APPROVAL.—

“(1) IN GENERAL.—The Administrator shall grant each conditionally approved company 2 years to satisfy the requirements of this subsection.

“(2) CAPITAL REQUIREMENT.—Each conditionally approved company shall raise not less than \$3,000,000 of private capital or binding capital commitments from 1 or more investors (which shall not be departments or agencies of the Federal Government) who meet criteria established by the Administrator.

“(3) NONADMINISTRATION RESOURCES FOR OPERATIONAL ASSISTANCE.—

“(A) IN GENERAL.—In order to provide operational assistance to smaller enterprises expected to be financed by the company, each conditionally approved company shall

have binding commitments (for contribution in cash or in-kind)—

“(i) from sources other than the Administration that meet criteria established by the Administrator; and

“(ii) payable or available over a multiyear period determined appropriate by the Administrator (not to exceed 10 years).

“(B) EXCEPTION.—The Administrator may, in the discretion of the Administrator and based upon a showing of special circumstances and good cause, consider an applicant to have satisfied the requirements of subparagraph (A) if the applicant has—

“(i) a viable plan that reasonably projects the capacity of the applicant to raise the amount (in cash or in-kind) required under subparagraph (A); and

“(ii) binding commitments in an amount equal to not less than 20 percent of the total amount required under paragraph (A).

“(C) LIMITATION.—The total amount of a in-kind contributions by a company shall be not more than 50 percent of the total contributions by a company.

“(e) FINAL APPROVAL; DESIGNATION.—The Administrator shall, with respect to each applicant conditionally approved under subsection (c)—

“(1) grant final approval to the applicant to operate as a Renewable Fuel Capital Investment company under this part and designate the applicant as such a company, if the applicant—

“(A) satisfies the requirements of subsection (d) on or before the expiration of the time period described in that subsection; and

“(B) enters into a participation agreement with the Administrator; or

“(2) if the applicant fails to satisfy the requirements of subsection (d) on or before the expiration of the time period described in paragraph (1) of that subsection, revoke the conditional approval granted under that subsection.

15 USC 690d.

“SEC. 385. DEBENTURES.

“(a) IN GENERAL.—The Administrator may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any Renewable Fuel Capital Investment company.

“(b) TERMS AND CONDITIONS.—The Administrator may make guarantees under this section on such terms and conditions as it determines appropriate, except that—

“(1) the term of any debenture guaranteed under this section shall not exceed 15 years; and

“(2) a debenture guaranteed under this section—

“(A) shall carry no front-end or annual fees;

“(B) shall be issued at a discount;

“(C) shall require no interest payments during the 5-year period beginning on the date the debenture is issued;

“(D) shall be prepayable without penalty after the end of the 1-year period beginning on the date the debenture is issued; and

“(E) shall require semiannual interest payments after the period described in subparagraph (C).

“(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee under this part.

“(d) MAXIMUM GUARANTEE.—

“(1) IN GENERAL.—Under this section, the Administrator may guarantee the debentures issued by a Renewable Fuel Capital Investment company only to the extent that the total face amount of outstanding guaranteed debentures of such company does not exceed 150 percent of the private capital of the company, as determined by the Administrator.

“(2) TREATMENT OF CERTAIN FEDERAL FUNDS.—For the purposes of paragraph (1), private capital shall include capital that is considered to be Federal funds, if such capital is contributed by an investor other than a department or agency of the Federal Government.

“SEC. 386. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

15 USC 690e.

“(a) ISSUANCE.—The Administrator may issue trust certificates representing ownership of all or a fractional part of debentures issued by a Renewable Fuel Capital Investment company and guaranteed by the Administrator under this part, if such certificates are based on and backed by a trust or pool approved by the Administrator and composed solely of guaranteed debentures.

“(b) GUARANTEE.—

“(1) IN GENERAL.—The Administrator may, under such terms and conditions as it determines appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Administrator or its agents for purposes of this section.

“(2) LIMITATION.—Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

“(3) PREPAYMENT OR DEFAULT.—If a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administrator only through the date of payment of the guarantee. At any time during its term, a trust certificate may be called for redemption due to prepayment or default of all debentures.

“(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee of a trust certificate issued by the Administrator or its agents under this section.

“(d) FEES.—The Administrator shall not collect a fee for any guarantee of a trust certificate under this section, but any agent of the Administrator may collect a fee approved by the Administrator for the functions described in subsection (f)(2).

“(e) SUBROGATION AND OWNERSHIP RIGHTS.—

“(1) SUBROGATION.—If the Administrator pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

“(2) OWNERSHIP RIGHTS.—No Federal, State, or local law shall preclude or limit the exercise by the Administrator of its ownership rights in the debentures residing in a trust or pool against which trust certificates are issued under this section.

“(f) MANAGEMENT AND ADMINISTRATION.—

“(1) REGISTRATION.—The Administrator may provide for a central registration of all trust certificates issued under this section.

“(2) CONTRACTING OF FUNCTIONS.—

“(A) IN GENERAL.—The Administrator may contract with an agent or agents to carry out on behalf of the Administrator the pooling and the central registration functions provided for in this section, including, not withstanding any other provision of law—

“(i) maintenance, on behalf of and under the direction of the Administrator, of such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate the creation of trusts or pools backed by debentures guaranteed under this part; and

“(ii) the issuance of trust certificates to facilitate the creation of such trusts or pools.

“(B) FIDELITY BOND OR INSURANCE REQUIREMENT.—Any agent performing functions on behalf of the Administrator under this paragraph shall provide a fidelity bond or insurance in such amounts as the Administrator determines to be necessary to fully protect the interests of the United States.

“(3) REGULATION OF BROKERS AND DEALERS.—The Administrator may regulate brokers and dealers in trust certificates issued under this section.

“(4) ELECTRONIC REGISTRATION.—Nothing in this subsection may be construed to prohibit the use of a book-entry or other electronic form of registration for trust certificates issued under this section.

15 USC 690f.

“SEC. 387. FEES.

“(a) IN GENERAL.—Except as provided in section 386(d), the Administrator may charge such fees as it determines appropriate with respect to any guarantee or grant issued under this part, in an amount established annually by the Administrator, as necessary to reduce to zero the cost (as defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures under this part, which amounts shall be paid to and retained by the Administration.

“(b) OFFSET.—The Administrator may, as provided by section 388, offset fees charged and collected under subsection (a).

15 USC 690g.

“SEC. 388. FEE CONTRIBUTION.

“(a) IN GENERAL.—To the extent that amounts are made available to the Administrator for the purpose of fee contributions, the Administrator shall contribute to fees paid by the Renewable Fuel Capital Investment companies under section 387.

“(b) ANNUAL ADJUSTMENT.—Each fee contribution under subsection (a) shall be effective for 1 fiscal year and shall be adjusted as necessary for each fiscal year thereafter to ensure that amounts under subsection (a) are fully used. The fee contribution for a fiscal year shall be based on the outstanding commitments made and the guarantees and grants that the Administrator projects will be made during that fiscal year, given the program level authorized by law for that fiscal year and any other factors that the Administrator determines appropriate.

Effective date.

“SEC. 389. OPERATIONAL ASSISTANCE GRANTS.

15 USC 690h.

“(a) IN GENERAL.—

“(1) AUTHORITY.—The Administrator may make grants to Renewable Fuel Capital Investment companies to provide operational assistance to smaller enterprises financed, or expected to be financed, by such companies or other entities.

“(2) TERMS.—A grant under this subsection shall be made over a multiyear period not to exceed 10 years, under such other terms as the Administrator may require.

“(3) GRANT AMOUNT.—The amount of a grant made under this subsection to a Renewable Fuel Capital Investment company shall be equal to the lesser of—

“(A) 10 percent of the resources (in cash or in-kind) raised by the company under section 384(d)(2); or

“(B) \$1,000,000.

“(4) PRO RATA REDUCTIONS.—If the amount made available to carry out this section is insufficient for the Administrator to provide grants in the amounts provided for in paragraph (3), the Administrator shall make pro rata reductions in the amounts otherwise payable to each company and entity under such paragraph.

“(5) GRANTS TO CONDITIONALLY APPROVED COMPANIES.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), upon the request of a company conditionally approved under section 384(c), the Administrator shall make a grant to the company under this subsection.

“(B) REPAYMENT BY COMPANIES NOT APPROVED.—If a company receives a grant under this paragraph and does not enter into a participation agreement for final approval, the company shall, subject to controlling Federal law, repay the amount of the grant to the Administrator.

“(C) DEDUCTION OF GRANT TO APPROVED COMPANY.—If a company receives a grant under this paragraph and receives final approval under section 384(e), the Administrator shall deduct the amount of the grant from the total grant amount the company receives for operational assistance.

“(D) AMOUNT OF GRANT.—No company may receive a grant of more than \$100,000 under this paragraph.

“(b) SUPPLEMENTAL GRANTS.—

“(1) IN GENERAL.—The Administrator may make supplemental grants to Renewable Fuel Capital Investment companies and to other entities, as authorized by this part, under such terms as the Administrator may require, to provide additional operational assistance to smaller enterprises financed, or expected to be financed, by the companies.

“(2) **MATCHING REQUIREMENT.**—The Administrator may require, as a condition of any supplemental grant made under this subsection, that the company or entity receiving the grant provide from resources (in a cash or in kind), other than those provided by the Administrator, a matching contribution equal to the amount of the supplemental grant.

“(c) **LIMITATION.**—None of the assistance made available under this section may be used for any overhead or general and administrative expense of a Renewable Fuel Capital Investment company.

15 USC 690i.

“SEC. 390. BANK PARTICIPATION.

“(a) **IN GENERAL.**—Except as provided in subsection (b), any national bank, any member bank of the Federal Reserve System, and (to the extent permitted under applicable State law) any insured bank that is not a member of such system, may invest in any Renewable Fuel Capital Investment company, or in any entity established to invest solely in Renewable Fuel Capital Investment companies.

“(b) **LIMITATION.**—No bank described in subsection (a) may make investments described in such subsection that are greater than 5 percent of the capital and surplus of the bank.

15 USC 690j.

“SEC. 391. FEDERAL FINANCING BANK.

“Notwithstanding section 318, the Federal Financing Bank may acquire a debenture issued by a Renewable Fuel Capital Investment company under this part.

15 USC 690k.

“SEC. 392. REPORTING REQUIREMENT.

“Each Renewable Fuel Capital Investment company that participates in the program established under this part shall provide to the Administrator such information as the Administrator may require, including—

“(1) information related to the measurement criteria that the company proposed in its program application; and

“(2) in each case in which the company makes, under this part, an investment in, or a loan or a grant to, a business that is not primarily engaged in the research, development, manufacture, or bringing to market or renewable energy sources, a report on the nature, origin, and revenues of the business in which investments are made.

15 USC 690l.

“SEC. 393. EXAMINATIONS.

“(a) **IN GENERAL.**—Each Renewable Fuel Capital Investment company that participates in the program established under this part shall be subject to examinations made at the direction of the Investment Division of the Administration in accordance with this section.

“(b) **ASSISTANCE OF PRIVATE SECTOR ENTITIES.**—Examinations under this section may be conducted with the assistance of a private sector entity that has both the qualifications and the expertise necessary to conduct such examinations.

“(c) **COSTS.**—

“(1) **ASSESSMENT.**—

“(A) **IN GENERAL.**—The Administrator may assess the cost of examinations under this section, including compensation of the examiners, against the company examined.

“(B) PAYMENT.—Any company against which the Administrator assesses costs under this paragraph shall pay such costs.

“(2) DEPOSIT OF FUNDS.—Funds collected under this section shall be deposited in the account for salaries and expenses of the Administration.

“SEC. 394. MISCELLANEOUS.

15 USC 690m.

“To the extent such procedures are not inconsistent with the requirements of this part, the Administrator may take such action as set forth in sections 309, 311, 312, and 314 and an officer, director, employee, agent, or other participant in the management or conduct of the affairs of a Renewable Fuel Capital Investment company shall be subject to the requirements of such sections.

“SEC. 395. REMOVAL OR SUSPENSION OF DIRECTORS OR OFFICERS.

15 USC 690n.

“Using the procedures for removing or suspending a director or an officer of a licensee set forth in section 313 (to the extent such procedures are not inconsistent with the requirements of this part), the Administrator may remove or suspend any director or officer of any Renewable Fuel Capital Investment company.

“SEC. 396. REGULATIONS.

15 USC 690o.

“The Administrator may issue such regulations as the Administrator determines necessary to carry out the provisions of this part in accordance with its purposes.

“SEC. 397. AUTHORIZATIONS OF APPROPRIATIONS.

15 USC 690p.

“(a) IN GENERAL.—Subject to the availability of appropriations, the Administrator is authorized to make \$15,000,000 in operational assistance grants under section 389 for each of fiscal years 2008 and 2009.

“(b) FUNDS COLLECTED FOR EXAMINATIONS.—Funds deposited under section 393(c)(2) are authorized to be appropriated only for the costs of examinations under section 393 and for the costs of other oversight activities with respect to the program established under this part.

“SEC. 398. TERMINATION.

15 USC 690q.

“The program under this part shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the program under this part.”.

SEC. 1208. STUDY AND REPORT.

The Administrator of the Small Business Administration shall conduct a study of the Renewable Fuel Capital Investment Program under part C of title III of the Small Business Investment Act of 1958, as added by this Act. Not later than 3 years after the date of enactment of this Act, the Administrator shall complete the study under this section and submit to Congress a report regarding the results of the study.

TITLE XIII—SMART GRID

SEC. 1301. STATEMENT OF POLICY ON MODERNIZATION OF ELECTRICITY GRID.

15 USC 17381.

It is the policy of the United States to support the modernization of the Nation’s electricity transmission and distribution system

to maintain a reliable and secure electricity infrastructure that can meet future demand growth and to achieve each of the following, which together characterize a Smart Grid:

(1) Increased use of digital information and controls technology to improve reliability, security, and efficiency of the electric grid.

(2) Dynamic optimization of grid operations and resources, with full cyber-security.

(3) Deployment and integration of distributed resources and generation, including renewable resources.

(4) Development and incorporation of demand response, demand-side resources, and energy-efficiency resources.

(5) Deployment of “smart” technologies (real-time, automated, interactive technologies that optimize the physical operation of appliances and consumer devices) for metering, communications concerning grid operations and status, and distribution automation.

(6) Integration of “smart” appliances and consumer devices.

(7) Deployment and integration of advanced electricity storage and peak-shaving technologies, including plug-in electric and hybrid electric vehicles, and thermal-storage air conditioning.

(8) Provision to consumers of timely information and control options.

(9) Development of standards for communication and interoperability of appliances and equipment connected to the electric grid, including the infrastructure serving the grid.

(10) Identification and lowering of unreasonable or unnecessary barriers to adoption of smart grid technologies, practices, and services.

15 USC 17382.

SEC. 1302. SMART GRID SYSTEM REPORT.

The Secretary, acting through the Assistant Secretary of the Office of Electricity Delivery and Energy Reliability (referred to in this section as the “OEDER”) and through the Smart Grid Task Force established in section 1303, shall, after consulting with any interested individual or entity as appropriate, no later than 1 year after enactment, and every 2 years thereafter, report to Congress concerning the status of smart grid deployments nationwide and any regulatory or government barriers to continued deployment. The report shall provide the current status and prospects of smart grid development, including information on technology penetration, communications network capabilities, costs, and obstacles. It may include recommendations for State and Federal policies or actions helpful to facilitate the transition to a smart grid. To the extent appropriate, it should take a regional perspective. In preparing this report, the Secretary shall solicit advice and contributions from the Smart Grid Advisory Committee created in section 1303; from other involved Federal agencies including but not limited to the Federal Energy Regulatory Commission (“Commission”), the National Institute of Standards and Technology (“Institute”), and the Department of Homeland Security; and from other stakeholder groups not already represented on the Smart Grid Advisory Committee.

15 USC 17383.

SEC. 1303. SMART GRID ADVISORY COMMITTEE AND SMART GRID TASK FORCE.

(a) SMART GRID ADVISORY COMMITTEE.—

(1) **ESTABLISHMENT.**—The Secretary shall establish, within 90 days of enactment of this Part, a Smart Grid Advisory Committee (either as an independent entity or as a designated sub-part of a larger advisory committee on electricity matters). The Smart Grid Advisory Committee shall include eight or more members appointed by the Secretary who have sufficient experience and expertise to represent the full range of smart grid technologies and services, to represent both private and non-Federal public sector stakeholders. One member shall be appointed by the Secretary to Chair the Smart Grid Advisory Committee. Deadline.

(2) **MISSION.**—The mission of the Smart Grid Advisory Committee shall be to advise the Secretary, the Assistant Secretary, and other relevant Federal officials concerning the development of smart grid technologies, the progress of a national transition to the use of smart-grid technologies and services, the evolution of widely-accepted technical and practical standards and protocols to allow interoperability and inter-communication among smart-grid capable devices, and the optimum means of using Federal incentive authority to encourage such progress.

(3) **APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Smart Grid Advisory Committee.

(b) **SMART GRID TASK FORCE.**—

(1) **ESTABLISHMENT.**—The Assistant Secretary of the Office of Electricity Delivery and Energy Reliability shall establish, within 90 days of enactment of this Part, a Smart Grid Task Force composed of designated employees from the various divisions of that office who have responsibilities related to the transition to smart-grid technologies and practices. The Assistant Secretary or his designee shall be identified as the Director of the Smart Grid Task Force. The Chairman of the Federal Energy Regulatory Commission and the Director of the National Institute of Standards and Technology shall each designate at least one employee to participate on the Smart Grid Task Force. Other members may come from other agencies at the invitation of the Assistant Secretary or the nomination of the head of such other agency. The Smart Grid Task Force shall, without disrupting the work of the Divisions or Offices from which its members are drawn, provide an identifiable Federal entity to embody the Federal role in the national transition toward development and use of smart grid technologies. Deadline.

(2) **MISSION.**—The mission of the Smart Grid Task Force shall be to insure awareness, coordination and integration of the diverse activities of the Office and elsewhere in the Federal Government related to smart-grid technologies and practices, including but not limited to: smart grid research and development; development of widely accepted smart-grid standards and protocols; the relationship of smart-grid technologies and practices to electric utility regulation; the relationship of smart-grid technologies and practices to infrastructure development, system reliability and security; and the relationship of smart-grid technologies and practices to other facets of electricity supply, demand, transmission, distribution, and policy. The Smart Grid Task Force shall collaborate with the Smart Grid Advisory Committee and other Federal agencies and offices.

The Smart Grid Task Force shall meet at the call of its Director as necessary to accomplish its mission.

(c) **AUTHORIZATION.**—There are authorized to be appropriated for the purposes of this section such sums as are necessary to the Secretary to support the operations of the Smart Grid Advisory Committee and Smart Grid Task Force for each of fiscal years 2008 through 2020.

42 USC 17384.

SEC. 1304. SMART GRID TECHNOLOGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) **POWER GRID DIGITAL INFORMATION TECHNOLOGY.**—The Secretary, in consultation with the Federal Energy Regulatory Commission and other appropriate agencies, electric utilities, the States, and other stakeholders, shall carry out a program—

(1) to develop advanced techniques for measuring peak load reductions and energy-efficiency savings from smart metering, demand response, distributed generation, and electricity storage systems;

(2) to investigate means for demand response, distributed generation, and storage to provide ancillary services;

(3) to conduct research to advance the use of wide-area measurement and control networks, including data mining, visualization, advanced computing, and secure and dependable communications in a highly-distributed environment;

(4) to test new reliability technologies, including those concerning communications network capabilities, in a grid control room environment against a representative set of local outage and wide area blackout scenarios;

(5) to identify communications network capacity needed to implement advanced technologies.

(6) to investigate the feasibility of a transition to time-of-use and real-time electricity pricing;

(7) to develop algorithms for use in electric transmission system software applications;

(8) to promote the use of underutilized electricity generation capacity in any substitution of electricity for liquid fuels in the transportation system of the United States; and

(9) in consultation with the Federal Energy Regulatory Commission, to propose interconnection protocols to enable electric utilities to access electricity stored in vehicles to help meet peak demand loads.

(b) **SMART GRID REGIONAL DEMONSTRATION INITIATIVE.**—

(1) **IN GENERAL.**—The Secretary shall establish a smart grid regional demonstration initiative (referred to in this subsection as the “Initiative”) composed of demonstration projects specifically focused on advanced technologies for use in power grid sensing, communications, analysis, and power flow control. The Secretary shall seek to leverage existing smart grid deployments.

(2) **GOALS.**—The goals of the Initiative shall be—

(A) to demonstrate the potential benefits of concentrated investments in advanced grid technologies on a regional grid;

(B) to facilitate the commercial transition from the current power transmission and distribution system technologies to advanced technologies;

(C) to facilitate the integration of advanced technologies in existing electric networks to improve system performance, power flow control, and reliability;

(D) to demonstrate protocols and standards that allow for the measurement and validation of the energy savings and fossil fuel emission reductions associated with the installation and use of energy efficiency and demand response technologies and practices; and

(E) to investigate differences in each region and regulatory environment regarding best practices in implementing smart grid technologies.

(3) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—In carrying out the initiative, the Secretary shall carry out smart grid demonstration projects in up to 5 electricity control areas, including rural areas and at least 1 area in which the majority of generation and transmission assets are controlled by a tax-exempt entity.

(B) COOPERATION.—A demonstration project under subparagraph (A) shall be carried out in cooperation with the electric utility that owns the grid facilities in the electricity control area in which the demonstration project is carried out.

(C) FEDERAL SHARE OF COST OF TECHNOLOGY INVESTMENTS.—The Secretary shall provide to an electric utility described in subparagraph (B) financial assistance for use in paying an amount equal to not more than 50 percent of the cost of qualifying advanced grid technology investments made by the electric utility to carry out a demonstration project.

(D) INELIGIBILITY FOR GRANTS.—No person or entity participating in any demonstration project conducted under this subsection shall be eligible for grants under section 1306 for otherwise qualifying investments made as part of that demonstration project.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to carry out subsection (a), such sums as are necessary for each of fiscal years 2008 through 2012; and

(2) to carry out subsection (b), \$100,000,000 for each of fiscal years 2008 through 2012.

SEC. 1305. SMART GRID INTEROPERABILITY FRAMEWORK.

15 USC 17385.

(a) INTEROPERABILITY FRAMEWORK.—The Director of the National Institute of Standards and Technology shall have primary responsibility to coordinate the development of a framework that includes protocols and model standards for information management to achieve interoperability of smart grid devices and systems. Such protocols and standards shall further align policy, business, and technology approaches in a manner that would enable all electric resources, including demand-side resources, to contribute to an efficient, reliable electricity network. In developing such protocols and standards—

(1) the Director shall seek input and cooperation from the Commission, OEDER and its Smart Grid Task Force, the Smart Grid Advisory Committee, other relevant Federal and State agencies; and

(2) the Director shall also solicit input and cooperation from private entities interested in such protocols and standards, including but not limited to the Gridwise Architecture Council, the International Electrical and Electronics Engineers, the National Electric Reliability Organization recognized by the Federal Energy Regulatory Commission, and National Electrical Manufacturer's Association.

(b) SCOPE OF FRAMEWORK.—The framework developed under subsection (a) shall be flexible, uniform and technology neutral, including but not limited to technologies for managing smart grid information, and designed—

(1) to accommodate traditional, centralized generation and transmission resources and consumer distributed resources, including distributed generation, renewable generation, energy storage, energy efficiency, and demand response and enabling devices and systems;

(2) to be flexible to incorporate—

(A) regional and organizational differences; and

(B) technological innovations;

(3) to consider the use of voluntary uniform standards for certain classes of mass-produced electric appliances and equipment for homes and businesses that enable customers, at their election and consistent with applicable State and Federal laws, and are manufactured with the ability to respond to electric grid emergencies and demand response signals by curtailing all, or a portion of, the electrical power consumed by the appliances or equipment in response to an emergency or demand response signal, including through—

(A) load reduction to reduce total electrical demand;

(B) adjustment of load to provide grid ancillary services; and

(C) in the event of a reliability crisis that threatens an outage, short-term load shedding to help preserve the stability of the grid; and

(4) such voluntary standards should incorporate appropriate manufacturer lead time.

(c) TIMING OF FRAMEWORK DEVELOPMENT.—The Institute shall begin work pursuant to this section within 60 days of enactment. The Institute shall provide and publish an initial report on progress toward recommended or consensus standards and protocols within 1 year after enactment, further reports at such times as developments warrant in the judgment of the Institute, and a final report when the Institute determines that the work is completed or that a Federal role is no longer necessary.

(d) STANDARDS FOR INTEROPERABILITY IN FEDERAL JURISDICTION.—At any time after the Institute's work has led to sufficient consensus in the Commission's judgment, the Commission shall institute a rulemaking proceeding to adopt such standards and protocols as may be necessary to insure smart-grid functionality and interoperability in interstate transmission of electric power, and regional and wholesale electricity markets.

(e) AUTHORIZATION.—There are authorized to be appropriated for the purposes of this section \$5,000,000 to the Institute to support the activities required by this subsection for each of fiscal years 2008 through 2012.

SEC. 1306. FEDERAL MATCHING FUND FOR SMART GRID INVESTMENT COSTS. 42 USC 17386.

(a) **MATCHING FUND.**—The Secretary shall establish a Smart Grid Investment Matching Grant Program to provide reimbursement of one-fifth (20 percent) of qualifying Smart Grid investments.

(b) **QUALIFYING INVESTMENTS.**—Qualifying Smart Grid investments may include any of the following made on or after the date of enactment of this Act:

(1) In the case of appliances covered for purposes of establishing energy conservation standards under part B of title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291 et seq.), the documented expenditures incurred by a manufacturer of such appliances associated with purchasing or designing, creating the ability to manufacture, and manufacturing and installing for one calendar year, internal devices that allow the appliance to engage in Smart Grid functions.

(2) In the case of specialized electricity-using equipment, including motors and drivers, installed in industrial or commercial applications, the documented expenditures incurred by its owner or its manufacturer of installing devices or modifying that equipment to engage in Smart Grid functions.

(3) In the case of transmission and distribution equipment fitted with monitoring and communications devices to enable smart grid functions, the documented expenditures incurred by the electric utility to purchase and install such monitoring and communications devices.

(4) In the case of metering devices, sensors, control devices, and other devices integrated with and attached to an electric utility system or retail distributor or marketer of electricity that are capable of engaging in Smart Grid functions, the documented expenditures incurred by the electric utility, distributor, or marketer and its customers to purchase and install such devices.

(5) In the case of software that enables devices or computers to engage in Smart Grid functions, the documented purchase costs of the software.

(6) In the case of entities that operate or coordinate operations of regional electric grids, the documented expenditures for purchasing and installing such equipment that allows Smart Grid functions to operate and be combined or coordinated among multiple electric utilities and between that region and other regions.

(7) In the case of persons or entities other than electric utilities owning and operating a distributed electricity generator, the documented expenditures of enabling that generator to be monitored, controlled, or otherwise integrated into grid operations and electricity flows on the grid utilizing Smart Grid functions.

(8) In the case of electric or hybrid-electric vehicles, the documented expenses for devices that allow the vehicle to engage in Smart Grid functions (but not the costs of electricity storage for the vehicle).

(9) The documented expenditures related to purchasing and implementing Smart Grid functions in such other cases as the Secretary shall identify. In making such grants, the Secretary shall seek to reward innovation and early adaptation,

even if success is not complete, rather than deployment of proven and commercially viable technologies.

(c) INVESTMENTS NOT INCLUDED.—Qualifying Smart Grid investments do not include any of the following:

(1) Investments or expenditures for Smart Grid technologies, devices, or equipment that are eligible for specific tax credits or deductions under the Internal Revenue Code, as amended.

(2) Expenditures for electricity generation, transmission, or distribution infrastructure or equipment not directly related to enabling Smart Grid functions.

(3) After the final date for State consideration of the Smart Grid Information Standard under section 1307 (paragraph (17) of section 111(d) of the Public Utility Regulatory Policies Act of 1978), an investment that is not in compliance with such standard.

(4) After the development and publication by the Institute of protocols and model standards for interoperability of smart grid devices and technologies, an investment that fails to incorporate any of such protocols or model standards.

(5) Expenditures for physical interconnection of generators or other devices to the grid except those that are directly related to enabling Smart Grid functions.

(6) Expenditures for ongoing salaries, benefits, or personnel costs not incurred in the initial installation, training, or start up of smart grid functions.

(7) Expenditures for travel, lodging, meals or other personal costs.

(8) Ongoing or routine operation, billing, customer relations, security, and maintenance expenditures.

(9) Such other expenditures that the Secretary determines not to be Qualifying Smart Grid Investments by reason of the lack of the ability to perform Smart Grid functions or lack of direct relationship to Smart Grid functions.

(d) SMART GRID FUNCTIONS.—The term “smart grid functions” means any of the following:

(1) The ability to develop, store, send and receive digital information concerning electricity use, costs, prices, time of use, nature of use, storage, or other information relevant to device, grid, or utility operations, to or from or by means of the electric utility system, through one or a combination of devices and technologies.

(2) The ability to develop, store, send and receive digital information concerning electricity use, costs, prices, time of use, nature of use, storage, or other information relevant to device, grid, or utility operations to or from a computer or other control device.

(3) The ability to measure or monitor electricity use as a function of time of day, power quality characteristics such as voltage level, current, cycles per second, or source or type of generation and to store, synthesize or report that information by digital means.

(4) The ability to sense and localize disruptions or changes in power flows on the grid and communicate such information instantaneously and automatically for purposes of enabling automatic protective responses to sustain reliability and security of grid operations.

(5) The ability to detect, prevent, communicate with regard to, respond to, or recover from system security threats, including cyber-security threats and terrorism, using digital information, media, and devices.

(6) The ability of any appliance or machine to respond to such signals, measurements, or communications automatically or in a manner programmed by its owner or operator without independent human intervention.

(7) The ability to use digital information to operate functionalities on the electric utility grid that were previously electro-mechanical or manual.

(8) The ability to use digital controls to manage and modify electricity demand, enable congestion management, assist in voltage control, provide operating reserves, and provide frequency regulation.

(9) Such other functions as the Secretary may identify as being necessary or useful to the operation of a Smart Grid.

(e) The Secretary shall—

(1) establish and publish in the Federal Register, within 1 year after the enactment of this Act procedures by which applicants who have made qualifying Smart Grid investments can seek and obtain reimbursement of one-fifth of their documented expenditures;

(2) establish procedures to ensure that there is no duplication or multiple reimbursement for the same investment or costs, that the reimbursement goes to the party making the actual expenditures for Qualifying Smart Grid Investments, and that the grants made have significant effect in encouraging and facilitating the development of a smart grid;

(3) maintain public records of reimbursements made, recipients, and qualifying Smart Grid investments which have received reimbursements;

(4) establish procedures to provide, in cases deemed by the Secretary to be warranted, advance payment of moneys up to the full amount of the projected eventual reimbursement, to creditworthy applicants whose ability to make Qualifying Smart Grid Investments may be hindered by lack of initial capital, in lieu of any later reimbursement for which that applicant qualifies, and subject to full return of the advance payment in the event that the Qualifying Smart Grid investment is not made; and

(5) have and exercise the discretion to deny grants for investments that do not qualify in the reasonable judgment of the Secretary.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for the administration of this section and the grants to be made pursuant to this section for fiscal years 2008 through 2012.

SEC. 1307. STATE CONSIDERATION OF SMART GRID.

(a) Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

“(16) CONSIDERATION OF SMART GRID INVESTMENTS.—

“(A) IN GENERAL.—Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate

Procedures.
Federal Register,
publication.
Deadline.

Records.

to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including—

- “(i) total costs;
- “(ii) cost-effectiveness;
- “(iii) improved reliability;
- “(iv) security;
- “(v) system performance; and
- “(vi) societal benefit.

“(B) RATE RECOVERY.—Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.

“(C) OBSOLETE EQUIPMENT.—Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

“(17) SMART GRID INFORMATION.—

“(A) STANDARD.—All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).

“(B) INFORMATION.—Information provided under this section, to the extent practicable, shall include:

“(i) PRICES.—Purchasers and other interested persons shall be provided with information on—

“(I) time-based electricity prices in the wholesale electricity market; and

“(II) time-based electricity retail prices or rates that are available to the purchasers.

“(ii) USAGE.—Purchasers shall be provided with the number of electricity units, expressed in kwh, purchased by them.

“(iii) INTERVALS AND PROJECTIONS.—Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.

“(iv) SOURCES.—Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.

“(C) ACCESS.—Purchasers shall be able to access their own information at any time through the Internet and on other means of communication elected by that utility

for Smart Grid applications. Other interested persons shall be able to access information not specific to any purchaser through the Internet. Information specific to any purchaser shall be provided solely to that purchaser.”.

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding the following at the end thereof:

“(6)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standards established by paragraphs (17) through (18) of section 111(d).

Deadlines.

“(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (17) through (18) of section 111(d).”.

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding the following at the end:

“In the case of the standards established by paragraphs (16) through (19) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs.”.

(3) PRIOR STATE ACTIONS.—Section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(d)) is amended by inserting “and paragraphs (17) through (18)” before “of section 111(d)”.

SEC. 1308. STUDY OF THE EFFECT OF PRIVATE WIRE LAWS ON THE DEVELOPMENT OF COMBINED HEAT AND POWER FACILITIES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the States and other appropriate entities, shall conduct a study of the laws (including regulations) affecting the siting of privately owned electric distribution wires on and across public rights-of-way.

(2) REQUIREMENTS.—The study under paragraph (1) shall include—

(A) an evaluation of—

(i) the purposes of the laws; and

(ii) the effect the laws have on the development of combined heat and power facilities;

(B) a determination of whether a change in the laws would have any operating, reliability, cost, or other impacts on electric utilities and the customers of the electric utilities; and

(C) an assessment of—

(i) whether privately owned electric distribution wires would result in duplicative facilities; and

(ii) whether duplicative facilities are necessary or desirable.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

SEC. 1309. DOE STUDY OF SECURITY ATTRIBUTES OF SMART GRID SYSTEMS.

Deadline.
Reports.

(a) DOE STUDY.—The Secretary shall, within 18 months after the date of enactment of this Act, submit a report to Congress that provides a quantitative assessment and determination of the existing and potential impacts of the deployment of Smart Grid systems on improving the security of the Nation’s electricity infrastructure and operating capability. The report shall include but not be limited to specific recommendations on each of the following:

(1) How smart grid systems can help in making the Nation’s electricity system less vulnerable to disruptions due to intentional acts against the system.

(2) How smart grid systems can help in restoring the integrity of the Nation’s electricity system subsequent to disruptions.

(3) How smart grid systems can facilitate nationwide, interoperable emergency communications and control of the Nation’s electricity system during times of localized, regional, or nationwide emergency.

(4) What risks must be taken into account that smart grid systems may, if not carefully created and managed, create vulnerability to security threats of any sort, and how such risks may be mitigated.

(b) CONSULTATION.—The Secretary shall consult with other Federal agencies in the development of the report under this section, including but not limited to the Secretary of Homeland Security, the Federal Energy Regulatory Commission, and the Electric Reliability Organization certified by the Commission under section 215(c) of the Federal Power Act (16 U.S.C. 824o) as added by section 1211 of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 941).

Virginia Graeme
Baker Pool and
Spa Safety Act.
15 USC 8001
note.

TITLE XIV—POOL AND SPA SAFETY

SEC. 1401. SHORT TITLE.

This title may be cited as the “Virginia Graeme Baker Pool and Spa Safety Act”.

15 USC 8001.

SEC. 1402. FINDINGS.

Congress finds the following:

(1) Of injury-related deaths, drowning is the second leading cause of death in children aged 1 to 14 in the United States.

(2) In 2004, 761 children aged 14 and under died as a result of unintentional drowning.

(3) Adult supervision at all aquatic venues is a critical safety factor in preventing children from drowning.

(4) Research studies show that the installation and proper use of barriers or fencing, as well as additional layers of protection, could substantially reduce the number of childhood residential swimming pool drownings and near drownings.

SEC. 1403. DEFINITIONS.

15 USC 8002.

In this title:

(1) **ASME/ANSI.**—The term “ASME/ANSI” as applied to a safety standard means such a standard that is accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

(2) **BARRIER.**—The term “barrier” includes a natural or constructed topographical feature that prevents unpermitted access by children to a swimming pool, and, with respect to a hot tub, a lockable cover.

(3) **COMMISSION.**—The term “Commission” means the Consumer Product Safety Commission.

(4) **MAIN DRAIN.**—The term “main drain” means a submerged suction outlet typically located at the bottom of a pool or spa to conduct water to a recirculating pump.

(5) **SAFETY VACUUM RELEASE SYSTEM.**—The term “safety vacuum release system” means a vacuum release system capable of providing vacuum release at a suction outlet caused by a high vacuum occurrence due to a suction outlet flow blockage.

(6) **SWIMMING POOL; SPA.**—The term “swimming pool” or “spa” means any outdoor or indoor structure intended for swimming or recreational bathing, including in-ground and above-ground structures, and includes hot tubs, spas, portable spas, and non-portable wading pools.

(7) **UNBLOCKABLE DRAIN.**—The term “unblockable drain” means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

SEC. 1404. FEDERAL SWIMMING POOL AND SPA DRAIN COVER STANDARD.

15 USC 8003.

(a) **CONSUMER PRODUCT SAFETY RULE.**—The requirements described in subsection (b) shall be treated as a consumer product safety rule issued by the Consumer Product Safety Commission under the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

(b) **DRAIN COVER STANDARD.**—Effective 1 year after the date of enactment of this title, each swimming pool or spa drain cover manufactured, distributed, or entered into commerce in the United States shall conform to the entrapment protection standards of the ASME/ANSI A112.19.8 performance standard, or any successor standard regulating such swimming pool or drain cover.

Effective date.

(c) **PUBLIC POOLS.**—

(1) **REQUIRED EQUIPMENT.**—

(A) **IN GENERAL.**—Beginning 1 year after the date of enactment of this title—

Effective date.

(i) each public pool and spa in the United States shall be equipped with anti-entrapment devices or systems that comply with the ASME/ANSI A112.19.8 performance standard, or any successor standard; and

(ii) each public pool and spa in the United States with a single main drain other than an unblockable drain shall be equipped, at a minimum, with 1 or more of the following devices or systems designed to prevent entrapment by pool or spa drains that meets the requirements of subparagraph (B):

(I) **SAFETY VACUUM RELEASE SYSTEM.**—A safety vacuum release system which ceases operation of

the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected, that has been tested by an independent third party and found to conform to ASME/ANSI standard A112.19.17 or ASTM standard F2387.

(II) SUCTION-LIMITING VENT SYSTEM.—A suction-limiting vent system with a tamper-resistant atmospheric opening.

(III) GRAVITY DRAINAGE SYSTEM.—A gravity drainage system that utilizes a collector tank.

(IV) AUTOMATIC PUMP SHUT-OFF SYSTEM.—An automatic pump shut-off system.

(V) DRAIN DISABLEMENT.—A device or system that disables the drain.

(VI) OTHER SYSTEMS.—Any other system determined by the Commission to be equally effective as, or better than, the systems described in subclauses (I) through (V) of this clause at preventing or eliminating the risk of injury or death associated with pool drainage systems.

(B) APPLICABLE STANDARDS.—Any device or system described in subparagraph (A)(ii) shall meet the requirements of any ASME/ANSI or ASTM performance standard if there is such a standard for such a device or system, or any applicable consumer product safety standard.

(2) PUBLIC POOL AND SPA DEFINED.—In this subsection, the term “public pool and spa” means a swimming pool or spa that is—

(A) open to the public generally, whether for a fee or free of charge;

(B) open exclusively to—

(i) members of an organization and their guests;

(ii) residents of a multi-unit apartment building, apartment complex, residential real estate development, or other multi-family residential area (other than a municipality, township, or other local government jurisdiction); or

(iii) patrons of a hotel or other public accommodations facility; or

(C) operated by the Federal Government (or by a concessionaire on behalf of the Federal Government) for the benefit of members of the Armed Forces and their dependents or employees of any department or agency and their dependents.

(3) ENFORCEMENT.—Violation of paragraph (1) shall be considered to be a violation of section 19(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(1)) and may also be enforced under section 17 of that Act (15 U.S.C. 2066).

15 USC 8004.

SEC. 1405. STATE SWIMMING POOL SAFETY GRANT PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations authorized by subsection (e), the Commission shall establish a grant program to provide assistance to eligible States.

(b) ELIGIBILITY.—To be eligible for a grant under the program, a State shall—

- (1) demonstrate to the satisfaction of the Commission that it has a State statute, or that, after the date of enactment of this title, it has enacted a statute, or amended an existing statute, and provides for the enforcement of, a law that—
 - (A) except as provided in section 1406(a)(1)(A)(i), applies to all swimming pools in the State; and
 - (B) meets the minimum State law requirements of section 1406; and
- (2) submit an application to the Commission at such time, in such form, and containing such additional information as the Commission may require.
- (c) AMOUNT OF GRANT.—The Commission shall determine the amount of a grant awarded under this title, and shall consider—
 - (1) the population and relative enforcement needs of each qualifying State; and
 - (2) allocation of grant funds in a manner designed to provide the maximum benefit from the program in terms of protecting children from drowning or entrapment, and, in making that allocation, shall give priority to States that have not received a grant under this title in a preceding fiscal year.
- (d) USE OF GRANT FUNDS.—A State receiving a grant under this section shall use—
 - (1) at least 50 percent of amounts made available to hire and train enforcement personnel for implementation and enforcement of standards under the State swimming pool and spa safety law; and
 - (2) the remainder—
 - (A) to educate pool construction and installation companies and pool service companies about the standards;
 - (B) to educate pool owners, pool operators, and other members of the public about the standards under the swimming pool and spa safety law and about the prevention of drowning or entrapment of children using swimming pools and spas; and
 - (C) to defray administrative costs associated with such training and education programs.
- (e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission for each of fiscal years 2009 and 2010 \$2,000,000 to carry out this section, such sums to remain available until expended. Any amounts appropriated pursuant to this subsection that remain unexpended and unobligated at the end of fiscal year 2010 shall be retained by the Commission and credited to the appropriations account that funds enforcement of the Consumer Product Safety Act.

SEC. 1406. MINIMUM STATE LAW REQUIREMENTS.

15 USC 8005.

(a) IN GENERAL.—

(1) SAFETY STANDARDS.—A State meets the minimum State law requirements of this section if—

(A) the State requires by statute—

(i) the enclosure of all outdoor residential pools and spas by barriers to entry that will effectively prevent small children from gaining unsupervised and unfettered access to the pool or spa;

(ii) that all pools and spas be equipped with devices and systems designed to prevent entrapment by pool or spa drains;

(iii) that pools and spas built more than 1 year after the date of the enactment of such statute have—

(I) more than 1 drain;

(II) 1 or more unblockable drains; or

(III) no main drain;

(iv) every swimming pool and spa that has a main drain, other than an unblockable drain, be equipped with a drain cover that meets the consumer product safety standard established by section 1404; and

(v) that periodic notification is provided to owners of residential swimming pools or spas about compliance with the entrapment protection standards of the ASME/ANSI A112.19.8 performance standard, or any successor standard; and

Notification.
Comment period.

(B) the State meets such additional State law requirements for pools and spas as the Commission may establish after public notice and a 30-day public comment period.

(2) NO LIABILITY INFERENCE ASSOCIATED WITH STATE NOTIFICATION REQUIREMENT.—The minimum State law notification requirement under paragraph (1)(A)(v) shall not be construed to imply any liability on the part of a State related to that requirement.

(3) USE OF MINIMUM STATE LAW REQUIREMENTS.—The Commission—

(A) shall use the minimum State law requirements under paragraph (1) solely for the purpose of determining the eligibility of a State for a grant under section 1405 of this Act; and

(B) may not enforce any requirement under paragraph (1) except for the purpose of determining the eligibility of a State for a grant under section 1405 of this Act.

(4) REQUIREMENTS TO REFLECT NATIONAL PERFORMANCE STANDARDS AND COMMISSION GUIDELINES.—In establishing minimum State law requirements under paragraph (1), the Commission shall—

(A) consider current or revised national performance standards on pool and spa barrier protection and entrapment prevention; and

(B) ensure that any such requirements are consistent with the guidelines contained in the Commission's publication 362, entitled "Safety Barrier Guidelines for Home Pools", the Commission's publication entitled "Guidelines for Entrapment Hazards: Making Pools and Spas Safer", and any other pool safety guidelines established by the Commission.

(b) STANDARDS.—Nothing in this section prevents the Commission from promulgating standards regulating pool and spa safety or from relying on an applicable national performance standard.

(c) BASIC ACCESS-RELATED SAFETY DEVICES AND EQUIPMENT REQUIREMENTS TO BE CONSIDERED.—In establishing minimum State law requirements for swimming pools and spas under subsection (a)(1), the Commission shall consider the following requirements:

(1) COVERS.—A safety pool cover.

(2) GATES.—A gate with direct access to the swimming pool or spa that is equipped with a self-closing, self-latching device.

(3) **DOORS.**—Any door with direct access to the swimming pool or spa that is equipped with an audible alert device or alarm which sounds when the door is opened.

(4) **POOL ALARM.**—A device designed to provide rapid detection of an entry into the water of a swimming pool or spa.

(d) **ENTRAPMENT, ENTANGLEMENT, AND EVISCERATION PREVENTION STANDARDS TO BE REQUIRED.**—

(1) **IN GENERAL.**—In establishing additional minimum State law requirements for swimming pools and spas under subsection (a)(1), the Commission shall require, at a minimum, 1 or more of the following (except for pools constructed without a single main drain):

(A) **SAFETY VACUUM RELEASE SYSTEM.**—A safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected, that has been tested by an independent third party and found to conform to ASME/ANSI standard A112.19.17 or ASTM standard F2387, or any successor standard.

(B) **SUCTION-LIMITING VENT SYSTEM.**—A suction-limiting vent system with a tamper-resistant atmospheric opening.

(C) **GRAVITY DRAINAGE SYSTEM.**—A gravity drainage system that utilizes a collector tank.

(D) **AUTOMATIC PUMP SHUT-OFF SYSTEM.**—An automatic pump shut-off system.

(E) **DRAIN DISABLEMENT.**—A device or system that disables the drain.

(F) **OTHER SYSTEMS.**—Any other system determined by the Commission to be equally effective as, or better than, the systems described in subparagraphs (A) through (E) of this paragraph at preventing or eliminating the risk of injury or death associated with pool drainage systems.

(2) **APPLICABLE STANDARDS.**—Any device or system described in subparagraphs (B) through (E) of paragraph (1) shall meet the requirements of any ASME/ANSI or ASTM performance standard if there is such a standard for such a device or system, or any applicable consumer product safety standard.

SEC. 1407. EDUCATION PROGRAM.

15 USC 8006.

(a) **IN GENERAL.**—The Commission shall establish and carry out an education program to inform the public of methods to prevent drowning and entrapment in swimming pools and spas. In carrying out the program, the Commission shall develop—

(1) educational materials designed for pool manufacturers, pool service companies, and pool supply retail outlets;

(2) educational materials designed for pool owners and operators; and

(3) a national media campaign to promote awareness of pool and spa safety.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Commission for each of the fiscal years 2008 through 2012 \$5,000,000 to carry out the education program authorized by subsection (a).

15 USC 8007.

SEC. 1408. CPSC REPORT.

Not later than 1 year after the last day of each fiscal year for which grants are made under section 1405, the Commission shall submit to Congress a report evaluating the implementation of the grant program authorized by that section.

TITLE XV—REVENUE PROVISIONS**SEC. 1500. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 1501. EXTENSION OF ADDITIONAL 0.2 PERCENT FUTA SURTAX.

26 USC 3301.

(a) IN GENERAL.—Section 3301 (relating to rate of tax) is amended—

(1) by striking “2007” in paragraph (1) and inserting “2008”, and

(2) by striking “2008” in paragraph (2) and inserting “2009”.

26 USC 3301
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 2007.

SEC. 1502. 7-YEAR AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR CERTAIN MAJOR INTEGRATED OIL COMPANIES.

26 USC 167.

(a) IN GENERAL.—Subparagraph (A) of section 167(h)(5) (relating to special rule for major integrated oil companies) is amended by striking “5-year” and inserting “7-year”.

26 USC 167 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

TITLE XVI—EFFECTIVE DATE

SEC. 1601. EFFECTIVE DATE.

2 USC 1824 note.

This Act and the amendments made by this Act take effect on the date that is 1 day after the date of enactment of this Act.

Approved December 19, 2007.

LEGISLATIVE HISTORY—H.R. 6:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Jan. 18, considered and passed House.

June 12–15, 18–21, considered and passed Senate, amended.

Dec. 6, House concurred in Senate amendments with amendments.

Dec. 12, 13, Senate considered and concurred in House amendments with an amendment.

Dec. 18, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Dec. 19, Presidential remarks.



Public Law 110–141
110th Congress

An Act

Dec. 19, 2007
[H.R. 4118]

To exclude from gross income payments from the Hokie Spirit Memorial Fund to the victims of the tragic event at Virginia Polytechnic Institute & State University.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM INCOME FOR PAYMENTS FROM THE HOKIE SPIRIT MEMORIAL FUND.

For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount received from the Virginia Polytechnic Institute & State University, out of amounts transferred from the Hokie Spirit Memorial Fund established by the Virginia Tech Foundation, an organization organized and operated as described in section 501(c)(3) of the Internal Revenue Code of 1986, if such amount is paid on account of the tragic event on April 16, 2007, at such university.

26 USC 6698
note.

SEC. 2. MODIFICATION OF PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURNS.

For any return of a partnership required to be filed under section 6031 of the Internal Revenue Code of 1986 for a taxable year beginning in 2008, the dollar amount in effect under section 6698(b)(1) of such Code shall be increased by \$1.

Approved December 19, 2007.

LEGISLATIVE HISTORY—H.R. 4118:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 4, considered and passed House.

Dec. 6, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Dec. 19, Presidential remarks.



Public Law 110–142
110th Congress

An Act

To amend the Internal Revenue Code of 1986 to exclude discharges of indebtedness on principal residences from gross income, and for other purposes.

Dec. 20, 2007
[H.R. 3648]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mortgage Forgiveness Debt Relief Act of 2007”.

Mortgage
Forgiveness Debt
Relief Act of
2007.
26 USC 1 note.

SEC. 2. DISCHARGES OF INDEBTEDNESS ON PRINCIPAL RESIDENCE EXCLUDED FROM GROSS INCOME.

(a) **IN GENERAL.**—Paragraph (1) of section 108(a) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting “, or”, and by inserting after subparagraph (D) the following new subparagraph:

26 USC 108.

“(E) the indebtedness discharged is qualified principal residence indebtedness which is discharged before January 1, 2010.”.

(b) **SPECIAL RULES RELATING TO QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.**—Section 108 of such Code is amended by adding at the end the following new subsection:

“(h) **SPECIAL RULES RELATING TO QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.**—

“(1) **BASIS REDUCTION.**—The amount excluded from gross income by reason of subsection (a)(1)(E) shall be applied to reduce (but not below zero) the basis of the principal residence of the taxpayer.

“(2) **QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.**—For purposes of this section, the term ‘qualified principal residence indebtedness’ means acquisition indebtedness (within the meaning of section 163(h)(3)(B), applied by substituting ‘\$2,000,000 (\$1,000,000)’ for ‘\$1,000,000 (\$500,000)’ in clause (ii) thereof) with respect to the principal residence of the taxpayer.

“(3) **EXCEPTION FOR CERTAIN DISCHARGES NOT RELATED TO TAXPAYER’S FINANCIAL CONDITION.**—Subsection (a)(1)(E) shall not apply to the discharge of a loan if the discharge is on account of services performed for the lender or any other factor not directly related to a decline in the value of the residence or to the financial condition of the taxpayer.

“(4) **ORDERING RULE.**—If any loan is discharged, in whole or in part, and only a portion of such loan is qualified principal residence indebtedness, subsection (a)(1)(E) shall apply only to so much of the amount discharged as exceeds the amount

of the loan (as determined immediately before such discharge) which is not qualified principal residence indebtedness.

“(5) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term ‘principal residence’ has the same meaning as when used in section 121.”.

(c) COORDINATION.—

26 USC 108.

(1) Subparagraph (A) of section 108(a)(2) of such Code is amended by striking “and (D)” and inserting “(D), and (E)”.

(2) Paragraph (2) of section 108(a) of such Code is amended by adding at the end the following new subparagraph:

“(C) PRINCIPAL RESIDENCE EXCLUSION TAKES PRECEDENCE OVER INSOLVENCY EXCLUSION UNLESS ELECTED OTHERWISE.—Paragraph (1)(B) shall not apply to a discharge to which paragraph (1)(E) applies unless the taxpayer elects to apply paragraph (1)(B) in lieu of paragraph (1)(E).”.

26 USC 108 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness on or after January 1, 2007.

SEC. 3. EXTENSION OF TREATMENT OF MORTGAGE INSURANCE PREMIUMS AS INTEREST.

(a) IN GENERAL.—Subclause (I) of section 163(h)(3)(E)(iv) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2010”.

26 USC 163 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or accrued after December 31, 2007.

SEC. 4. ALTERNATIVE TESTS FOR QUALIFYING AS COOPERATIVE HOUSING CORPORATION.

(a) IN GENERAL.—Subparagraph (D) of section 216(b)(1) of the Internal Revenue Code of 1986 (defining cooperative housing corporation) is amended to read as follows:

“(D) meeting 1 or more of the following requirements for the taxable year in which the taxes and interest described in subsection (a) are paid or incurred:

“(i) 80 percent or more of the corporation’s gross income for such taxable year is derived from tenant-stockholders.

“(ii) At all times during such taxable year, 80 percent or more of the total square footage of the corporation’s property is used or available for use by the tenant-stockholders for residential purposes or purposes ancillary to such residential use.

“(iii) 90 percent or more of the expenditures of the corporation paid or incurred during such taxable year are paid or incurred for the acquisition, construction, management, maintenance, or care of the corporation’s property for the benefit of the tenant-stockholders.”.

26 USC 216 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 5. EXCLUSION FROM INCOME FOR BENEFITS PROVIDED TO VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL RESPONDERS.

(a) **IN GENERAL.**—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 139A the following new section:

“SEC. 139B. BENEFITS PROVIDED TO VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL RESPONDERS. 26 USC 139B.

“(a) **IN GENERAL.**—In the case of any member of a qualified volunteer emergency response organization, gross income shall not include—

“(1) any qualified State and local tax benefit, and

“(2) any qualified payment.

“(b) **DENIAL OF DOUBLE BENEFITS.**—In the case of any member of a qualified volunteer emergency response organization—

“(1) the deduction under 164 shall be determined with regard to any qualified State and local tax benefit, and

“(2) expenses paid or incurred by the taxpayer in connection with the performance of services as such a member shall be taken into account under section 170 only to the extent such expenses exceed the amount of any qualified payment excluded from gross income under subsection (a).

“(c) **DEFINITIONS.**—For purposes of this section—

“(1) **QUALIFIED STATE AND LOCAL TAX BENEFIT.**—The term ‘qualified state and local tax benefit’ means any reduction or rebate of a tax described in paragraph (1), (2), or (3) of section 164(a) provided by a State or political division thereof on account of services performed as a member of a qualified volunteer emergency response organization.

“(2) **QUALIFIED PAYMENT.**—

“(A) **IN GENERAL.**—The term ‘qualified payment’ means any payment (whether reimbursement or otherwise) provided by a State or political division thereof on account of the performance of services as a member of a qualified volunteer emergency response organization.

“(B) **APPLICABLE DOLLAR LIMITATION.**—The amount determined under subparagraph (A) for any taxable year shall not exceed \$30 multiplied by the number of months during such year that the taxpayer performs such services.

“(3) **QUALIFIED VOLUNTEER EMERGENCY RESPONSE ORGANIZATION.**—The term ‘qualified volunteer emergency response organization’ means any volunteer organization—

“(A) which is organized and operated to provide firefighting or emergency medical services for persons in the State or political subdivision, as the case may be, and

“(B) which is required (by written agreement) by the State or political subdivision to furnish firefighting or emergency medical services in such State or political subdivision.

“(d) **TERMINATION.**—This section shall not apply with respect to taxable years beginning after December 31, 2010.”.

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by inserting after the item relating to section 139A the following new item:

“Sec. 139B. Benefits provided to volunteer firefighters and emergency medical responders.”.

26 USC 139B
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 6. CLARIFICATION OF STUDENT HOUSING ELIGIBLE FOR LOW-INCOME HOUSING CREDIT.

26 USC 42.

(a) IN GENERAL.—Subclause (I) of section 42(i)(3)(D)(ii) of the Internal Revenue Code of 1986 (relating to certain students not to disqualify unit) is amended to read as follows:

“(I) single parents and their children and such parents are not dependents (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of another individual and such children are not dependents (as so defined) of another individual other than a parent of such children, or.”.

26 USC 42 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) housing credit amounts allocated before, on, or after the date of the enactment of this Act, and

(2) buildings placed in service before, on, or after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof.

SEC. 7. APPLICATION OF JOINT RETURN LIMITATION FOR CAPITAL GAINS EXCLUSION TO CERTAIN POST-MARRIAGE SALES OF PRINCIPAL RESIDENCES BY SURVIVING SPOUSES.

(a) SALE WITHIN 2 YEARS OF SPOUSE’S DEATH.—Section 121(b) of the Internal Revenue Code of 1986 (relating to limitations) is amended by adding at the end the following new paragraph:

“(4) SPECIAL RULE FOR CERTAIN SALES BY SURVIVING SPOUSES.—In the case of a sale or exchange of property by an unmarried individual whose spouse is deceased on the date of such sale, paragraph (1) shall be applied by substituting ‘\$500,000’ for ‘\$250,000’ if such sale occurs not later than 2 years after the date of death of such spouse and the requirements of paragraph (2)(A) were met immediately before such date of death.”.

26 USC 121 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after December 31, 2007.

SEC. 8. MODIFICATION OF PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURNS; LIMITATION ON DISCLOSURE.

(a) EXTENSION OF TIME LIMITATION.—Section 6698(a) of the Internal Revenue Code of 1986 (relating to failure to file partnership returns) is amended by striking “5 months” and inserting “12 months”.

(b) INCREASE IN PENALTY AMOUNT.—Paragraph (1) of section 6698(b) of such Code is amended by striking “\$50” and inserting “\$85”.

(c) **LIMITATION ON DISCLOSURE OF TAXPAYER RETURNS TO PARTNERS, S CORPORATION SHAREHOLDERS, TRUST BENEFICIARIES, AND ESTATE BENEFICIARIES.**—

(1) **IN GENERAL.**—Section 6103(e) of such Code (relating to disclosure to persons having material interest) is amended by adding at the end the following new paragraph: 26 USC 6103.

“(10) **LIMITATION ON CERTAIN DISCLOSURES UNDER THIS SUBSECTION.**—In the case of an inspection or disclosure under this subsection relating to the return of a partnership, S corporation, trust, or an estate, the information inspected or disclosed shall not include any supporting schedule, attachment, or list which includes the taxpayer identity information of a person other than the entity making the return or the person conducting the inspection or to whom the disclosure is made.”.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply to returns required to be filed after the date of the enactment of this Act. 26 USC 6103 note.

SEC. 9. PENALTY FOR FAILURE TO FILE S CORPORATION RETURNS.

(a) **IN GENERAL.**—Part I of subchapter B of chapter 68 of the Internal Revenue Code of 1986 (relating to assessable penalties) is amended by adding at the end the following new section:

“SEC. 6699. FAILURE TO FILE S CORPORATION RETURN.

Penalties.
26 USC 6699.

“(a) **GENERAL RULE.**—In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), if any S corporation required to file a return under section 6037 for any taxable year—

“(1) fails to file such return at the time prescribed therefor (determined with regard to any extension of time for filing), or

“(2) files a return which fails to show the information required under section 6037,

such S corporation shall be liable for a penalty determined under subsection (b) for each month (or fraction thereof) during which such failure continues (but not to exceed 12 months), unless it is shown that such failure is due to reasonable cause.

“(b) **AMOUNT PER MONTH.**—For purposes of subsection (a), the amount determined under this subsection for any month is the product of—

“(1) \$85, multiplied by

“(2) the number of persons who were shareholders in the S corporation during any part of the taxable year.

“(c) **ASSESSMENT OF PENALTY.**—The penalty imposed by subsection (a) shall be assessed against the S corporation.

“(d) **DEFICIENCY PROCEDURES NOT TO APPLY.**—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).”.

(b) **CLERICAL AMENDMENT.**—The table of sections for part I of subchapter B of chapter 68 of such Code is amended by adding at the end the following new item:

“Sec. 6699. Failure to file S corporation return.”.

26 USC 6699
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to returns required to be filed after the date of the enactment of this Act.

26 USC 6655
note.

SEC. 10. MODIFICATION OF REQUIRED INSTALLMENT OF CORPORATE ESTIMATED TAXES WITH RESPECT TO CERTAIN DATES.

The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 1.50 percentage points.

Approved December 20, 2007.

LEGISLATIVE HISTORY—H.R. 3648:

HOUSE REPORTS: No. 110–356 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 4, considered and passed House.

Dec. 14, considered and passed Senate, amended.

Dec. 18, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Dec. 20, Presidential remarks.



Public Law 110–143
110th Congress

An Act

To provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes.

Dec. 21, 2007
[H.R. 365]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Methamphetamine Remediation Research Act of 2007”.

Metham-
phetamine
Remediation
Research Act
of 2007.
42 USC 9660
note.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Methamphetamine use and production is growing rapidly throughout the United States.

(2) Materials and residues remaining from the production of methamphetamine pose novel environmental problems in locations where methamphetamine laboratories have been closed.

(3) There has been little standardization of measures for determining when the site of a closed methamphetamine laboratory has been successfully remediated.

(4) Initial cleanup actions are generally limited to removal of hazardous substances and contaminated materials that pose an immediate threat to public health or the environment. It is not uncommon for significant levels of contamination to be found throughout residential structures after a methamphetamine laboratory has closed, partially because of a lack of knowledge of how to achieve an effective cleanup.

(5) Data on methamphetamine laboratory-related contaminants of concern are very limited, and cleanup standards do not currently exist. In addition, procedures for sampling and analysis of contaminants need to be researched and developed.

(6) Many States are struggling with establishing remediation guidelines and programs to address the rapidly expanding number of methamphetamine laboratories being closed each year.

SEC. 3. VOLUNTARY GUIDELINES.

(a) **ESTABLISHMENT OF VOLUNTARY GUIDELINES.**—Not later than one year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency (in this Act referred to as the “Administrator”), in consultation with the National Institute of Standards and Technology, shall establish voluntary guidelines, based on the best currently available scientific knowledge, for the remediation of former methamphetamine laboratories,

Deadline.

including guidelines regarding preliminary site assessment and the remediation of residual contaminants.

(b) CONSIDERATIONS.—In developing the voluntary guidelines under subsection (a), the Administrator shall consider, at a minimum—

(1) relevant standards, guidelines, and requirements found in Federal, State, and local laws and regulations;

(2) the varying types and locations of former methamphetamine laboratories; and

(3) the expected cost of carrying out any proposed guidelines.

(c) STATES.—The voluntary guidelines should be designed to assist State and local governments in the development and the implementation of legislation and other policies to apply state-of-the-art knowledge and research results to the remediation of former methamphetamine laboratories. The Administrator shall work with State and local governments and other relevant non-Federal agencies and organizations, including through the conference described in section 5, to promote and encourage the appropriate adoption of the voluntary guidelines.

(d) UPDATING THE GUIDELINES.—The Administrator shall periodically update the voluntary guidelines as the Administrator, in consultation with States and other interested parties, determines to be necessary and appropriate to incorporate research findings and other new knowledge.

SEC. 4. RESEARCH PROGRAM.

The Administrator shall establish a program of research to support the development and revision of the voluntary guidelines described in section 3. Such research shall—

(1) identify methamphetamine laboratory-related chemicals of concern;

(2) assess the types and levels of exposure to chemicals of concern identified under paragraph (1), including routine and accidental exposures, that may present a significant risk of adverse biological effects, and the research necessary to better address biological effects and to minimize adverse human exposures;

(3) evaluate the performance of various methamphetamine laboratory cleanup and remediation techniques; and

(4) support other research priorities identified by the Administrator in consultation with States and other interested parties.

SEC. 5. TECHNOLOGY TRANSFER CONFERENCE.

Deadlines.

(a) CONFERENCE.—Not later than 90 days after the date of enactment of this Act, and at least every third year thereafter, the Administrator shall convene a conference of appropriate State agencies, as well as individuals or organizations involved in research and other activities directly related to the environmental, or biological impacts of former methamphetamine laboratories. The conference should be a forum for the Administrator to provide information on the guidelines developed under section 3 and on the latest findings from the research program described in section 4, and for the non-Federal participants to provide information on the problems and needs of States and localities and their experience with guidelines developed under section 3.

(b) **REPORT.**—Not later than 3 months after each conference, the Administrator shall submit a report to the Congress that summarizes the proceedings of the conference, including a summary of any recommendations or concerns raised by the non-Federal participants and how the Administrator intends to respond to them. The report shall also be made widely available to the general public.

SEC. 6. RESIDUAL EFFECTS STUDY.

(a) **STUDY.**—Not later than 6 months after the date of enactment of this Act, the Administrator shall enter into an arrangement with the National Academy of Sciences for a study of the status and quality of research on the residual effects of methamphetamine laboratories. The study shall identify research gaps and recommend an agenda for the research program described in section 4. The study shall pay particular attention to the need for research on the impacts of methamphetamine laboratories on—

(1) the residents of buildings where such laboratories are, or were, located, with particular emphasis given to biological impacts on children; and

(2) first responders.

(b) **REPORT.**—Not later than 3 months after the completion of the study, the Administrator shall transmit to Congress a report on how the Administrator will use the results of the study to carry out the activities described in sections 3 and 4.

SEC. 7. METHAMPHETAMINE DETECTION RESEARCH AND DEVELOPMENT PROGRAM.

The Director of National Institute of Standards and Technology, in consultation with the Administrator, shall support a research program to develop—

(1) new methamphetamine detection technologies, with emphasis on field test kits and site detection; and

(2) appropriate standard reference materials and validation procedures for methamphetamine detection testing.

SEC. 8. SAVINGS CLAUSE.

Nothing in this Act shall be construed to affect or limit the application of, or any obligation to comply with, any State or Federal environmental law or regulation, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) **ENVIRONMENTAL PROTECTION AGENCY.**—There are authorized to be appropriated to the Environmental Protection Agency to carry out this Act \$1,750,000 for each of the fiscal years 2007 and 2008.

(b) **NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.**—There are authorized to be appropriated to the National Institute

of Standards and Technology to carry out this Act \$750,000 for each of the fiscal years 2007 and 2008.

Approved December 21, 2007.

LEGISLATIVE HISTORY—H.R. 365 (S. 635):

HOUSE REPORTS: No. 110–8 (Comm. on Science and Technology).

SENATE REPORTS: No. 110–157 accompanying S. 635 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Feb. 7, considered and passed House.

Dec. 11, considered and passed Senate.



Public Law 110–144
110th Congress

An Act

To amend the National Organ Transplant Act to provide that criminal penalties do not apply to human organ paired donation, and for other purposes.

Dec. 21, 2007
[H.R. 710]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Charlie W. Norwood Living Organ Donation Act”.

Charlie W.
Norwood Living
Organ Donation
Act.
42 USC 201 note.

SEC. 2. AMENDMENTS TO THE NATIONAL ORGAN TRANSPLANT ACT.

Section 301 of the National Organ Transplant Act (42 U.S.C. 274e) is amended—

(1) in subsection (a), by adding at the end the following: “The preceding sentence does not apply with respect to human organ paired donation.”; and

(2) in subsection (c), by adding at the end the following:

“(4) The term ‘human organ paired donation’ means the donation and receipt of human organs under the following circumstances:

“(A) An individual (referred to in this paragraph as the ‘first donor’) desires to make a living donation of a human organ specifically to a particular patient (referred to in this paragraph as the ‘first patient’), but such donor is biologically incompatible as a donor for such patient.

“(B) A second individual (referred to in this paragraph as the ‘second donor’) desires to make a living donation of a human organ specifically to a second particular patient (referred to in this paragraph as the ‘second patient’), but such donor is biologically incompatible as a donor for such patient.

“(C) Subject to subparagraph (D), the first donor is biologically compatible as a donor of a human organ for the second patient, and the second donor is biologically compatible as a donor of a human organ for the first patient.

“(D) If there is any additional donor-patient pair as described in subparagraph (A) or (B), each donor in the group of donor-patient pairs is biologically compatible as a donor of a human organ for a patient in such group.

“(E) All donors and patients in the group of donor-patient pairs (whether 2 pairs or more than 2 pairs) enter into a single agreement to donate and receive such human organs, respectively, according to such biological compatibility in the group.

“(F) Other than as described in subparagraph (E), no valuable consideration is knowingly acquired, received, or otherwise transferred with respect to the human organs referred to in such subparagraph.”.

42 USC 273b.

SEC. 3. REPORT.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a report that details the progress made towards understanding the long-term health effects of living organ donation.

42 USC 274e
note.**SEC. 4. NO IMPACT ON SOCIAL SECURITY TRUST FUND.**

Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (42 U.S.C. 301 et seq.) (or any regulation promulgated under that Act).

Approved December 21, 2007.

LEGISLATIVE HISTORY—H.R. 710 (S. 487):**CONGRESSIONAL RECORD, Vol. 153 (2007):**

Mar. 6, 7, considered and passed House.

July 9, considered and passed Senate, amended.

Dec. 4, House concurred in Senate amendment with amendments pursuant to H. Res. 837.

Dec. 6, Senate concurred in House amendments.



Public Law 110–145
110th Congress

An Act

To designate the Department of Veterans Affairs outpatient clinic in Green Bay, Wisconsin, as the “Milo C. Huempfner Department of Veterans Affairs Outpatient Clinic”.

Dec. 21, 2007
[H.R. 2408]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, GREEN BAY, WISCONSIN.

The Department of Veterans Affairs outpatient clinic in Green Bay, Wisconsin, shall after the date of the enactment of this Act be known and designated as the “Milo C. Huempfner Department of Veterans Affairs Outpatient Clinic”. Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Milo C. Huempfner Department of Veterans Affairs Outpatient Clinic.

Approved December 21, 2007.

LEGISLATIVE HISTORY—H.R. 2408:

CONGRESSIONAL RECORD, Vol. 153 (2007):
Oct. 23, considered and passed House.
Dec. 13, considered and passed Senate.



Public Law 110–146
110th Congress

An Act

Dec. 21, 2007
[H.R. 2671]

To designate the United States courthouse located at 301 North Miami Avenue, Miami, Florida, as the “C. Clyde Atkins United States Courthouse”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse at 301 North Miami Avenue, Miami, Florida, shall be known and designated as the “C. Clyde Atkins United States Courthouse”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the “C. Clyde Atkins United States Courthouse”.

Approved December 21, 2007.

LEGISLATIVE HISTORY—H.R. 2671:

HOUSE REPORTS: No. 110–326 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 29, considered and passed House.

Dec. 13, considered and passed Senate.



Public Law 110–147
110th Congress

An Act

To amend section 5112(p)(1)(A) of title 31, United States Code, to allow an exception from the \$1 coin dispensing capability requirement for certain vending machines.

Dec. 21, 2007
[H.R. 3703]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5112(p)(1)(A) of title 31, United States Code, is amended to read as follows:

“(A) any business operations conducted by any such agency, instrumentality, system, or entity that involve coins or currency will be fully capable of—

“(i) accepting \$1 coins in connection with such operations; and

“(ii) other than vending machines that do not receive currency denominations higher than \$1, dispensing \$1 coins in connection with such operations; and”.

Approved December 21, 2007.

LEGISLATIVE HISTORY—H.R. 3703:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Nov. 13, considered and passed House.

Dec. 17, considered and passed Senate.



Public Law 110–148
110th Congress

An Act

Dec. 21, 2007
[H.R. 3739]

To amend the Arizona Water Settlements Act to modify the requirements for the statement of findings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION TO REQUIREMENTS FOR STATEMENT OF FINDINGS.

Section 302 of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3571) is amended as follows:

(1) In subsection (b)(5), by striking “proceedings,” and all that follows through the end of the paragraph and inserting “proceedings;”.

(2) In subsection (c), by striking “subsection (a)” and inserting “subsection (b)”.

Approved December 21, 2007.

LEGISLATIVE HISTORY—H.R. 3739:

HOUSE REPORTS: No. 110–484 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 11, considered and passed House.

Dec. 14, considered and passed Senate.



Public Law 110–149
110th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 2008, and for other purposes.

Dec. 21, 2007
[H.J. Res. 72]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 110–92 is further amended by striking the date specified in section 106(3) and inserting “December 31, 2007”.

Ante, 1454.

SEC. 2. Public Law 110–92 is further amended by adding at the end the following new sections:

“SEC. 160. Notwithstanding any other provision of this joint resolution, there is appropriated for payment to the heirs at law of Julia Carson, late a Representative from the State of Indiana, \$165,200.

Julia Carson.

“SEC. 161. Notwithstanding section 106, the authority to provide care and services under section 1710(e)(1)(E) of title 38, United States Code, shall continue in effect through September 30, 2008.

Termination
date.
38 USC 1710
note.
Termination
date.
38 USC 2300
note.

“SEC. 162. Notwithstanding section 106, the authority provided by section 2306(d)(3) of title 38, United States Code, shall continue in effect through September 30, 2008.”.

Approved December 21, 2007.

LEGISLATIVE HISTORY—H.J. Res. 72:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 19, considered and passed House and Senate.



Public Law 110–150
110th Congress

An Act

Dec. 21, 2007
[S. 597]

To amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITY.

Section 414(h) of title 39, United States Code, is amended by striking “2007” and inserting “2011”.

39 USC 414 note.

SEC. 2. REPORTING REQUIREMENTS.

The National Institutes of Health and the Department of Defense shall each submit to Congress and the Government Accountability Office an annual report concerning the use of any amounts that it received under section 414(c) of title 39, United States Code, including a description of any significant advances or accomplishments, during the year covered by the report, that were funded, in whole or in part, with such amounts.

Approved December 21, 2007.

LEGISLATIVE HISTORY—S. 597 (H.R. 1236):

HOUSE REPORTS: No. 110–409, Pt. 1 accompanying H.R. 1236 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 110–222 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Nov. 13, considered and passed Senate.

Dec. 11, considered and passed House, amended.

Dec. 13, Senate concurred in House amendments.



Public Law 110–151
110th Congress

An Act

To amend section 1091 of title 18, United States Code, to allow the prosecution of genocide in appropriate circumstances.

Dec. 21, 2007

[S. 888]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Genocide Accountability Act of 2007”.

Genocide
Accountability
Act of 2007.
18 USC 1 note.

SEC. 2. GENOCIDE.

Section 1091 of title 18, United States Code, is amended by striking subsection (d) and inserting the following:

“(d) **REQUIRED CIRCUMSTANCE FOR OFFENSES.**—The circumstance referred to in subsections (a) and (c) is that—

“(1) the offense is committed in whole or in part within the United States;

“(2) the alleged offender is a national of the United States (as that term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101));

“(3) the alleged offender is an alien lawfully admitted for permanent residence in the United States (as that term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101));

“(4) the alleged offender is a stateless person whose habitual residence is in the United States; or

“(5) after the conduct required for the offense occurs, the alleged offender is brought into, or found in, the United States, even if that conduct occurred outside the United States.”.

Approved December 21, 2007.

LEGISLATIVE HISTORY—S. 888 (H.R. 2489):

HOUSE REPORTS: No. 110–468 accompanying H.R. 2489 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 29, considered and passed Senate.

Dec. 5, considered and passed House.



Public Law 110–152
110th Congress

An Act

To designate the facility of the United States Postal Service located at 175 South Monroe Street in Tiffin, Ohio, as the “Paul E. Gillmor Post Office Building”.

Dec. 21, 2007
[S. 2174]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAUL E. GILLMOR POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 175 South Monroe Street in Tiffin, Ohio, shall be known and designated as the “Paul E. Gillmor Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Paul E. Gillmor Post Office Building”.

Approved December 21, 2007.

LEGISLATIVE HISTORY—S. 2174:

CONGRESSIONAL RECORD, Vol. 153 (2007):
Nov. 16, considered and passed Senate.
Dec. 17, considered and passed House.



Public Law 110–153
110th Congress

An Act

Dec. 21, 2007

[S. 2371]

To amend the Higher Education Act of 1965 to make technical corrections.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF UNTAXED INCOME AND BENEFITS.

(a) **AMENDMENT.**—Section 480(b) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(b)) is amended by striking paragraph (2) and inserting the following:

“(2) The term ‘untaxed income and benefits’ shall not include—

“(A) the amount of additional child tax credit claimed for Federal income tax purposes;

“(B) welfare benefits, including assistance under a State program funded under part A of title IV of the Social Security Act and aid to dependent children;

“(C) the amount of earned income credit claimed for Federal income tax purposes;

“(D) the amount of credit for Federal tax on special fuels claimed for Federal income tax purposes;

“(E) the amount of foreign income excluded for purposes of Federal income taxes; or

“(F) untaxed social security benefits.”.

20 USC 1087vv
note.

(b) **EFFECTIVE DATE.**—This section and the amendment made by this section shall take effect on July 1, 2009.

SEC. 2. INCOME-BASED REPAYMENT FOR MARRIED BORROWERS FILING SEPARATELY.

Section 493C of the Higher Education Act of 1965 (20 U.S.C. 1098e) is amended by adding at the end the following:

“(d) **SPECIAL RULE FOR MARRIED BORROWERS FILING SEPARATELY.**—In the case of a married borrower who files a separate Federal income tax return, the Secretary shall calculate the amount of the borrower’s income-based repayment under this section solely on the basis of the borrower’s student loan debt and adjusted gross income.”.

SEC. 3. TEACH GRANTS TECHNICAL AMENDMENTS.

Subpart 9 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070g et seq.) is amended—

Ante, p. 786.

(1) in section 420L(1)(B), by striking “sound” and inserting “responsible”; and

Ante, p. 787.

(2) in section 420M—

(A) by striking “academic year” each place it appears in subsections (a)(1) and (c)(1) and inserting “year”; and

(B) in subsection (c)(2)—

(i) by striking “other student assistance” and inserting “other assistance the student may receive”;

and

(ii) by striking the second sentence.

Approved December 21, 2007.

LEGISLATIVE HISTORY—S. 2371:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Nov. 15, considered and passed Senate.

Dec. 5, considered and passed House, amended.

Dec. 6, Senate concurred in House amendment.



Public Law 110–154
110th Congress

An Act

Dec. 21, 2007
[S. 2484]

To rename the National Institute of Child Health and Human Development as the Eunice Kennedy Shriver National Institute of Child Health and Human Development.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EUNICE KENNEDY SHRIVER NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

42 USC 285g
note.

(a) FINDINGS.—Congress makes the following findings:

(1) Since it was established by Congress in 1962 at the request of President John F. Kennedy, the National Institute of Child Health and Human Development has achieved an outstanding record of achievement in catalyzing a concentrated attack on the unsolved health problems of children and of mother-infant relationships by fulfilling its mission to—

(A) ensure that every individual is born healthy and wanted, that women suffer no harmful effects from reproductive processes, and that all children have the chance to achieve their full potential for healthy and productive lives, free from disease or disability; and

(B) ensure the health, productivity, independence, and well-being of all individuals through optimal rehabilitation.

(2) The National Institute of Child Health and Human Development has made unparalleled contributions to the advancement of child health and human development, including significant efforts to—

(A) reduce dramatically the rates of Sudden Infant Death Syndrome, infant mortality, and maternal HIV transmission;

(B) develop the Haemophilus Influenza B (Hib) vaccine, credited with nearly eliminating the incidence of mental retardation; and

(C) conduct intramural research, support extramural research, and train thousands of child health and human development researchers who have contributed greatly to dramatic gains in child health throughout the world.

(3) The vision, drive, and tenacity of one woman, Eunice Kennedy Shriver, was instrumental in proposing, passing, and enacting legislation to establish the National Institute of Child Health and Human Development (Public Law 87–838) on October 17, 1962.

(4) It is befitting and appropriate to recognize the substantial achievements of Eunice Kennedy Shriver, a tireless advocate for children with special needs, whose foresight in creating

the National Institute of Child Health and Human Development gave life to the words of President Kennedy, who wished to “encourage imaginative research into the complex processes of human development from conception to old age.”.

(b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 401(b)(7) (42 U.S.C. 281(b)(7)), by striking “National Institute of Child Health and Human Development” and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”;

(2) in section 404B (42 U.S.C. 283d), by striking “National Institute for Child Health and Human Development” and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”;

(3) in section 404E(a) (42 U.S.C. 283g(a)), by striking “National Institute of Child Health and Human Development” and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”;

(4) in section 409D(c)(1) (42 U.S.C. 284h(c)(1)), by striking “National Institute of Child Health and Human Development” and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”;

(5) in section 424(c)(3)(B)(vi) (42 U.S.C. 285b-7(c)(3)(B)(vi)), by striking “National Institute of Child Health and Human Development” and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”;

(6) in section 430(b)(2)(B) (42 U.S.C. 285c-4(b)(2)(B)), by striking “National Institute of Child Health and Human Development” and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”;

(7) in the heading of subpart 7 of part C of title IV (42 U.S.C. 285g et seq.), by striking the term “National Institute of Child Health and Human Development” each place such term appears and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”;

(8) in section 487B(a) (42 U.S.C. 288-2(a)), by striking “National Institute on Child Health and Human Development” and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”;

(9) in section 519C(g)(2) (42 U.S.C. 290bb-25c(g)(2)), by striking “National Institute of Child Health and Human Development” and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”; and

(10) in section 1122 (42 U.S.C. 300c-12), by striking “National Institute of Child Health and Human Development” and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”.

(c) AMENDMENTS TO OTHER ACTS.—

(1) COMPREHENSIVE SMOKING EDUCATION ACT.—Section 3(b)(1)(A) of the Comprehensive Smoking Education Act (15 U.S.C. 1341(b)(1)(A)) is amended by striking “National Institute of Child Health and Human Development” and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”.

(2) ADULT EDUCATION AND FAMILY LITERACY ACT.—Sections 242 and 243 of the Adult Education and Family Literacy Act (20 U.S.C. 9252 and 9253) are amended by striking the term

“National Institute of Child Health and Human Development” each place such term appears and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”.

20 USC 6363,
6367.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended by striking the terms “National Institute of Child Health and Human Development” and “National Institute for Child Health and Human Development” each place either term appears and inserting “Eunice Kennedy Shriver National Institute of Child Health and Human Development”.

42 USC 285g
note.

(d) REFERENCE.—Any reference in any law, regulation, order, document, paper, or other record of the United States to the “National Institute of Child Health and Human Development” shall be deemed to be a reference to the “Eunice Kennedy Shriver National Institute of Child Health and Human Development”.

Approved December 21, 2007.

LEGISLATIVE HISTORY—S. 2484:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 13, considered and passed Senate.

Dec. 17, considered and passed House.



Public Law 110–155
110th Congress

Joint Resolution

Providing for the reappointment of Patricia Q. Stonesifer as a citizen regent of
the Board of Regents of the Smithsonian Institution.

Dec. 21, 2007
[S.J. Res. 8]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring because of the expiration of the term of Patricia Q. Stonesifer of Washington, is filled by the reappointment of Patricia Q. Stonesifer, for a term of 6 years, effective December 22, 2007.

Effective date.

Approved December 21, 2007.

LEGISLATIVE HISTORY—S.J. Res. 8:

CONGRESSIONAL RECORD, Vol. 153 (2007):
July 31, considered and passed Senate.
Dec. 5, considered and passed House.



Public Law 110–156
110th Congress

An Act

Dec. 26, 2007
[H.R. 366]

To designate the Department of Veterans Affairs Outpatient Clinic in Tulsa, Oklahoma, as the “Ernest Childers Department of Veterans Affairs Outpatient Clinic”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF ERNEST CHILDERS DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.

(a) DESIGNATION.—The Department of Veterans Affairs Outpatient Clinic in Tulsa, Oklahoma, shall after the date of the enactment of this Act be known and designated as the “Ernest Childers Department of Veterans Affairs Outpatient Clinic”.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the outpatient clinic referred to in subsection (a) shall be considered to be a reference to the Ernest Childers Department of Veterans Affairs Outpatient Clinic.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 366 (S. 1585):
CONGRESSIONAL RECORD, Vol. 153 (2007):
June 25, considered and passed House.
Dec. 18, considered and passed Senate.



Public Law 110–157
110th Congress

An Act

To amend title 38, United States Code, to improve low-vision benefits matters, matters relating to burial and memorial affairs, and other matters under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

Dec. 26, 2007
[H.R. 797]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Dr. James Allen Veteran Vision Equity Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Dr. James Allen
Veteran Vision
Equity Act
of 2007.
38 USC 101 note.

Sec. 1. Short title; table of contents.

TITLE I—LOW-VISION BENEFITS MATTERS

Sec. 101. Modification of rate of visual impairment for payment of disability compensation.

Sec. 102. Improvement in compensation for veterans in certain cases of impairment of vision involving both eyes.

TITLE II—MATTERS RELATING TO BURIAL AND MEMORIAL AFFAIRS

Sec. 201. Provision of medallion or other device for privately-purchased grave markers.

Sec. 202. Improvement in provision of assistance to States relating to the interment of veterans in cemeteries other than national cemeteries.

Sec. 203. Modification of authorities on provision of Government headstones and markers for burials of veterans at private cemeteries.

TITLE III—OTHER MATTERS

Sec. 301. Use of national directory of new hires for income verification purposes for certain veterans benefits.

Sec. 302. Extension of authority of Secretary of Veterans Affairs to provide an educational assistance allowance to persons performing qualifying work-study activities.

**TITLE I—LOW-VISION BENEFITS
MATTERS**

SEC. 101. MODIFICATION OF RATE OF VISUAL IMPAIRMENT FOR PAYMENT OF DISABILITY COMPENSATION.

Section 1114(o) of title 38, United States Code, is amended by striking “5/200” and inserting “20/200”.

SEC. 102. IMPROVEMENT IN COMPENSATION FOR VETERANS IN CERTAIN CASES OF IMPAIRMENT OF VISION INVOLVING BOTH EYES.

Section 1160(a)(1) of title 38, United States Code, is amended—

(1) by striking “blindness” both places it appears and inserting “impairment of vision”;

(2) by striking “misconduct,” and inserting “misconduct and—”; and

(3) by adding at the end the following new subparagraphs:

“(A) the impairment of vision in each eye is rated at a visual acuity of 20/200 or less; or

“(B) the peripheral field of vision for each eye is 20 degrees or less.”

TITLE II—MATTERS RELATING TO BURIAL AND MEMORIAL AFFAIRS

SEC. 201. PROVISION OF MEDALLION OR OTHER DEVICE FOR PRIVATELY-PURCHASED GRAVE MARKERS.

Section 2306(d) of title 38, United States Code, is amended by adding at the end the following new paragraph:

“(5) In lieu of furnishing a headstone or marker under this subsection, the Secretary may furnish, upon request, a medallion or other device of a design determined by the Secretary to signify the deceased’s status as a veteran, to be attached to a headstone or marker furnished at private expense.”

SEC. 202. IMPROVEMENT IN PROVISION OF ASSISTANCE TO STATES RELATING TO THE INTERMENT OF VETERANS IN CEMETERIES OTHER THAN NATIONAL CEMETERIES.

(a) REPEAL OF TIME LIMITATION FOR STATE FILING FOR REIMBURSEMENT FOR INTERMENT COSTS.—

(1) IN GENERAL.—The second sentence of section 3.1604(d)(2) of title 38, Code of Federal Regulations, shall have no further force or effect as it pertains to unclaimed remains of a deceased veteran.

(2) RETROACTIVE APPLICATION.—Paragraph (1) shall take effect as of October 1, 2006 and apply with respect to interments and inurnments occurring on or after that date.

(b) GRANTS FOR OPERATION AND MAINTENANCE OF STATE VETERANS’ CEMETERIES.—

(1) IN GENERAL.—Subsection (a) of section 2408 of title 38, United States Code, is amended to read as follows:

“(a)(1) Subject to subsection (b), the Secretary may make a grant to any State for the following purposes:

“(A) Establishing, expanding, or improving a veterans’ cemetery owned by the State.

“(B) Operating and maintaining such a cemetery.

“(2) A grant under paragraph (1) may be made only upon submission of an application to the Secretary in such form and manner, and containing such information, as the Secretary may require.”

(2) LIMITATION ON AMOUNTS AWARDED.—Subsection (e) of such section is amended—

(A) by inserting “(1)” before “Amounts”; and

(B) by adding at the end the following new paragraph:

“(2) In any fiscal year, the aggregate amount of grants awarded under this section for the purposes specified in subsection (a)(1)(B) may not exceed \$5,000,000.”

Effective date.

(3) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in subsection (b)—

(i) by striking “Grants under this section” and inserting “A grant under this section for a purpose described in subsection (a)(1)(A)”; and

(ii) by striking “a grant under this section” each place it appears and inserting “such a grant”;

(B) in subsection (d), by striking “to assist such State in establishing, expanding, or improving a veterans’ cemetery”; and

(C) in subsection (f)(1), by inserting “, or in operating and maintaining such cemeteries,” after “veterans’ cemeteries”.

(4) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe regulations to carry out the amendments made by this subsection.

Deadline.
38 USC 2408
note.

SEC. 203. MODIFICATION OF AUTHORITIES ON PROVISION OF GOVERNMENT HEADSTONES AND MARKERS FOR BURIALS OF VETERANS AT PRIVATE CEMETERIES.

(a) REPEAL OF EXPIRATION OF AUTHORITY.—Subsection (d) of section 2306 of title 38, United States Code, as amended by section 201, is further amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) and (5), as added by that section, as paragraphs (3) and (4), respectively.

(b) RETROACTIVE EFFECTIVE DATE.—Notwithstanding subsection (d) of section 502 of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 115 Stat. 995; 38 U.S.C. 2306 note) or any other provision of law, the amendments made by that section and by subsections (a), (b), (c), (d), and (f) of section 402 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109–461; 120 Stat. 3429) shall take effect as of November 1, 1990, and shall apply with respect to headstones and markers for the graves of individuals dying on or after that date.

Applicability.
38 USC 2306
note.

TITLE III—OTHER MATTERS

SEC. 301. USE OF NATIONAL DIRECTORY OF NEW HIRES FOR INCOME VERIFICATION PURPOSES FOR CERTAIN VETERANS BENEFITS.

(a) AUTHORITY FOR INFORMATION COMPARISONS AND DISCLOSURES OF INFORMATION TO ASSIST IN ADMINISTRATION OF CERTAIN VETERANS BENEFITS.—Section 453(j) of the Social Security Act (42 U.S.C. 653(j)) is amended by adding at the end the following new paragraph:

“(11) INFORMATION COMPARISONS AND DISCLOSURES TO ASSIST IN ADMINISTRATION OF CERTAIN VETERANS BENEFITS.—

“(A) FURNISHING OF INFORMATION BY SECRETARY OF VETERANS AFFAIRS.—Subject to the provisions of this paragraph, the Secretary of Veterans Affairs shall furnish to the Secretary, on such periodic basis as determined by the Secretary of Veterans Affairs in consultation with the

Secretary, information in the custody of the Secretary of Veterans Affairs for comparison with information in the National Directory of New Hires, in order to obtain information in such Directory with respect to individuals who are applying for or receiving—

“(i) needs-based pension benefits provided under chapter 15 of title 38, United States Code, or under any other law administered by the Secretary of Veterans Affairs;

“(ii) parents’ dependency and indemnity compensation provided under section 1315 of title 38, United States Code;

“(iii) health care services furnished under subsections (a)(2)(G), (a)(3), or (b) of section 1710 of title 38, United States Code; or

“(iv) compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

“(B) REQUIREMENT TO SEEK MINIMUM INFORMATION.—The Secretary of Veterans Affairs shall seek information pursuant to this paragraph only to the extent necessary to verify the employment and income of individuals described in subparagraph (A).

“(C) DUTIES OF THE SECRETARY.—

“(i) INFORMATION DISCLOSURE.—The Secretary, in cooperation with the Secretary of Veterans Affairs, shall compare information in the National Directory of New Hires with information provided by the Secretary of Veterans Affairs with respect to individuals described in subparagraph (A), and shall disclose information in such Directory regarding such individuals to the Secretary of Veterans Affairs, in accordance with this paragraph, for the purposes specified in this paragraph.

“(ii) CONDITION ON DISCLOSURE.—The Secretary shall make disclosures in accordance with clause (i) only to the extent that the Secretary determines that such disclosures do not interfere with the effective operation of the program under this part.

“(D) USE OF INFORMATION BY SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs may use information resulting from a data match pursuant to this paragraph only—

“(i) for the purposes specified in subparagraph (B); and

“(ii) after removal of personal identifiers, to conduct analyses of the employment and income reporting of individuals described in subparagraph (A).

“(E) REIMBURSEMENT OF HHS COSTS.—The Secretary of Veterans Affairs shall reimburse the Secretary, in accordance with subsection (k)(3), for the costs incurred by the Secretary in furnishing the information requested under this paragraph.

“(F) CONSENT.—The Secretary of Veterans Affairs shall not seek, use, or disclose information under this paragraph

relating to an individual without the prior written consent of such individual (or of a person legally authorized to consent on behalf of such individual).

“(G) EXPIRATION OF AUTHORITY.—The authority under this paragraph shall expire on September 30, 2011.”.

(b) AMENDMENTS TO VETERANS AFFAIRS AUTHORITY.—

(1) IN GENERAL.—Chapter 53 of title 38, United States Code, is amended by inserting after section 5317 the following new section:

“§ 5317A. Use of income information from other agencies: independent verification required before termination or reduction of certain benefits and services

“(a) INDEPENDENT VERIFICATION REQUIRED.—The Secretary may terminate, deny, suspend, or reduce any benefit or service specified in section 5317(c), with respect to an individual under age 65 who is an applicant for or recipient of such a benefit or service, by reason of information obtained from the Secretary of Health and Human Services under section 453(j)(11) of the Social Security Act, only if the Secretary takes appropriate steps to verify independently information relating to the individual’s employment and income from employment.

“(b) OPPORTUNITY TO CONTEST FINDINGS.—The Secretary shall inform each individual for whom the Secretary terminates, denies, suspends, or reduces any benefit or service under subsection (a) of the findings made by the Secretary under such subsection on the basis of verified information and shall provide to the individual an opportunity to contest such findings in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

“(c) SOURCE OF FUNDS FOR REIMBURSEMENT TO SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary shall pay the expense of reimbursing the Secretary of Health and Human Services in accordance with section 453(j)(11)(E) of the Social Security Act, for the cost incurred by the Secretary of Health and Human Services in furnishing information requested by the Secretary under section 453(j)(11) of such Act, from amounts available to the Department for the payment of compensation and pensions.

“(d) EXPIRATION OF AUTHORITY.—The authority under this section shall expire on September 30, 2011.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5317 the following new item:

“5317A. Use of income information from other agencies: independent verification required before termination or reduction of certain benefits and services.”.

SEC. 302. EXTENSION OF AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO PROVIDE AN EDUCATIONAL ASSISTANCE ALLOWANCE TO PERSONS PERFORMING QUALIFYING WORK-STUDY ACTIVITIES.

Section 3485(a)(4) of title 38, United States Code, is amended by striking “June 30, 2007” each place it appears and inserting “June 30, 2010”.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 797 (S. 1163):

HOUSE REPORTS: No. 110–57 (Comm. on Veterans’ Affairs).

SENATE REPORTS: No. 110–143 accompanying S. 1163 (Comm. on Veterans’ Affairs).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 21, considered and passed House.

Nov. 2, considered and passed Senate, amended, in lieu of S. 1163.

Dec. 11, House concurred in Senate amendment with amendments pursuant to H. Res. 855.

Dec. 17, Senate concurred in House amendments.



Public Law 110–158
110th Congress

An Act

To designate the Federal building located at 210 Walnut Street in Des Moines,
Iowa, as the “Neal Smith Federal Building”.

Dec. 26, 2007
[H.R. 1045]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. DESIGNATION.

The Federal building located at 210 Walnut Street in Des Moines, Iowa, shall be known and designated as the “Neal Smith Federal Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the “Neal Smith Federal Building”.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 1045:

HOUSE REPORTS: No. 110–46 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Mar. 13, considered and passed House.

Dec. 19, considered and passed Senate.



Public Law 110–159
110th Congress

An Act

Dec. 26, 2007
[H.R. 2011]

To designate the Federal building and United States courthouse located at 100 East 8th Avenue in Pine Bluff, Arkansas, as the “George Howard, Jr. Federal Building and United States Courthouse”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GEORGE HOWARD, JR. FEDERAL BUILDING AND UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The Federal building and United States courthouse located at 100 East 8th Avenue in Pine Bluff, Arkansas, shall be known and designated as the “George Howard, Jr. Federal Building and United States Courthouse”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in subsection (a) shall be deemed to be a reference to the “George Howard, Jr. Federal Building and United States Courthouse”.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 2011:

HOUSE REPORTS: No. 110–209 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 25, considered and passed House.

Dec. 19, considered and passed Senate.



Public Law 110–160
110th Congress

An Act

To extend the Terrorism Insurance Program of the Department of the Treasury,
and for other purposes.

Dec. 26, 2007

[H.R. 2761]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Terrorism Risk Insurance Program Reauthorization Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of act of terrorism.
- Sec. 3. Reauthorization of the Program.
- Sec. 4. Annual liability cap.
- Sec. 5. Enhanced reports to Congress.

SEC. 2. DEFINITION OF ACT OF TERRORISM.

Section 102(1)(A)(iv) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by striking “acting on behalf of any foreign person or foreign interest”.

SEC. 3. REAUTHORIZATION OF THE PROGRAM.

(a) **TERMINATION DATE.**—Section 108(a) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by striking “2007” and inserting “2014”.

(b) **ADDITIONAL PROGRAM YEARS.**—Section 102(11) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by adding at the end the following:

“(G) **ADDITIONAL PROGRAM YEARS.**—Except when used as provided in subparagraphs (B) through (F), the term ‘Program Year’ means, as the context requires, any of Program Year 1, Program Year 2, Program Year 3, Program Year 4, Program Year 5, or any of calendar years 2008 through 2014.”.

(c) **CONFORMING AMENDMENTS.**—The Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) in section 102(7)(F)—

(A) by inserting “and each Program Year thereafter” before “, the value”; and

(B) by striking “preceding Program Year 5” and inserting “preceding that Program Year”;

(2) in section 103(e)(1)(A), by inserting “and each Program Year thereafter” after “Year 5”;

(3) in section 103(e)(1)(B)(ii), by inserting before the period at the end “and any Program Year thereafter”;

Terrorism Risk
Insurance
Program
Reauthorization
Act of 2007.
15 USC 6701
note.

15 USC 6701
note.

(4) in section 103(e)(2)(A), by striking “of Program Years 2 through 5” and inserting “Program Year thereafter”;

(5) in section 103(e)(3), by striking “of Program Years 2 through 5,” and inserting “other Program Year”; and

(6) in section 103(e)(6)(E), by inserting “and any Program Year thereafter” after “Year 5”.

Deadlines.

SEC. 4. ANNUAL LIABILITY CAP.

(a) **IN GENERAL.**—Section 103(e)(2) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) in subparagraph (A)—

(A) by striking “(until such time as the Congress may act otherwise with respect to such losses)”;

(B) in clause (ii), by striking “that amount” and inserting “the amount of such losses”; and

(2) in subparagraph (B), by inserting before the period at the end “, except that, notwithstanding paragraph (1) or any other provision of Federal or State law, no insurer may be required to make any payment for insured losses in excess of its deductible under section 102(7) combined with its share of insured losses under paragraph (1)(A) of this subsection”.

(b) **NOTICE TO CONGRESS.**—Section 103(e)(3) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) by adding at the end the following: “The Secretary shall provide an initial notice to Congress not later than 15 days after the date of an act of terrorism, stating whether the Secretary estimates that aggregate insured losses will exceed \$100,000,000,000.”; and

(2) by striking “and the Congress shall” and all that follows through the end of the paragraph and inserting a period.

(c) **REGULATIONS FOR PRO RATA PAYMENTS; REPORT TO CONGRESS.**—Section 103(e)(2)(B) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) by striking “For purposes” and inserting the following:

“(i) **IN GENERAL.**—For purposes”; and

(2) by adding at the end the following:

“(ii) **REGULATIONS.**—Not later than 240 days after the date of enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, the Secretary shall issue final regulations for determining the pro rata share of insured losses under the Program when insured losses exceed \$100,000,000,000, in accordance with clause (i).

“(iii) **REPORT TO CONGRESS.**—Not later than 120 days after the date of enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, the Secretary shall provide a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the process to be used by the Secretary for determining the allocation of pro rata payments for insured losses under the Program when such losses exceed \$100,000,000,000.”.

(d) **DISCLOSURE.**—Section 103(b) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) in the case of any policy that is issued after the date of enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, the insurer provides clear and conspicuous disclosure to the policyholder of the existence of the \$100,000,000,000 cap under subsection (e)(2), at the time of offer, purchase, and renewal of the policy;”.

(e) SURCHARGES.—Section 103(e) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) in paragraph (7)—

(A) in subparagraph (C), by inserting “133 percent of” before “any mandatory recoupment”; and

(B) by adding at the end the following:

“(E) TIMING OF MANDATORY RECOUPMENT.—

“(i) IN GENERAL.—If the Secretary is required to collect terrorism loss risk-spreading premiums under subparagraph (C)—

“(I) for any act of terrorism that occurs on or before December 31, 2010, the Secretary shall collect all required premiums by September 30, 2012;

“(II) for any act of terrorism that occurs between January 1 and December 31, 2011, the Secretary shall collect 35 percent of any required premiums by September 30, 2012, and the remainder by September 30, 2017; and

“(III) for any act of terrorism that occurs on or after January 1, 2012, the Secretary shall collect all required premiums by September 30, 2017.

“(ii) REGULATIONS REQUIRED.—Not later than 180 days after the date of enactment of this subparagraph, the Secretary shall issue regulations describing the procedures to be used for collecting the required premiums in the time periods referred to in clause (i).

“(F) NOTICE OF ESTIMATED LOSSES.—Not later than 90 days after the date of an act of terrorism, the Secretary shall publish an estimate of aggregate insured losses, which shall be used as the basis for determining whether mandatory recoupment will be required under this paragraph. Such estimate shall be updated as appropriate, and at least annually.”; and

(2) in paragraph (8)—

(A) in subparagraph (C)—

(i) by striking “(including any additional amount included in such premium)” and inserting “collected”; and

(ii) by striking “(D))” and inserting “(D)”; and

(B) in subparagraph (D)(ii), by inserting before the period at the end “, in accordance with the timing requirements of paragraph (7)(E)”.

Publication.

SEC. 5. ENHANCED REPORTS TO CONGRESS.

(a) STUDY AND REPORT ON INSURANCE FOR NUCLEAR, BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL TERRORIST EVENTS.—Section 108 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by adding at the end the following:

“(f) INSURANCE FOR NUCLEAR, BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL TERRORIST EVENTS.—

“(1) STUDY.—The Comptroller General of the United States shall examine—

“(A) the availability and affordability of insurance coverage for losses caused by terrorist attacks involving nuclear, biological, chemical, or radiological materials;

“(B) the outlook for such coverage in the future; and

“(C) the capacity of private insurers and State workers compensation funds to manage risk associated with nuclear, biological, chemical, and radiological terrorist events.

“(2) REPORT.—Not later than 1 year after the date of enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing a detailed statement of the findings under paragraph (1), and recommendations for any legislative, regulatory, administrative, or other actions at the Federal, State, or local levels that the Comptroller General considers appropriate to expand the availability and affordability of insurance for nuclear, biological, chemical, or radiological terrorist events.”.

(b) STUDY AND REPORT ON AVAILABILITY AND AFFORDABILITY OF TERRORISM INSURANCE IN SPECIFIC MARKETS.—Section 108 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by adding at the end the following:

“(g) AVAILABILITY AND AFFORDABILITY OF TERRORISM INSURANCE IN SPECIFIC MARKETS.—

“(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine whether there are specific markets in the United States where there are unique capacity constraints on the amount of terrorism risk insurance available.

“(2) ELEMENTS OF STUDY.—The study required by paragraph (1) shall contain—

“(A) an analysis of both insurance and reinsurance capacity in specific markets, including pricing and coverage limits in existing policies;

“(B) an assessment of the factors contributing to any capacity constraints that are identified; and

“(C) recommendations for addressing those capacity constraints.

“(3) REPORT.—Not later than 180 days after the date of enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, the Comptroller General shall submit a report on the study required by paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.”.

(c) ONGOING REPORTS.—Section 108(e) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) in paragraph (1)—

(A) by inserting “ongoing” before “analysis”; and

(B) by striking “, including” and all that follows through the end of the paragraph, and inserting a period; and

(2) in paragraph (2)—

(A) by inserting “and thereafter in 2010 and 2013,” after “2006,”; and

(B) by striking “subsection (a)” and inserting “paragraph (1)”.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 2761 (S. 2285):

HOUSE REPORTS: No. 110–318 (Comm. on Financial Services).

SENATE REPORTS: No. 110–215 accompanying S. 2285 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Sept. 19, considered and passed House.

Nov. 16, considered and passed Senate, amended.

Dec. 18, House concurred in Senate amendment.



Public Law 110–161
110th Congress

An Act

Dec. 26, 2007
[H.R. 2764]

Consolidated
Appropriations
Act, 2007.

Making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2008, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Consolidated Appropriations Act, 2008”.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Explanatory statement.
- Sec. 5. Emergency designations.
- Sec. 6. Statement of appropriations.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

- Title I—Agricultural Programs
- Title II—Conservation Programs
- Title III—Rural Development Programs
- Title IV—Domestic Food Programs
- Title V—Foreign Assistance and Related Programs
- Title VI—Related Agencies and Food and Drug Administration
- Title VII—General Provisions

DIVISION B—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

- Title I—Department of Commerce
- Title II—Department of Justice
- Title III—Science
- Title IV—Related Agencies
- Title V—General Provisions
- Title VI—Rescissions

DIVISION C—ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

- Title I—Department of Defense—Civil: Department of the Army
- Title II—Department of the Interior
- Title III—Department of Energy
- Title IV—Independent Agencies
- Title V—General Provisions

DIVISION D—FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2008

- Title I—Department of the Treasury
- Title II—Executive Office of the President and Funds Appropriated to the President
- Title III—The Judiciary

Title IV—District of Columbia
Title V—Independent Agencies
Title VI—General Provisions—This Act
Title VII—General Provisions—Government-wide
Title VIII—General Provisions—District of Columbia

DIVISION E—DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS
ACT, 2008

Title I—Department of Homeland Security
Title II—Security, Enforcement, and Investigations
Title III—Protection, Preparedness, Response, and Recovery
Title IV—Research and Development, Training, and Services
Title V—General Provisions
Title VI—Border Infrastructure and Technology Modernization

DIVISION F—DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND
RELATED AGENCIES APPROPRIATIONS ACT, 2008

Title I—Department of the Interior
Title II—Environmental Protection Agency
Title III—Related Agencies
Title IV—General Provisions
Title V—Wildfire Suppression Emergency Appropriations

DIVISION G—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES,
AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

Title I—Department of Labor
Title II—Department of Health and Human Services
Title III—Department of Education
Title IV—Related Agencies
Title V—General Provisions
Title VI—National Commission on Children and Disasters

DIVISION H—LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2008

Title I—Legislative Branch Appropriations
Title II—General Provisions

DIVISION I—MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND
RELATED AGENCIES APPROPRIATIONS ACT, 2008

Title I—Department of Defense
Title II—Department of Veterans Affairs
Title III—Related Agencies
Title IV—General Provisions

DIVISION J—DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND
RELATED PROGRAMS APPROPRIATIONS ACT, 2008

Title I—Department of State and Related Agencies
Title II—Export and Investment Assistance
Title III—Bilateral Economic Assistance
Title IV—Military Assistance
Title V—Multilateral Economic Assistance
Title VI—General Provisions

DIVISION K—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT,
AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

Title I—Department of Transportation
Title II—Department of Housing and Urban Development
Title III—Related Agencies
Title IV—General Provisions This Act

DIVISION L—EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR
OPERATION ENDURING FREEDOM AND FOR OTHER PURPOSES

SEC. 3. REFERENCES.

1 USC 1 note.

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

SEC. 4. EXPLANATORY STATEMENT.

The explanatory statement regarding the consolidated appropriations amendment of the House of Representatives to the amendment of the Senate to H.R. 2764, printed in the House section of the Congressional Record on or about December 17, 2007 by the Chairman of the Committee on Appropriations of the House, shall have the same effect with respect to the allocation of funds and implementation of divisions A through K of this Act as if it were a joint explanatory statement of a committee of conference.

SEC. 5. EMERGENCY DESIGNATIONS.

Any designation in any division of this Act referring to this section is a designation of an amount as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SEC. 6. STATEMENT OF APPROPRIATIONS.

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008.

**DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD
AND DRUG ADMINISTRATION, AND RELATED AGENCIES
APPROPRIATIONS ACT, 2008**

Agriculture,
Rural
Development,
Food and Drug
Administration,
and Related
Agencies
Appropriations
Act, 2008.

TITLE I**AGRICULTURAL PROGRAMS****PRODUCTION, PROCESSING AND MARKETING****OFFICE OF THE SECRETARY**

For necessary expenses of the Office of the Secretary of Agriculture, \$5,097,000: *Provided*, That not to exceed \$11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

EXECUTIVE OPERATIONS**OFFICE OF THE CHIEF ECONOMIST**

For necessary expenses of the Office of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), \$10,487,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, \$14,466,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, \$8,270,000.

HOMELAND SECURITY STAFF

For necessary expenses of the Homeland Security Staff, \$931,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, \$16,361,000.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, \$5,850,000: *Provided*, That no funds made available by this appropriation may be obligated for FAIR Act or Circular A-76 activities until the Secretary has submitted to the Committees on Appropriations of both Houses of Congress and the Committee on Oversight and Government Reform of the House of Representatives a report on the Department's contracting out policies, including agency budgets for contracting out. Reports.

OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

For necessary expenses of the Office of the Assistant Secretary for Civil Rights, \$854,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, \$20,496,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, \$673,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings and facilities, and for related costs, \$196,252,000, to remain available until expended, of which \$156,590,000 shall be available for payments to the General Services Administration for rent and the Department of Homeland Security for building security: *Provided*, That amounts which are made available for space rental and related costs for the Department of Agriculture in this Act may be transferred between such appropriations to cover the costs of additional, new, or replacement space 15 days after notice thereof is transmitted to the Appropriations Committees of both Houses of Congress. Notification.

HAZARDOUS MATERIALS MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), \$4,886,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, \$23,144,000, to provide for necessary expenses for management support services to offices of the Department and for general administration, security, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL
RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, \$3,795,000: *Provided*, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: *Provided further*, That no funds made available by this appropriation may be obligated after 30 days from the date of enactment of this Act, unless the Secretary has notified the Committees on Appropriations of both Houses of Congress on the allocation of these funds by USDA agency: *Provided further*, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF COMMUNICATIONS

For necessary expenses of the Office of Communications to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, \$9,338,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the Inspector General Act of 1978, \$80,052,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, and including not to exceed \$125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, \$39,227,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, \$596,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, \$77,943,000.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, \$163,355,000, of which up to \$52,351,000 shall be available until expended for the Census of Agriculture.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed \$100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, \$1,128,944,000: *Provided*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250

7 USC 2254.

Maryland.

Tobacco and
tobacco products.
7 USC 2254a.

for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed \$375,000, except for headhouses or greenhouses which shall each be limited to \$1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed \$750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or \$375,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law: *Provided further*, That hereafter none of the funds appropriated under this heading shall be available to carry out research related to the production, processing, or marketing of tobacco or tobacco products.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, \$47,082,000, to remain available until expended.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION
SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, \$672,997,000, as follows: to carry out the provisions of the Hatch Act of 1887 (7 U.S.C. 361a–i), \$197,192,000; for grants for cooperative forestry research (16 U.S.C. 582a through a–7), \$24,966,000; for payments to eligible institutions (7 U.S.C. 3222), \$41,340,000, provided that each institution receives no less than \$1,000,000; for special grants for agricultural research (7 U.S.C. 450i(c)), \$92,422,000, of which \$2,095,000 shall be for grants pursuant to 7 U.S.C. 3155; for competitive grants for agricultural research on improved pest control (7 U.S.C. 450i(c)), \$15,421,000; for competitive research grants (7 U.S.C. 450i(b)), \$192,229,000; for the support of animal health and disease programs (7 U.S.C. 3195), \$5,006,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), \$825,000; for grants for research pursuant to the Critical Agricultural Materials Act (7 U.S.C. 178 et seq.), \$1,091,000, to remain available until expended; for the 1994 research grants program for 1994 institutions pursuant to section 536 of Public Law 103–382 (7 U.S.C. 301 note), \$1,544,000, to remain available until expended; for rangeland research grants (7 U.S.C. 3333), \$990,000; for higher education graduate fellowship grants (7 U.S.C.

3152(b)(6)), \$3,701,000, to remain available until expended (7 U.S.C. 2209b); for a program pursuant to section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151a), \$875,000, to remain available until expended; for higher education challenge grants (7 U.S.C. 3152(b)(1)), \$5,423,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), \$988,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), \$6,089,000; for competitive grants for the purpose of carrying out all provisions of 7 U.S.C. 3242 (section 759 of Public Law 106-78) to individual eligible institutions or consortia of eligible institutions in Alaska and in Hawaii, with funds awarded equally to each of the States of Alaska and Hawaii, \$3,218,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152(j)), \$990,000; for aquaculture grants (7 U.S.C. 3322), \$3,956,000; for sustainable agriculture research and education (7 U.S.C. 5811), \$14,500,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to institutions eligible to receive funds under 7 U.S.C. 3221 and 3222, \$13,688,000, to remain available until expended (7 U.S.C. 2209b); for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103-382, \$3,342,000; for resident instruction grants for insular areas under section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363), \$750,000; and for necessary expenses of Research and Education Activities, \$42,451,000, of which \$2,723,000 for the Research, Education, and Economics Information System and \$2,151,000 for the Electronic Grants Information System, are to remain available until expended: *Provided*, That hereafter none of the funds appropriated under this heading shall be available to carry out research related to the production, processing, or marketing of tobacco or tobacco products: *Provided further*, That hereafter this paragraph shall not apply to research on the medical, biotechnological, food, and industrial uses of tobacco.

Tobacco and
tobacco products.
7 USC 2254b.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law 103-382 (7 U.S.C. 301 note), \$11,880,000, to remain available until expended.

EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa, \$456,460,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93-471, for retirement and employees' compensation costs for extension agents, \$276,596,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), \$3,321,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, \$66,019,000; payments for the pest management program under section 3(d) of the Act, \$9,860,000; payments for the farm safety program under section 3(d) of the Act, \$4,759,000; payments for New Technologies for Ag Extension under section 3(d) of the Act, \$1,485,000; payments to upgrade research, extension, and teaching

facilities at institutions eligible to receive funds under 7 U.S.C. 3221 and 3222, \$17,389,000, to remain available until expended; payments for youth-at-risk programs under section 3(d) of the Smith-Lever Act, \$8,024,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, \$467,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.), \$4,036,000; payments for the federally-recognized Tribes Extension Program under section 3(d) of the Smith-Lever Act, \$3,000,000; payments for sustainable agriculture programs under section 3(d) of the Act, \$4,600,000; payments for rural health and safety education as authorized by section 502(i) of Public Law 92-419 (7 U.S.C. 2662(i)), \$1,750,000; payments for cooperative extension work by eligible institutions (7 U.S.C. 3221), \$36,103,000, provided that each institution receives no less than \$1,000,000; for grants to youth organizations pursuant to section 7630 of title 7, United States Code, \$1,750,000; and for necessary expenses of Extension Activities, \$17,301,000.

INTEGRATED ACTIVITIES

For the integrated research, education, and extension grants programs, including necessary administrative expenses, \$56,244,000, as follows: for competitive grants programs authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), \$42,286,000, including \$12,738,000 for the water quality program, \$14,699,000 for the food safety program, \$4,125,000 for the regional pest management centers program, \$4,419,000 for the Food Quality Protection Act risk mitigation program for major food crop systems, \$1,375,000 for the crops affected by Food Quality Protection Act implementation, \$3,075,000 for the methyl bromide transition program, and \$1,855,000 for the organic transition program; for a competitive international science and education grants program authorized under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b), to remain available until expended, \$2,000,000; for grants programs authorized under section 2(c)(1)(B) of Public Law 89-106, as amended, \$737,000, to remain available until September 30, 2009, for the critical issues program; \$1,321,000 for the regional rural development centers program; and \$9,900,000 for the Food and Agriculture Defense Initiative authorized under section 1484 of the National Agricultural Research, Extension, and Teaching Act of 1977, to remain available until September 30, 2009.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), \$6,440,000, to remain available until expended.

OFFICE OF THE UNDER SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and

the Grain Inspection, Packers and Stockyards Administration; \$721,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, including up to \$30,000 for representation allowances and for expenses pursuant to the Foreign Service Act of 1980 (22 U.S.C. 4085), \$873,754,000, of which \$1,000,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions; of which \$37,269,000 shall be used for the cotton pests program for cost share purposes or for debt retirement for active eradication zones; of which \$9,750,000 shall be available for a National Animal Identification program; of which \$51,725,000 shall be used to conduct a surveillance and preparedness program for highly pathogenic avian influenza: *Provided*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with sections 10411 and 10417 of the Animal Health Protection Act (7 U.S.C. 8310 and 8316) and sections 431 and 442 of the Plant Protection Act (7 U.S.C. 7751 and 7772), and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 2008, the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, \$76,862,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Notification.

Not to exceed \$61,233,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY
(SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, including not less than \$10,000,000 for replacement of a system to support commodity purchases, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than \$16,798,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), \$11,709,000, of which not less than \$1,875,000 shall be used to make a grant under this heading: *Provided*, That of the amount provided under this heading, \$8,500,000, to remain available until expended, is for specialty crop block grants authorized under section 101 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108-465; 7 U.S.C. 1621 note), of which not to exceed 5 percent may be available for administrative expenses.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, \$38,785,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed \$42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

Notification.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, \$600,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed \$50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), \$930,120,000, of which no less than \$829,807,000 shall be available for Federal food safety inspection; and in addition, \$1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1327 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 138f): *Provided*, That no fewer than 83 full time equivalent positions above the fiscal year 2002 level shall be employed during fiscal year 2008 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act: *Provided further*, That of the amount available under this heading, \$3,000,000 shall be obligated to maintain the Humane Animal Tracking System as part of the Public Health Data Communication Infrastructure System: *Provided further*, That not to exceed \$650,000 is for construction of a laboratory sample receiving facility: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Employment
positions.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN
AGRICULTURAL SERVICES

For necessary expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, \$632,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, \$1,134,045,000: *Provided*, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further*, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further*, That none of the funds made available by this Act may be used to pay the salary or expenses of any officer or employee of the Department of Agriculture to close or relocate any county or field office of the Farm Service Agency (other than a county or field office that had zero employees as of February 7, 2007), or to develop, submit, consider, or approve any plan for any such closure or relocation before enactment of an omnibus authorization law to provide for the continuation of agricultural programs for fiscal years after 2007.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), \$4,400,000.

GRASSROOTS SOURCE WATER PROTECTION PROGRAM

For necessary expenses to carry out wellhead or groundwater protection activities under section 1240O of the Food Security Act of 1985 (16 U.S.C. 3839bb–2), \$3,713,000, to remain available until expended.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, \$100,000, to remain available until expended: *Provided*, That such program is carried out by the Secretary in the same manner as the dairy indemnity program described in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387, 114 Stat. 1549A–12).

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, Indian tribe land acquisition loans (25 U.S.C. 488), and boll weevil loans (7 U.S.C. 1989), to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, \$1,471,257,000, of which \$1,247,400,000 shall be for unsubsidized guaranteed loans and \$223,857,000 shall be for direct loans; operating loans, \$1,875,686,000, of which \$1,024,650,000 shall be for unsubsidized guaranteed loans, \$271,886,000 shall be for subsidized guaranteed loans and \$579,150,000 shall be for direct loans; Indian tribe land acquisition loans, \$3,960,000; and for boll weevil eradication program loans, \$100,000,000: *Provided*, That the Secretary shall deem the pink bollworm to be a boll weevil for the purpose of boll weevil eradication program loans.

Pink Bollworm.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, \$14,952,000, of which \$4,990,000 shall be for unsubsidized guaranteed loans, and \$9,962,000 shall be for direct loans; operating loans, \$134,561,000, of which \$24,797,000 shall be for unsubsidized guaranteed loans, \$36,270,000 shall be for subsidized guaranteed loans, and \$73,494,000 shall be for direct loans; and Indian tribe land acquisition loans, \$125,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$311,229,000, of which \$303,309,000 shall be transferred to and merged with the appropriation for “Farm Service Agency, Salaries and Expenses”.

Funds appropriated by this Act to the Agricultural Credit Insurance Program Account for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs: *Provided*, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

Notification.
Deadline.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by section 226A of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933), \$76,658,000: *Provided*, That not more than \$11,166,000 of the funds made available under section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) may be used for program compliance and integrity purposes, including the data mining project, and for the Common Information Management System: *Provided further*, That not to exceed \$1,000 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard

to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516), such sums as may be necessary, to remain available until expended.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For the current fiscal year, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11): *Provided*, That of the funds available to the Commodity Credit Corporation under section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) for the conduct of its business with the Foreign Agricultural Service, up to \$5,000,000 may be transferred to and used by the Foreign Agricultural Service for information resource management activities of the Foreign Agricultural Service that are not related to Commodity Credit Corporation business.

HAZARDOUS WASTE MANAGEMENT

(LIMITATION ON EXPENSES)

For the current fiscal year, the Commodity Credit Corporation shall not expend more than \$5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607(g)), and section 6001 of the Resource Conservation and Recovery Act (42 U.S.C. 6961).

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, \$742,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and

such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed \$100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, \$840,326,000, to remain available until September 30, 2009: *Provided*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed \$250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001-1005 and 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, \$30,000,000, to remain available until expended: *Provided*, That not to exceed \$15,500,000 of this appropriation shall be available for technical assistance.

WATERSHED REHABILITATION PROGRAM

For necessary expenses to carry out rehabilitation of structural measures, in accordance with section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), and in accordance with the provisions of laws relating to the activities of the Department, \$20,000,000, to remain available until expended.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of sections 31 and 32 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010-1011; 76 Stat. 607); the Act of April 27, 1935 (16 U.S.C. 590a-f); and subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), \$51,088,000, to remain available until expended: *Provided*, That not to exceed \$3,073,000 shall be available for national headquarters activities.

HEALTHY FORESTS RESERVE PROGRAM

For necessary expenses to carry out the Healthy Forests Reserve Program authorized under title V of Public Law 108-148 (16 U.S.C. 6571-6578), \$2,000,000, to remain available until expended.

TITLE III

RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service, \$632,000.

RURAL DEVELOPMENT SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; \$169,998,000: *Provided*, That notwithstanding any other provision of law, funds appropriated under this section may be used for advertising and promotional activities that support the Rural Development mission area: *Provided further*, That not more than \$10,000 may be expended to provide modest nonmonetary awards to non-USDA employees: *Provided further*, That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this appropriation.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: \$5,349,391,000 for loans to section 502 borrowers, of which \$1,129,391,000 shall be for direct loans, and of which \$4,220,000,000 shall be for unsubsidized guaranteed loans; \$34,652,000 for section 504 housing repair loans; \$70,000,000 for section 515 rental housing; \$130,000,000 for section 538 guaranteed multi-family housing loans; \$5,045,000 for section 524 site loans; \$11,485,000 for credit sales of acquired property, of which up to \$1,485,000 may be for multi-family credit sales; and \$5,000,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans,

\$156,224,000, of which \$105,824,000 shall be for direct loans, and of which \$50,400,000, to remain available until expended, shall be for unsubsidized guaranteed loans; section 504 housing repair loans, \$9,796,000; repair, rehabilitation, and new construction of section 515 rental housing, \$29,827,000; section 538 multi-family housing guaranteed loans, \$12,220,000; credit sales of acquired property, \$552,000; and section 523 self-help housing and development loans, \$142,000: *Provided*, That of the total amount appropriated in this paragraph, \$2,500,000 shall be available through June 30, 2008, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones: *Provided further*, That any funds under this paragraph initially allocated by the Secretary for housing projects in the State of Alaska that are not obligated by September 30, 2008, shall be carried over until September 30, 2009, and made available for such housing projects only in the State of Alaska: *Provided further*, That any unobligated balances for a demonstration program for the preservation and revitalization of the section 515 multi-family rental housing properties as authorized by Public Law 109-97 shall be transferred to and merged with the “Rural Housing Service, Multi-family Housing Revitalization Program Account”.

Alaska.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$452,927,000, which shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”.

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, \$482,090,000, to remain available through September 30, 2009; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided*, That of this amount, up to \$6,000,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed \$50,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That agreements entered into or renewed during the current fiscal year shall be funded for a one-year period: *Provided further*, That any unexpended balances remaining at the end of such one-year agreements may be transferred and used for the purposes of any debt reduction; maintenance, repair, or rehabilitation of any existing projects; preservation; and rental assistance activities authorized under title V of the Act: *Provided further*, That rental assistance provided under agreements entered into prior to fiscal year 2008 for a farm labor multi-family housing project financed under section 514 or 516 of the Act may not be recaptured for use in another project until such assistance has remained unused for a period of 12 consecutive months, if such project has a waiting list of tenants seeking such assistance or the project has rental assistance eligible tenants who

Contracts.

Applicability. are not receiving such assistance: *Provided further*, That such recaptured rental assistance shall, to the extent practicable, be applied to another farm labor multi-family housing project financed under section 514 or 516 of the Act.

MULTI-FAMILY HOUSING REVITALIZATION PROGRAM ACCOUNT

Vouchers. For the rural housing voucher program as authorized under section 542 of the Housing Act of 1949, but notwithstanding subsection (b) of such section, for the cost to conduct a housing demonstration program to provide revolving loans for the preservation of low-income multi-family housing projects, and for additional costs to conduct a demonstration program for the preservation and revitalization of multi-family rental housing properties described in this paragraph, \$28,000,000, to remain available until expended: *Provided*, That of the funds made available under this heading, \$5,000,000 shall be available for rural housing vouchers to any low-income household (including those not receiving rental assistance) residing in a property financed with a section 515 loan which has been prepaid after September 30, 2005: *Provided further*, That the amount of such voucher shall be the difference between comparable market rent for the section 515 unit and the tenant paid rent for such unit: *Provided further*, That funds made available for such vouchers shall be subject to the availability of annual appropriations: *Provided further*, That the Secretary shall, to the maximum extent practicable, administer such vouchers with current regulations and administrative guidance applicable to section 8 housing vouchers administered by the Secretary of the Department of Housing and Urban Development (including the ability to pay administrative costs related to delivery of the voucher funds): *Provided further*, That if the Secretary determines that the amount made available for vouchers in this or any other Act is not needed for vouchers, the Secretary may use such funds for the demonstration programs for the preservation and revitalization of multi-family rental housing properties described in this paragraph: *Provided further*, That of the funds made available under this heading, \$3,000,000 shall be available for the cost of loans to private non-profit organizations, or such non-profit organizations' affiliate loan funds and State and local housing finance agencies, to carry out a housing demonstration program to provide revolving loans for the preservation of low-income multi-family housing projects: *Provided further*, That loans under such demonstration program shall have an interest rate of not more than 1 percent direct loan to the recipient: *Provided further*, That the Secretary may defer the interest and principal payment to the Rural Housing Service for up to 3 years and the term of such loans shall not exceed 30 years: *Provided further*, That of the funds made available under this heading, \$20,000,000 shall be available for a demonstration program for the preservation and revitalization of the section 514, 515, and 516 multi-family rental housing properties to restructure existing USDA multi-family housing loans, as the Secretary deems appropriate, expressly for the purposes of ensuring the project has sufficient resources to preserve the project for the purpose of providing safe and affordable housing for low-income residents and farm laborers including reducing or eliminating interest; deferring loan payments, subordinating, reducing or reamortizing loan debt; and other financial assistance including advances and incentives required by the Secretary: *Provided further*, That if the Secretary

Loans.

determines that additional funds for vouchers described in this paragraph are needed, funds for the preservation and revitalization demonstration program may be used for such vouchers: *Provided further*, That if Congress enacts legislation to permanently authorize a section 515 multi-family rental housing loan restructuring program similar to the demonstration program described herein, the Secretary may use funds made available for the demonstration program under this heading to carry out such legislation with the prior approval of the Committees on Appropriations of both Houses of Congress.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), \$39,000,000, to remain available until expended: *Provided*, That of the total amount appropriated, \$1,000,000 shall be available through June 30, 2008, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

(INCLUDING TRANSFER OF FUNDS)

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and 1490m, \$39,000,000, to remain available until expended: *Provided*, That of the total amount appropriated, \$1,200,000 shall be available through June 30, 2008, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones: *Provided further*, That any balances to carry out a housing demonstration program to provide revolving loans for the preservation of low-income multi-family housing projects as authorized in Public Law 108-447 and Public Law 109-97 shall be transferred to and merged with the “Rural Housing Service, Multi-family Housing Revitalization Program Account”.

FARM LABOR PROGRAM ACCOUNT

For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, \$22,000,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts.

RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants for rural community facilities programs as authorized by section 306 and described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act, \$68,952,000, to remain available until expended: *Provided*, That \$6,300,000 of the amount appropriated under this heading shall be available for a Rural Community Development Initiative: *Provided further*, That such funds shall

be used solely to develop the capacity and ability of private, non-profit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American Tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas: *Provided further*, That such funds shall be made available to qualified private, nonprofit and public intermediary organizations proposing to carry out a program of financial and technical assistance: *Provided further*, That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided: *Provided further*, That \$14,000,000 of the amount appropriated under this heading shall be to provide grants for facilities in rural communities with extreme unemployment and severe economic depression (Public Law 106-387), with up to 5 percent for administration and capacity building in the State rural development offices: *Provided further*, That \$4,000,000 of the amount appropriated under this heading shall be available for community facilities grants to tribal colleges, as authorized by section 306(a)(19) of such Act: *Provided further*, That not to exceed \$1,000,000 of the amount appropriated under this heading shall be available through June 30, 2008, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones for the rural community programs described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act: *Provided further*, That section 381E-H and 381N of the Consolidated Farm and Rural Development Act are not applicable to the funds made available under this heading: *Provided further*, That any prior balances in the Rural Development, Rural Community Advancement Program account for programs authorized by section 306 and described in section 381E(d)(1) of such Act be transferred and merged with this account and any other prior balances from the Rural Development, Rural Community Advancement Program account that the Secretary determines is appropriate to transfer.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL BUSINESS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, for the rural business development programs authorized by sections 306 and 310B and described in section 310B(f) and 381E(d)(3) of the Consolidated Farm and Rural Development Act, \$87,700,000, to remain available until expended: *Provided*, That of the amount appropriated under this heading, not to exceed \$500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development and \$3,000,000 shall be for grants to the Delta Regional Authority (7 U.S.C. 1921 et seq.) for any Rural Community Advancement Program purpose as described in section 381E(d) of the Consolidated Farm and Rural Development Act, of which not more than 5 percent may be used for administrative expenses: *Provided further*, That \$4,000,000 of the amount appropriated under this heading shall be for business grants to

benefit Federally Recognized Native American Tribes, including \$250,000 for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: *Provided further*, That not to exceed \$8,300,000 of the amount appropriated under this heading shall be available through June 30, 2008, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones for the rural business and cooperative development programs described in section 381E(d)(3) of the Consolidated Farm and Rural Development Act: *Provided further*, That section 381E-H and 381N of the Consolidated Farm and Rural Development Act are not applicable to funds made available under this heading: *Provided further*, That any prior balances in the Rural Development, Rural Community Advancement Program account for programs authorized by sections 306 and 310B and described in section 310B(f) and 381E(d)(3) of such Act be transferred and merged with this account and any other prior balances from the Rural Development, Rural Community Advancement Program account that the Secretary determines is appropriate to transfer.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), \$33,772,000.

For the cost of direct loans, \$14,485,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which \$1,724,000 shall be available through June 30, 2008, for Federally Recognized Native American Tribes and of which \$3,449,000 shall be available through June 30, 2008, for Mississippi Delta Region counties (as determined in accordance with Public Law 100-460): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That of the total amount appropriated, \$880,000 shall be available through June 30, 2008, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, \$4,774,000 shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, \$33,077,000.

Of the funds derived from interest on the cushion of credit payments, as authorized by section 313 of the Rural Electrification Act of 1936, \$34,000,000 shall not be obligated and \$34,000,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), \$28,023,000, of which \$495,000 shall be for a cooperative research agreement with a qualified academic institution to conduct research on the national economic impact of all types of cooperatives; and of which \$2,600,000 shall be for cooperative agreements for the appropriate technology transfer for rural areas program: *Provided*, That not to exceed \$1,473,000 shall be for cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers and whose governing board and/or membership is comprised of at least 75 percent minority; and of which \$19,000,000, to remain available until expended, shall be for value-added agricultural product market development grants, as authorized by section 6401 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1621 note).

RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES GRANTS

For grants in connection with empowerment zones and enterprise communities, \$8,187,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities, as authorized by the Taxpayer Relief Act of 1997 and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277): *Provided*, That the funds provided under this paragraph shall be made available to empowerment zones and enterprise communities in a manner and with the same priorities such funds were made available during the 2007 fiscal year.

RENEWABLE ENERGY PROGRAM

For the cost of a program of direct loans, loan guarantees, and grants, under the same terms and conditions as authorized by section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106), \$36,000,000: *Provided*, That the cost of direct loans and loan guarantees, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

RURAL UTILITIES SERVICE

RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, and 310B and described in sections 306C(a)(2), 306D, and 381E(d)(2) of the Consolidated Farm and Rural Development Act, \$562,565,000, to remain available until expended, of which not to exceed \$500,000 shall be available for the rural utilities program described in section 306(a)(2)(B) of such Act, and of which not to exceed \$1,000,000 shall be available for the rural utilities program described in section 306E of such Act: *Provided*, That \$65,000,000 of the amount appropriated under this heading shall be for water and waste disposal systems grants authorized by

306C(a)(2)(B) and 306D of the Consolidated Farm and Rural Development Act and Native Americans authorized by 306C(a)(1): *Provided further*, That the Secretary shall allocate the funds described in the previous proviso in a manner consistent with the historical allocation for such populations under these authorities: *Provided further*, That not to exceed \$18,500,000 of the amount appropriated under this heading shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act, unless the Secretary makes a determination of extreme need, of which \$5,600,000 shall be made available for a grant to a qualified non-profit multi-state regional technical assistance organization, with experience in working with small communities on water and waste water problems, the principal purpose of such grant shall be to assist rural communities with populations of 3,300 or less, in improving the planning, financing, development, operation, and management of water and waste water systems, and of which not less than \$800,000 shall be for a qualified national Native American organization to provide technical assistance for rural water systems for tribal communities: *Provided further*, That not to exceed \$13,750,000 of the amount appropriated under this heading shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That not to exceed \$12,700,000 of the amount appropriated under this heading shall be available through June 30, 2008, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones for the rural utilities programs described in section 381E(d)(2) of such Act: *Provided further*, That \$20,000,000 of the amount appropriated under this heading shall be transferred to, and merged with, the Rural Utilities Service, High Energy Cost Grants Account to provide grants authorized under section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 918a): *Provided further*, That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the Rural Utilities Service, High Energy Costs Grants Account: *Provided further*, That section 381E-H and 381N of the Consolidated Farm and Rural Development Act are not applicable to the funds made available under this heading: *Provided further*, That any prior balances in the Rural Development, Rural Community Advancement Program account programs authorized by sections 306, 306A, 306C, 306D, and 310B and described in sections 306C(a)(2), 306D, and 381E(d)(2) of such Act be transferred and merged with this account and any other prior balances from the Rural Development, Rural Community Advancement Program account that the Secretary determines is appropriate to transfer.

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM
ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The principal amount of direct and guaranteed loans as authorized by section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans, \$100,000,000; loans made pursuant to section 306 of that Act, rural electric, \$6,500,000,000; guaranteed underwriting loans

pursuant to section 313A, \$500,000,000; 5 percent rural telecommunications loans, \$145,000,000; cost of money rural telecommunications loans, \$250,000,000; and for loans made pursuant to section 306 of that Act, rural telecommunications loans, \$295,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by sections 305 and 306 of the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of rural electric loans, \$120,000, and the cost of telecommunications loans, \$3,620,000: *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$38,623,000 which shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”.

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For the principal amount of broadband telecommunication loans, \$300,000,000.

For grants for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq., \$35,000,000, to remain available until expended: *Provided*, That \$5,000,000 shall be made available to convert analog to digital operation those noncommercial educational television broadcast stations that serve rural areas and are qualified for Community Service Grants by the Corporation for Public Broadcasting under section 396(k) of the Communications Act of 1934, including associated translators and repeaters, regardless of the location of their main transmitter, studio-to-transmitter links, and equipment to allow local control over digital content and programming through the use of high-definition broadcast, multi-casting and datacasting technologies.

For the cost of broadband loans, as authorized by 7 U.S.C. 901 et seq., \$6,450,000, to remain available until expended: *Provided*, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, \$13,500,000, to remain available until expended, for a grant program to finance broadband transmission in rural areas eligible for Distance Learning and Telemedicine Program benefits authorized by 7 U.S.C. 950aaa.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, \$597,000.

FOOD AND NUTRITION SERVICE
CHILD NUTRITION PROGRAMS
(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; \$13,901,513,000, to remain available through September 30, 2009, of which \$7,647,965,000 is hereby appropriated and \$6,253,548,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That up to \$5,505,000 shall be available for independent verification of school food service claims.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS,
AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), \$6,020,000,000, to remain available through September 30, 2009, of which such sums as are necessary to restore the contingency reserve to \$150,000,000 shall be placed in reserve, to remain available until expended, to be allocated as the Secretary deems necessary, notwithstanding section 17(i) of such Act, to support participation should cost or participation exceed budget estimates: *Provided*, That of the total amount available, the Secretary shall obligate not less than \$15,000,000 for a breastfeeding support initiative in addition to the activities specified in section 17(h)(3)(A): *Provided further*, That only the provisions of section 17(h)(10)(B)(i) and section 17(h)(10)(B)(ii) shall be effective in 2008; including \$14,000,000 for the purposes specified in section 17(h)(10)(B)(i) and \$30,000,000 for the purposes specified in section 17(h)(10)(B)(ii): *Provided further*, That funds made available for the purposes specified in section 17(h)(10)(B)(ii) shall only be made available upon determination by the Secretary that funds are available to meet caseload requirements without the use of the contingency reserve funds after the date of enactment of this Act: *Provided further*, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further*, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: *Provided further*, That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act: *Provided further*, That of the amount provided under this paragraph, \$400,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), \$39,782,723,000, of which \$3,000,000,000 to remain available through September 30, 2009, shall be placed in

Armed Forces.

reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further*, That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act: *Provided further*, That notwithstanding section 5(d) of the Food Stamp Act of 1977, any additional payment received under chapter 5 of title 37, United States Code, by a member of the United States Armed Forces deployed to a designated combat zone shall be excluded from household income for the duration of the member's deployment if the additional pay is the result of deployment to or while serving in a combat zone, and it was not received immediately prior to serving in the combat zone: *Provided further*, That funds made available under this heading may be used to enter into contracts and employ staff to conduct studies, evaluations, or to conduct activities related to food stamp program integrity provided that such activities are authorized by the Food Stamp Act.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out disaster assistance and the Commodity Supplemental Food Program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note); the Emergency Food Assistance Act of 1983; special assistance for the nuclear affected islands, as authorized by section 103(f)(2) of the Compact of Free Association Amendments Act of 2003 (Public Law 108-188); and the Farmers' Market Nutrition Program, as authorized by section 17(m) of the Child Nutrition Act of 1966, \$211,770,000, to remain available through September 30, 2009: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program: *Provided further*, That notwithstanding any other provision of law, effective with funds made available in fiscal year 2008 to support the Seniors Farmers' Market Nutrition Program (SFMNP), such funds shall remain available through September 30, 2009: *Provided further*, That no funds available for SFMNP shall be used to pay State or local sales taxes on food purchased with SFMNP coupons or checks: *Provided further*, That the value of assistance provided by the SFMNP shall not be considered income or resources for any purposes under any Federal, State or local laws related to taxation, welfare and public assistance programs: *Provided further*, That of the funds made available under section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Secretary may use up to \$10,000,000 for costs associated with the distribution of commodities.

NUTRITION PROGRAMS ADMINISTRATION

For necessary administrative expenses of the Food and Nutrition Service, \$142,727,000, of which \$2,475,000 is for the purpose of providing Bill Emerson and Mickey Leland Hunger Fellowships, through the Congressional Hunger Center.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed \$158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), \$159,470,000: *Provided*, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development: *Provided further*, That funds made available for the cost of agreements under title I of the Agricultural Trade Development and Assistance Act of 1954 and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

Notification.

PUBLIC LAW 480 TITLE I DIRECT CREDIT AND FOOD FOR PROGRESS
PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the credit program of title I, Public Law 83-480 and the Food for Progress Act of 1985, \$2,680,000, to be transferred to and merged with the appropriation for “Farm Service Agency, Salaries and Expenses”.

PUBLIC LAW 480 TITLE II GRANTS

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years’ costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, \$1,219,400,000, to remain available until expended.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation’s export guarantee program, GSM 102 and GSM 103, \$5,328,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which \$4,985,000 may be transferred to and merged with the appropriation for “Foreign Agricultural Service, Salaries and Expenses”, and of

which \$343,000 may be transferred to and merged with the appropriation for “Farm Service Agency, Salaries and Expenses”.

MC GOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD
NUTRITION PROGRAM GRANTS

For necessary expenses to carry out the provisions of section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o-1), \$100,000,000, to remain available until expended: *Provided*, That the Commodity Credit Corporation is authorized to provide the services, facilities, and authorities for the purpose of implementing such section, subject to reimbursement from amounts provided herein.

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG
ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed \$25,000; and notwithstanding section 521 of Public Law 107-188; \$2,247,961,000: *Provided*, That of the amount provided under this heading, \$459,412,000 shall be derived from prescription drug user fees authorized by 21 U.S.C. 379h shall be credited to this account and remain available until expended, and shall not include any fees pursuant to 21 U.S.C. 379h(a)(2) and (a)(3) assessed for fiscal year 2009 but collected in fiscal year 2008; \$48,431,000 shall be derived from medical device user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended; and \$13,696,000 shall be derived from animal drug user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended: *Provided further*, That fees derived from prescription drug, medical device, and animal drug assessments received during fiscal year 2008, including any such fees assessed prior to the current fiscal year but credited during the current year, shall be subject to the fiscal year 2008 limitation: *Provided further*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the total amount appropriated: (1) \$513,461,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) \$682,759,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs, of which no less than \$41,900,000 shall be available for

the Office of Generic Drugs; (3) \$236,985,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) \$109,244,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) \$267,284,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) \$44,316,000 shall be for the National Center for Toxicological Research; (7) not to exceed \$99,922,000 shall be for Rent and Related activities, of which \$38,808,000 is for White Oak Consolidation, other than the amounts paid to the General Services Administration for rent; (8) not to exceed \$160,094,000 shall be for payments to the General Services Administration for rent; and (9) \$133,896,000 shall be for other activities, including the Office of the Commissioner; the Office of Scientific and Medical Programs; the Office of Policy, Planning and Preparedness; the Office of International and Special Programs; the Office of Operations; and central services for these offices: *Provided further*, That of the amounts made available under this heading, \$28,000,000 for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs shall be available from July 1, 2008, to September 30, 2009, for implementation of a comprehensive food safety performance plan: *Provided further*, That none of the funds made available under this heading shall be used to transfer funds under section 770(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379dd): *Provided further*, That funds may be transferred from one specified activity to another with the prior approval of the Committees on Appropriations of both Houses of Congress.

In addition, mammography user fees authorized by 42 U.S.C. 263b may be credited to this account, to remain available until expended.

In addition, export certification user fees authorized by 21 U.S.C. 381 may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, \$2,450,000, to remain available until expended.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles, and the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, \$112,050,000, including not to exceed \$3,000 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$46,000,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided*, That this limitation shall not apply to expenses associated with receiverships.

TITLE VII

GENERAL PROVISIONS

(INCLUDING RESCISSIONS AND TRANSFERS OF FUNDS)

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the current fiscal year under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 182 passenger motor vehicles, of which 142 shall be for replacement only, and for the hire of such vehicles.

7 USC 2209b
note.

SEC. 702. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, information technology infrastructure, fruit fly program, emerging plant pests, cotton pests program, avian influenza programs, grasshopper program, up to \$9,750,000 in animal health monitoring and surveillance for the animal identification system, up to \$1,500,000 in the scrapie program for indemnities, up to \$3,000,000 in the emergency management systems program for the vaccine bank, up to \$1,000,000 for wildlife services methods development, up to \$1,000,000 of the wildlife services operations program for aviation safety, and up to 25 percent of the screwworm program; Food Safety and Inspection Service, Public Health Data Communication Infrastructure System; Cooperative State Research, Education, and Extension Service, funds for competitive research grants (7 U.S.C. 450i(b)), funds for the Research, Education, and Economics Information System, and funds for the Native American Institutions Endowment Fund; Farm Service Agency, salaries and expenses funds made available to county committees; Foreign Agricultural Service, middle-income country training program, and up to \$2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to documentation by the Foreign Agricultural Service.

SEC. 703. The Secretary of Agriculture may transfer unobligated balances of discretionary funds appropriated by this Act or other available unobligated discretionary balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the financial management modernization initiative and the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture: *Provided*, That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administrator: *Provided further*, That none

of the funds transferred to the Working Capital Fund pursuant to this section shall be available for obligation without the prior approval of the Committees on Appropriations of both Houses of Congress: *Provided further*, That none of the funds appropriated by this Act or made available to the Department's Working Capital Fund shall be available for obligation or expenditure to make any changes to the Department's National Finance Center without prior approval of the Committees on Appropriations of both Houses of Congress as required by section 713 of this Act.

SEC. 704. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 705. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 706. None of the funds in this Act shall be available to pay indirect costs charged against competitive agricultural research, education, or extension grant awards issued by the Cooperative State Research, Education, and Extension Service that exceed 20 percent of total Federal funds provided under each award: *Provided*, That notwithstanding section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310), funds provided by this Act for grants awarded competitively by the Cooperative State Research, Education, and Extension Service shall be available to pay full allowable indirect costs for each grant awarded under section 9 of the Small Business Act (15 U.S.C. 638).

SEC. 707. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in the current fiscal year shall remain available until expended to disburse obligations made in the current fiscal year for the following accounts: the Rural Development Loan Fund program account, the Rural Electrification and Telecommunication Loans program account, and the Rural Housing Insurance Fund program account.

SEC. 708. Of the funds made available by this Act, not more than \$1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 709. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

SEC. 710. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 711. None of the funds appropriated or otherwise made available to the Department of Agriculture or the Food and Drug Administration shall be used to transmit or otherwise make available to any non-Department of Agriculture or non-Department of Health and Human Services employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 712. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without the prior approval of the Committees on Appropriations of both Houses of Congress: *Provided further*, That none of the funds available to the Department of Agriculture for information technology shall be obligated for projects over \$25,000 prior to receipt of written approval by the Chief Information Officer.

Notifications.
Deadlines.

SEC. 713. (a) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which—

- (1) creates new programs;
- (2) eliminates a program, project, or activity;
- (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted;
- (4) relocates an office or employees;
- (5) reorganizes offices, programs, or activities; or
- (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(c) The Secretary of Agriculture, the Secretary of Health and Human Services, or the Chairman of the Commodity Futures Trading Commission shall notify the Committees on Appropriations of both Houses of Congress before implementing a program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

SEC. 714. None of the funds appropriated by this or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2009 appropriations Act.

SEC. 715. Notwithstanding any other provision of law, the Natural Resources Conservation Service shall provide financial and technical assistance—

(1) from funds available for the Watershed and Flood Prevention Operations program for the Pocasset River Floodplain Management Project in the State of Rhode Island;

(2) through the Watershed and Flood Prevention Operations program to carry out the East Locust Creek Watershed Plan Revision in Missouri, including up to 100 percent of the engineering assistance and 75 percent cost share for construction cost of site RW1;

(3) through the Watershed Flood Prevention Operations program to carry out the Little Otter Creek Watershed project. The sponsoring local organization may obtain land rights by perpetual easements; and

(4) through the Watershed and Flood Prevention Operations program to the McDowell Grove Dam Flood Plain/Wetlands Restoration Project in DuPage County, Illinois.

SEC. 716. None of the funds made available by this or any other Act may be used to close or relocate a Rural Development office unless or until the Secretary of Agriculture determines the cost effectiveness and/or enhancement of program delivery: *Provided*, That not later than 60 days before the date of the proposed closure or relocation, the Secretary notifies the Committees on Appropriation of the House and Senate, and the members of Congress from the State in which the office is located of the proposed closure or relocation and provides a report that describes the justifications for such closures and relocations.

Deadline.
Notification.

SEC. 717. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Pharmaceutical Analysis in St. Louis, Missouri, outside the city or county limits of St. Louis, Missouri.

SEC. 718. Notwithstanding any other provision of law, of the funds made available in this Act for competitive research grants (7 U.S.C. 450i(b)), the Secretary may use up to 26 percent of

the amount provided to carry out a competitive grants program under the same terms and conditions as those provided in section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621).

SEC. 719. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out an environmental quality incentives program authorized by chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) in excess of \$1,000,000,000.

SEC. 720. None of the funds made available in fiscal year 2008 or preceding fiscal years for programs authorized under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) in excess of \$20,000,000 shall be used to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f-1): *Provided*, That any such funds made available to reimburse the Commodity Credit Corporation shall only be used pursuant to section 302(b)(2)(B)(i) of the Bill Emerson Humanitarian Trust Act.

SEC. 721. No funds shall be used to pay salaries and expenses of the Department of Agriculture to carry out or administer the program authorized by section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)).

SEC. 722. Notwithstanding subsections (c) and (e)(2) of section 313A of the Rural Electrification Act (7 U.S.C. 940c(c) and (e)(2)) in implementing section 313A of that Act, the Secretary shall, with the consent of the lender, structure the schedule for payment of the annual fee, not to exceed an average of 30 basis points per year for the term of the loan, to ensure that sufficient funds are available to pay the subsidy costs for note guarantees under that section.

SEC. 723. None of the funds made available by this Act may be used to issue a final rule in furtherance of, or otherwise implement, the proposed rule on cost-sharing for animal and plant health emergency programs of the Animal and Plant Health Inspection Service published on July 8, 2003 (Docket No. 02-062-1; 68 Fed. Reg. 40541).

SEC. 724. There is hereby appropriated \$437,000, to remain available until expended, for the Denali Commission to address deficiencies in solid waste disposal sites which threaten to contaminate rural drinking water supplies.

SEC. 725. Funds made available under section 1240I and section 1241(a) of the Food Security Act of 1985 in the current fiscal year shall remain available until expended to disburse obligations made in the current fiscal year. Funds made available under section 524(b) of the Federal Crop Insurance Act, 7 U.S.C. 1524(b), in fiscal years 2004, 2005, 2006, 2007, and 2008 shall remain available until expended to disburse obligations made in fiscal years 2004, 2005, 2006, 2007, and 2008 respectively, and except for fiscal year 2008 funds, are not available for new obligations.

SEC. 726. None of the funds provided in this Act may be used for salaries and expenses to draft or implement any regulation or rule insofar as it would require recertification of rural status for each electric and telecommunications borrower for the Rural Electrification and Telecommunication Loans program.

SEC. 727. Unless otherwise authorized by existing law, none of the funds provided in this Act, may be used by an executive branch agency to produce any prepackaged news story intended for broadcast or distribution in the United States unless the story includes a clear notification within the text or audio of the prepackaged news story that the prepackaged news story was prepared or funded by that executive branch agency.

News stories.

SEC. 728. Notwithstanding any other provision of law, any former RUS borrower that has repaid or prepaid an insured, direct or guaranteed loan under the Rural Electrification Act, or any not-for-profit utility that is eligible to receive an insured or direct loan under such Act, shall be eligible for assistance under Section 313(b)(2)(B) of such Act in the same manner as a borrower under such Act.

SEC. 729. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to make funding and other assistance available through the emergency watershed protection program under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair and prevent damage to non-Federal land in watersheds that have been impaired by fires initiated by the Federal Government and shall waive cost sharing requirements for the funding and assistance.

SEC. 730. None of the funds made available in this Act may be used to study, complete a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary of Agriculture, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs.

SEC. 731. Of the amount available for Estimated Future Needs under section 32 of the Act of August 24, 1935, \$184,000,000 are hereby rescinded: *Provided*, That in addition, of the unobligated balances under section 32 of the Act of August 24, 1935, \$500,000,000 are hereby rescinded.

SEC. 732. Of the appropriations available for payments for the nutrition and family education program for low-income areas under section 3(d) of the Smith-Lever Act (7 U.S.C. 343(d)), if the payment allocation pursuant to section 1425(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)) would be less than \$100,000 for any institution eligible under section 3(d)(2) of the Smith-Lever Act, the Secretary shall adjust payment allocations under section 1425(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to ensure that each institution receives a payment of not less than \$100,000.

SEC. 733. None of the funds made available in this Act may be used to establish or implement a rule allowing poultry products to be imported into the United States from the People's Republic of China.

SEC. 734. There is hereby appropriated \$3,750,000, to remain available until expended, for a grant to the National Center for Natural Products Research for construction or renovation to carry out the research objectives of the natural products research grant issued by the Food and Drug Administration.

SEC. 735. There is hereby appropriated \$150,000, to remain available until expended, for the planning and design of construction of an agriculture pest facility in the State of Hawaii.

SEC. 736. None of the funds made available to the Department of Agriculture in this Act may be used to implement the risk-based inspection program in the 30 prototype locations announced on February 22, 2007, by the Under Secretary for Food Safety, or at any other locations, until the USDA Office of Inspector General has provided its findings to the Food Safety and Inspection Service and the Committees on Appropriations of the House of Representatives and the Senate on the data used in support of the development and design of the risk-based inspection program and FSIS has addressed and resolved issues identified by OIG.

SEC. 737. The Secretary of Agriculture shall continue the Water and Waste Systems Direct Loan Program under the authority and conditions (including the fees, borrower interest rate, and the President's economic assumptions for the 2008 Fiscal Year, as of June 1, 2007) provided by the "Continuing Appropriations Resolution, 2007".

SEC. 738. (a) Section 13(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(b)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (A);

(B) by redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively;

(C) in subparagraph (A) (as redesignated by subparagraph (B)), striking "(B)" and all that follows through "shall not exceed" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B) and in addition to amounts made available under paragraph (3), payments to service institutions shall be";

(D) in subparagraph (B) (as redesignated by subparagraph (B)), by striking "subparagraph (B)" and inserting "subparagraph (A)"; and

(E) in subparagraph (C) (as redesignated by subparagraph (B)), by striking "(A), (B), and (C)" and inserting "(A) and (B)"; and

(2) in the second sentence of paragraph (3), by striking "full amount of State approved" and all that follows through "maximum allowable".

(b) CONFORMING AMENDMENT.—Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) through (k) as subsections (f) through (j), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on January 1 of the first full calendar year following the date of enactment of this Act.

SEC. 739. There is hereby appropriated \$9,900,000, to remain available until September 30, 2009, which, in conjunction with all unobligated balances available to the Secretary under section 18(g) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(g)) shall be used to continue the Fresh Fruit and Vegetable Program (42 U.S.C. 1769(g)) in all currently participating States and expand the program to all the contiguous States and, Alaska, Hawaii and the District of Columbia not currently served by the authorized program: *Provided*, That of funds available under this section, not to exceed 5 percent may be available for Federal administrative costs, as determined by the Secretary of Agriculture: *Provided further*, That for the purposes of this section, "currently

participating States” shall be defined as those authorized to participate under section 18(g) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(g)) as well as those authorized to participate under section 779 of Public Law 109–97: *Provided further*, That implementation of the program in new States shall begin with school year 2008/2009.

SEC. 740. Section 704 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2258) is amended by striking the first proviso.

SEC. 741. None of the funds made available in this Act may be used to pay the salaries or expenses of personnel to—

(1) inspect horses under section 3 of the Federal Meat Inspection Act (21 U.S.C. 603);

(2) inspect horses under section 903 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note; Public Law 104–127); or

(3) implement or enforce section 352.19 of title 9, Code of Federal Regulations.

SEC. 742. There is hereby appropriated \$800,000 to the Farm Service Agency to carry out a pilot program to demonstrate the use of new technologies that increase the rate of growth of reforested hardwood trees on private non-industrial forests lands, enrolling lands on the coast of the Gulf of Mexico that were damaged by Hurricane Katrina in 2005.

SEC. 743. (a) Sections 9001(a) and 9002 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 211, 214) are amended by striking “February 28, 2007” each place it occurs and inserting “December 31, 2007”.

(b) There is hereby appropriated \$20,000,000 for the “Farm Service Agency, Salaries and Expenses”.

(c) Each amount provided by this section is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

SEC. 744. Section 17(r)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(r)(5)) is amended—

(1) by striking “seven” and inserting “eight”;

(2) by striking “five” and inserting “six”; and

(3) by inserting “West Virginia,” after the first instance of “States shall be”.

SEC. 745. Hereafter, notwithstanding any other provision of law, of the funds made available for the Commodity Assistance Program under division B of Public Law 109–148, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006, all unexpended funds shall be made available to support normal program operations of the Commodity Supplemental Food Program under the Agriculture and Consumer Protection Act of 1973 and of the Emergency Food Assistance Program under the Emergency Food Assistance Act of 1983: *Provided*, That any commodities purchased with funds made available under Public Law 109–148 and remaining undistributed shall be used to support normal program operations under the authorities cited in this section.

SEC. 746. Notwithstanding any other provision of law, and until receipt of the decennial Census for the year 2010, the Secretary of Agriculture shall consider—

(1) the City of Alamo, Texas; the City of Mercedes, Texas; the City of Weslaco, Texas; the City of Donna, Texas; the

State listing.

City of La Feria, Texas; and the City of Northampton, Massachusetts, (including individuals and entities with projects within the cities) eligible for loans and grants funded through the Rural Business Program account;

(2) the City of Bainbridge Island, Washington; the City of Keene, New Hampshire; and the City of Havelock, North Carolina, (including individuals and entities with projects within the cities) eligible for loans and grants funded through the Rural Community Facilities Program account;

(3) the City of Freeport, Illinois; Kitsap County (except the City of Bremerton), Washington; the City of Atascadero, California; and the City of Paso Robles, California, (including individuals and entities with projects within the cities) eligible for loans and grants funded through the Rural Housing Insurance Fund Program account and the Rural Housing Assistance Grants account;

(4) the City of Canton, Mississippi, (including individuals and entities with projects within the cities) eligible for loans and grants funded through the Rural Water and Waste Disposal Program account;

(5) the City of Parsons, Kansas; the Town of Boone, North Carolina; the City of Henderson, North Carolina; and the City of Lenoir, North Carolina, to be rural areas for the purposes of eligibility for loans and grants funded through the Rural Water and Waste Disposal Program account;

(6) the City of Lansing, Kansas, a rural area for purposes of eligibility for Rural Housing Service programs, and the City of Leavenworth, Kansas, and the City of Lansing, Kansas, as separate geographic entities for purposes of Rural Development grants and loans;

(7) the City of Binghamton, New York, for the purpose of upgrading a trunk line for waste transport to the Town of Conklin, New York, (including individuals and entities with projects within the cities) eligible for loans and grants funded through the Rural Water and Waste Disposal Program account;

(8) the County of Lexington, South Carolina, shall be considered to be a rural area for the purposes of financing a farmers' market under the Business and Industry Loan Guarantee Program in a local area that has rural characteristics as determined by the Secretary; and

(9) the service areas being acquired by Mid-Kansas Electric Cooperative, except for the City of Dodge City, Kansas, shall be considered eligible for financing under the Rural Electrification Act of 1936, as amended.

SEC. 747. None of the funds made available in this Act may be used—

(1) to terminate any of the 13 field laboratories that are operated by the Food and Drug Administration as of January 1, 2007, or 20 District Offices, or any of the inspection or compliance functions of any of the 20 District Offices, of the Food and Drug Administration functioning as of January 1, 2007; or

(2) to consolidate any such laboratory with any other laboratory, or any such District Office, or any of the inspection or compliance functions of any District Office, with any other District Office.

SEC. 748. Hereafter, the Secretary may use funds made available in chapter 1 of division B of Public Law 109–148 for direct and guaranteed loans under title V of the Housing Act of 1949, to make or guarantee loans, as authorized under such Act, to finance housing and repairs to housing in rural areas affected by hurricanes that occurred during the 2005 calendar year.

SEC. 749. Of the unobligated balances provided pursuant to section 16(h)(1)(A) of the Food Stamp Act of 1977, \$10,500,000 is hereby rescinded.

SEC. 750. Of the unobligated balances available in the Child and Adult Care Food Program for the purpose of conducting audits of participating institutions as provided for under section 796 of Public Law 109–97, \$3,500,000 is hereby rescinded.

SEC. 751. EXTENSION OF AGRICULTURAL PROGRAMS.

(a) EXTENSION.—Except as otherwise provided in this Act and notwithstanding any other provision of law, the authorities provided under the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 7 U.S.C. 7901 et seq.) and each amendment made by that Act (and for mandatory programs at such funding levels), as in effect on September 30, 2007, shall continue, and the Secretary of Agriculture shall carry out the authorities, until March 15, 2008.

(b) CONSERVATION PROGRAMS.—

(1) FARMLAND PROTECTION PROGRAM.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this subsection as the “Secretary”) shall continue the farmland protection program established under subchapter B of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838h et seq.) at a funding level of \$97,000,000 per year.

(2) GROUND AND SURFACE WATER CONSERVATION.—Notwithstanding any other provision of law, the Secretary shall continue the ground and surface water conservation program established under section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9) at a funding level of \$60,000,000 per year.

(3) WILDLIFE HABITAT INCENTIVES PROGRAM.—Notwithstanding any other provision of law, the Secretary shall continue the wildlife habitat incentive program established under section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) at a funding level of \$85,000,000 per year.

(c) EXCEPTIONS.—This section does not apply with respect to—

(1) section 1307(a)(6) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7957(a)(6));

(2) section 524(b) of the Federal Crop Insurance Act (7 U.S.C. 1524(b));

(3) section 25 of the Food Stamp Act of 1977 (7 U.S.C. 2034);

(4) title VI of the Rural Electrification Act of 1936 (7 U.S.C. 950bb et seq.);

(5) section 231 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224);

(6) section 9002 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102);

(7) section 9004 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8104);

(8) section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106); and

(9) subtitles A through C of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911 et seq.), with respect to the 2008 crops (other than the 2008 crop of a loan commodity described in paragraph (11), (12), or (13) of section 1202(b) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7932(b))).

Rescission.

SEC. 752. (a) Except as provided in subsection (c), there is hereby rescinded an amount equal to 0.7 percent of the budget authority provided for fiscal year 2008 for any discretionary account in division A of this Act.

Applicability.

(b) Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in subsection (a); and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act, accompanying reports, or explanatory statement for the relevant fiscal year covering such account or item).

(c) The rescission in subsection (a) shall not apply to budget authority appropriated or otherwise made available by this Act in the following amounts in the following activities or accounts:

(1) \$6,020,000,000 provided for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) in the Department of Agriculture in division A.

(2) \$930,120,000 provided for the Food Safety and Inspection Service in the Department of Agriculture in division A.

(3) Any amount designated as described in section 5 (in the matter preceding division A of this consolidated Act).

Deadline.

Reports.

(d) Not later than 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report that specifies the account and amount of each rescission made pursuant to this section.

This division may be cited as the “Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2008”.

Commerce,
Justice, Science,
and Related
Agencies
Appropriations
Act, 2008.
Department of
Commerce
Appropriations
Act, 2008.

DIVISION B—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

TITLE I

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and for engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate

families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 40118; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding 10 years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed \$327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed \$45,000 per vehicle; obtaining insurance on official motor vehicles; and rental of tie lines, \$413,172,000, to remain available until September 30, 2009, of which \$8,000,000 is to be derived from fees to be retained and used by the International Trade Administration, notwithstanding 31 U.S.C. 3302: *Provided*, That \$40,520,923 shall be for Manufacturing and Services; \$41,384,054 shall be for Market Access and Compliance; \$62,712,833 shall be for the Import Administration of which \$5,900,000 shall be for the Office of China Compliance; \$236,945,290 shall be for the United States and Foreign Commercial Service; and \$25,146,400 shall be for Executive Direction and Administration: *Provided further*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act of 1961 shall include payment for assessments for services provided as part of these activities: *Provided further*, That the International Trade Administration shall be exempt from the requirements of Circular A-25 (or any successor administrative regulation or policy) issued by the Office of Management and Budget: *Provided further*, That negotiations shall be conducted within the World Trade Organization to recognize the right of members to distribute monies collected from antidumping and countervailing duties: *Provided further*, That negotiations shall be conducted within the World Trade Organization consistent with the negotiating objectives contained in the Trade Act of 2002, Public Law 107-210.

Applicability.

Exemption.

Negotiations.

BUREAU OF INDUSTRY AND SECURITY

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed \$15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C.

Applicability.

401(b); and purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law, \$72,855,000, to remain available until expended, of which \$13,627,000 shall be for inspections and other activities related to national security: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further*, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, and for trade adjustment assistance, \$249,100,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, \$30,832,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, title II of the Trade Act of 1974, and the Community Emergency Drought Relief Act of 1977.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, \$28,623,000.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, \$81,075,000, to remain available until September 30, 2009.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, \$202,838,000.

PERIODIC CENSUSES AND PROGRAMS

For necessary expenses to collect and publish statistics for periodic censuses and programs provided for by law, \$1,027,406,000, to remain available until September 30, 2009: *Provided*, That none of the funds provided in this or any other Act for any fiscal year may be used for the collection of census data on race identification that does not include “some other race” as a category.

13 USC 5 note.

NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), \$17,466,000, to remain available until September 30, 2009: *Provided*, That, notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, and operations, and related services and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: *Provided further*, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND
CONSTRUCTION

For the administration of grants authorized by section 392 of the Communications Act of 1934, \$18,800,000, to remain available until expended as authorized by section 391 of the Act: *Provided*, That not to exceed \$2,000,000 shall be available for program administration as authorized by section 391 of the Act: *Provided further*, That, notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the United States Patent and Trademark Office provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, \$1,915,500,000, to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 are received during fiscal year 2008, so as to result in a fiscal year 2008 appropriation from the general fund estimated at \$0: *Provided further*, That during

fiscal year 2008, should the total amount of offsetting fee collections be less than \$1,915,500,000, this amount shall be reduced accordingly: *Provided further*, That any amount received in excess of \$1,915,500,000 in fiscal year 2008, in an amount up to \$100,000,000, shall remain available until expended: *Provided further*, That not less than 1,020 full-time equivalents, 1,082 positions and \$214,150,000 shall be for the examination of trademark applications; and not less than 8,522 full-time equivalents, 9,000 positions and \$1,701,402,000 shall be for the examination and searching of patent applications: *Provided further*, That not less than \$16,015,000 shall be for training of personnel: *Provided further*, That \$1,000,000 may be transferred to “Departmental Management”, “Salaries and Expenses” for activities associated with the National Intellectual Property Law Enforcement Coordination Council: *Provided further*, That any deviation from the full-time equivalent, position, and funding designations set forth in the preceding provisos shall be subject to the procedures set forth in section 505 of this Act: *Provided further*, That from amounts provided herein, not to exceed \$1,000 shall be made available in fiscal year 2008 for official reception and representation expenses: *Provided further*, That in fiscal year 2008, from the amounts made available for “Salaries and Expenses” for the United States Patent and Trademark Office (PTO), the amounts necessary to pay: (1) the difference between the percentage of basic pay contributed by the PTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) of basic pay, of employees subject to subchapter III of chapter 83 of that title; and (2) the present value of the otherwise unfunded accruing costs, as determined by the Office of Personnel Management, of post-retirement life insurance and post-retirement health benefits coverage for all PTO employees, shall be transferred to the Civil Service Retirement and Disability Fund, the Employees Life Insurance Fund, and the Employees Health Benefits Fund, as appropriate, and shall be available for the authorized purposes of those accounts: *Provided further*, That sections 801, 802, and 803 of division B, Public Law 108–447 shall remain in effect during fiscal year 2008: *Provided further*, That the Director may reduce patent filing fees payable in 2008 for documents filed electronically consistent with Federal regulation.

35 USC 41 note.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, \$440,517,000, to remain available until expended, of which not to exceed \$6,580,000 may be transferred to the “Working Capital Fund”: *Provided*, That not to exceed \$5,000 shall be for official reception and representation expenses.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Hollings Manufacturing Extension Partnership of the National Institute of Standards and Technology, \$89,640,000, to remain available until expended.

In addition, for necessary expenses of the Technology Innovation Program of the National Institute of Standards and Technology, \$65,200,000, to remain available until expended: *Provided*, That

of the \$70,200,000 provided for in direct obligations under this heading, \$65,200,000 is appropriated from the general fund and \$5,000,000 is derived from recoveries of prior year obligations from the Advanced Technology Program.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation and maintenance of existing facilities including agency recreational and welfare facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, \$160,490,000, to remain available until expended, of which \$30,080,000 is for a competitive construction grant program for research science buildings: *Provided*, That the Secretary of Commerce shall include in the budget justification materials that the Secretary submits to Congress in support of the Department of Commerce budget (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) an estimate for each National Institute of Standards and Technology construction project having a total multi-year program cost of more than \$5,000,000 and simultaneously the budget justification materials shall include an estimate of the budgetary requirements for each such project for each of the five subsequent fiscal years: *Provided further*, That notwithstanding any other provision of law, of the amount made available for construction of research facilities, \$7,332,000 shall be for the University of Mississippi Medical Center Biotechnology Research Park; \$7,332,000 shall be for the Mississippi State University Research, Technology and Economic Development Park; \$1,598,000 shall be for the University of Southern Mississippi Innovation and Commercialization Park Infrastructure and Building Construction and Equipage; \$5,000,000 shall be for the Alabama State University Life Sciences Building; and \$30,000,000 shall be for laboratory and research space at the University of South Alabama Engineering and Science Center.

Budget estimate.
15 USC 1513b
note.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft and vessels; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities, \$2,856,277,000, to remain available until September 30, 2009, except for funds provided for cooperative enforcement, which shall remain available until September 30, 2010: *Provided*, That fees and donations received by the National Ocean Service for the management of national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*, That in addition, \$3,000,000 shall be derived by transfer from the fund entitled “Coastal Zone Management” and in addition \$77,000,000 shall be derived by transfer from the fund entitled “Promote and Develop Fishery Products and Research Pertaining

to American Fisheries”: *Provided further*, That of the \$2,941,277,000 provided for in direct obligations under this heading \$2,856,277,000 is appropriated from the general fund, \$80,000,000 is provided by transfer, and \$5,000,000 is derived from recoveries of prior year obligations: *Provided further*, That of the funds provided under this heading, \$235,000 is made available until expended subject to procedures set forth in section 209 of Public Law 108-447: *Provided further*, That the total amount available for the National Oceanic and Atmospheric Administration corporate services administrative support costs shall not exceed \$206,484,000: *Provided further*, That payments of funds made available under this heading to the Department of Commerce Working Capital Fund including Department of Commerce General Counsel legal services shall not exceed \$34,164,000: *Provided further*, That any deviation from the amounts designated for specific activities in the report accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act: *Provided further*, That grants to States pursuant to sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, shall not exceed \$2,000,000, unless funds provided for “Coastal Zone Management Grants” exceed funds provided in the previous fiscal year: *Provided further*, That if funds provided for “Coastal Zone Management Grants” exceed funds provided in the previous fiscal year, then no State shall receive more than 5 percent or less than 1 percent of the additional funds: *Provided further*, That the Administrator of the National Oceanic and Atmospheric Administration may engage in formal and informal education activities, including primary and secondary education, related to the agency’s mission goals: *Provided further*, That in accordance with section 215 of Public Law 107-372 the number of officers in the NOAA Commissioned Officer Corps shall increase to 321: *Provided further*, That of the funds provided, \$13,395,000 is provided for the alleviation of economic impacts associated with Framework 42 on the Massachusetts groundfish fishery.

Grants.

Government
organization.

In addition, for necessary retired pay expenses under the Retired Serviceman’s Family Protection and Survivor Benefits Plan, and for payments for the medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), such sums as may be necessary.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration, \$979,207,000, to remain available until September 30, 2010, except funds provided for construction of facilities which shall remain available until expended: *Provided*, That of the amounts provided for the National Polar-orbiting Operational Environmental Satellite System, funds shall only be made available on a dollar-for-dollar matching basis with funds provided for the same purpose by the Department of Defense: *Provided further*, That except to the extent expressly prohibited by any other law, the Department of Defense may delegate procurement functions related to the National Polar-orbiting Operational Environmental Satellite System to officials of the Department of Commerce pursuant to section 2311 of title 10, United States Code: *Provided further*, That any deviation from the amounts designated

for specific activities in the report accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act.

PACIFIC COASTAL SALMON RECOVERY

For necessary expenses associated with the restoration of Pacific salmon populations, \$67,000,000, to remain available until September 30, 2009.

COASTAL ZONE MANAGEMENT FUND

(INCLUDING TRANSFER OF FUNDS)

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed \$3,000,000 shall be transferred to the “Operations, Research, and Facilities” account to offset the costs of implementing such Act.

FISHERIES FINANCE PROGRAM ACCOUNT

Subject to section 502 of the Congressional Budget Act of 1974, during fiscal year 2008, obligations of direct loans may not exceed \$8,000,000 for Individual Fishing Quota loans and not to exceed \$59,000,000 for traditional direct loans as authorized by the Merchant Marine Act of 1936: *Provided*, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For expenses necessary for the departmental management of the Department of Commerce provided for by law, including not to exceed \$5,000 for official entertainment, \$44,294,000: *Provided*, That the Secretary, within 120 days of enactment of this Act, shall provide a report to the Committees on Appropriations that audits and evaluates all decision documents and expenditures by the Bureau of the Census as they relate to the 2010 Census: *Provided further*, That of the amounts provided to the Secretary within this account, \$10,000,000 shall not become available for obligation until the Secretary certifies to the Committees on Appropriations that the Bureau of the Census has followed, and met all best practices, and all Office of Management and Budget guidelines related to information technology projects.

Deadline.
Reports.

Certification.

HCHB RENOVATION AND MODERNIZATION

For expenses necessary for the renovation and modernization of the Herbert C. Hoover Building, \$3,722,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), \$22,020,000.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 103. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That the Secretary of Commerce shall notify the Committees on Appropriations at least 15 days in advance of the acquisition or disposal of any capital asset (including land, structures, and equipment) not specifically provided for in this Act or any other law appropriating funds for the Department of Commerce: *Provided further*, That for the National Oceanic and Atmospheric Administration this section shall provide for transfers among appropriations made only to the National Oceanic and Atmospheric Administration and such appropriations may not be transferred and reprogrammed to other Department of Commerce bureaus and appropriation accounts.

Notification.
Deadline.

SEC. 104. Any costs incurred by a department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title or from actions taken for the care and protection of loan collateral or grant property shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 105. (a) Section 101(k) of the Emergency Steel Loan Guarantee Act of 1999 (15 U.S.C. 1841 note) is amended by striking “2007” and inserting “2009”.

(b) Paragraphs (1) and (2) of section 101(b) of the Emergency Steel Loan Guarantee Act of 1999 (15 U.S.C. 1841 note) are each amended by striking “in 1998” and inserting “since 1998”.

(c) Subparagraph (C) of section 101(c)(3) of the Emergency Steel Loan Guarantee Act of 1999 (15 U.S.C. 1841 note) is amended by striking “, in 1998” and inserting “in 1998, and thereafter,”.

(d) The Emergency Steel Loan Guarantee Act of 1999 (15 U.S.C. 1841 note) is amended by adding at the end the following:

“SEC. 103. SALARIES AND ADMINISTRATIVE EXPENSES.

“(a) In addition to funds made available under section 101(j) of the Emergency Steel Loan Guarantee Act of 1999 (15 U.S.C. 1841 note), up to \$1,000,000 in funds made available under section 101(f) of such Act may be used for salaries and administrative expenses to administer the Emergency Steel Loan Guarantee Program.

“(b) Funds made available for salaries and administrative expenses to administer the Emergency Steel Loan Guarantee Program shall remain available until expended.”.

SEC. 106. Hereafter, notwithstanding any other provision of law, no funds appropriated under this Act shall be used to register, issue, transfer, or enforce any trademark of the phrase “Last Best Place”.

Trademark.

SEC. 107. Section 3315(b) of title 19, United States Code, is amended by inserting “, including food when sequestered,” following “for the establishment and operations of the United States Section and for the payment of the United States share of the expenses”.

SEC. 108. Notwithstanding the requirements of subsection 4703(d), the personnel management demonstration project established by the Department of Commerce pursuant to 5 U.S.C. 4703 may be expanded to involve more than 5,000 individuals, and is extended indefinitely.

SEC. 109. Section 212(b) of the National Technical Information Act of 1988 (15 U.S.C. 3704b) is amended by striking “Under Secretary of Commerce for Technology” and inserting “Director of the National Institute of Standards and Technology”.

SEC. 110. The Secretary of Commerce is permitted to prescribe and enforce standards or regulations affecting safety and health in the context of scientific and occupational diving within the National Oceanic and Atmospheric Administration.

Regulations.
33 USC note
prec. 851.

SEC. 111. (a) The Secretary of Commerce is authorized to provide compensation to fishery participants who will be displaced by the 2011 fishery closure resulting from the creation by Presidential proclamation of the Papahānaumokuākea Marine National Monument.

Compensation.
Hawaii.

(b) The Secretary shall promulgate regulations for the voluntary capacity reduction program that:

Regulations.

(1) identifies eligible participants as those individuals holding commercial Federal fishing permits for either lobster or bottomfish in the designated waters within the Papahānaumokuākea Marine National Monument;

(2) provides a mechanism to compensate eligible participants for no more than the economic value of their permits;

(3) at the option of each eligible permit holder, provides an optional mechanism for additional compensation based on the value of the fishing vessel and gear of such participants who so elect to receive these additional funds, provided that the commercial fishing vessels of such participants will not be used for fishing.

(c) There is authorized to be appropriated to the National Oceanic and Atmospheric Administration's National Marine Fisheries Service, \$6,697,500 for fiscal year 2008.

(d) Nothing in this section is intended to enlarge or diminish Federal or State title, jurisdiction, or authority with respect to the waters of the Northwestern Hawaiian Islands or the tidal or submerged lands under any provision of State or Federal law.

Reports.
Deadlines.
33 USC 878a.

SEC. 112. (a) For purposes of this section—

(1) the term “Under Secretary” means Under Secretary of Commerce for Oceans and Atmosphere;

(2) the term “appropriate congressional committees” means—

(A) the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Appropriations and the Committee on Science and Technology of the House of Representatives;

(3) the term “satellite” means the satellites proposed to be acquired for the National Oceanic and Atmospheric Administration, other than the National Polar-orbiting Operational Environmental Satellite System (NPOESS);

(4) the term “development” means the phase of a program following the formulation phase and beginning with the approval to proceed to implementation, as defined in NOAA Administrative Order 216-108, Department of Commerce Administrative Order 208-3, and NASA's Procedural Requirements 7120.5c, dated March 22, 2005;

(5) the term “development cost” means the total of all costs, including construction of facilities and civil servant costs, from the period beginning with the approval to proceed to implementation through the achievement of operational readiness, without regard to funding source or management control, for the life of the program;

(6) the term “life-cycle cost” means the total of the direct, indirect, recurring, and nonrecurring costs, including the construction of facilities and civil servant costs, and other related expenses incurred or estimated to be incurred in the design, development, verification, production, operation, maintenance, support, and retirement of a program over its planned lifespan, without regard to funding source or management control;

(7) the term “major program” means an activity approved to proceed to implementation that has an estimated life-cycle cost of more than \$250,000,000;

(8) the term “baseline” means the program as set following contract award and critical design review of the space and ground systems.

(b)(1) NOAA shall not enter into a contract for development of a major program, unless the Under Secretary determines that—

(A) the technical, cost, and schedule risks of the program are clearly identified and the program has developed a plan to manage those risks;

(B) the technologies required for the program have been demonstrated in a relevant laboratory or test environment;

(C) the program complies with all relevant policies, regulations, and directives of NOAA and the Department of Commerce;

(D) the program has demonstrated a high likelihood of accomplishing its intended goals; and

(E) the acquisition of satellites for use in the program represents a good value to accomplishing NOAA's mission.

(2) The Under Secretary shall transmit a report describing the basis for the determination required under paragraph (1) to the appropriate congressional committees at least 30 days before entering into a contract for development under a major program.

(3) The Under Secretary may not delegate the determination requirement under this subsection, except in cases in which the Under Secretary has a conflict of interest.

(c)(1) Annually, at the same time as the President's annual budget submission to the Congress, the Under Secretary shall transmit to the appropriate congressional committees a report that includes the information required by this section for the satellite development program for which NOAA proposes to expend funds in the subsequent fiscal year. The report under this paragraph shall be known as the Major Program Annual Report.

(2) The first Major Program Annual Report for NOAA's satellite development program shall include a Baseline Report that shall, at a minimum, include—

(A) the purposes of the program and key technical characteristics necessary to fulfill those purposes;

(B) an estimate of the life-cycle cost for the program, with a detailed breakout of the development cost, program reserves, and an estimate of the annual costs until development is completed;

(C) the schedule for development, including key program milestones;

(D) the plan for mitigating technical, cost, and schedule risks identified in accordance with subsection (b)(1)(A); and

(E) the name of the person responsible for making notifications under subsection (d), who shall be an individual whose primary responsibility is overseeing the program.

(3) For the major program for which a Baseline Report has been submitted, subsequent Major Program Annual Reports shall describe any changes to the information that had been provided in the Baseline Report, and the reasons for those changes.

(d)(1) The individual identified under subsection (c)(2)(E) shall immediately notify the Under Secretary any time that individual has reasonable cause to believe that, for the major program for which he or she is responsible, the development cost of the program has exceeded the estimate provided in the Baseline Report of the program by 20 percent or more.

Notification.

(2) Not later than 30 days after the notification required under paragraph (1), the individual identified under subsection (c)(2)(E) shall transmit to the Under Secretary a written notification explaining the reasons for the change in the cost of the program for which notification was provided under paragraph (1).

(3) Not later than 15 days after the Under Secretary receives a written notification under paragraph (2), the Under Secretary shall transmit the notification to the appropriate congressional committees.

(e) Not later than 30 days after receiving a written notification under subsection (d)(2), the Under Secretary shall determine whether the development cost of the program has exceeded the estimate provided in the Baseline Report of the program by 20 percent or more. If the determination is affirmative, the Under Secretary shall—

(1) transmit to the appropriate congressional committees, not later than 15 days after making the determination, a report that includes—

(A) a description of the increase in cost and a detailed explanation for the increase;

(B) a description of actions taken or proposed to be taken in response to the cost increase; and

(C) a description of any impacts the cost increase, or the actions described under subparagraph (B), will have on any other program within NOAA.

(2) if the Under Secretary intends to continue with the program, promptly initiate an analysis of the program, which shall include, at a minimum—

(A) the projected cost and schedule for completing the program if current requirements of the program are not modified;

(B) the projected cost and the schedule for completing the program after instituting the actions described under paragraph (1)(B); and

(C) a description of, and the projected cost and schedule for, a broad range of alternatives to the program. NOAA shall complete an analysis initiated under paragraph (2) not later than 6 months after the Under Secretary makes a determination under this subsection. The Under Secretary shall transmit the analysis to the appropriate congressional committees not later than 30 days after its completion.

(f) For the purposes of determining whether cost of the Geostationary Operational Environmental Satellite Program exceeds 20 percent more than the baseline under this section, the estimate of the total life-cycle cost for GOES-R shall be the estimate provided with the NOAA Fiscal Year 2008 Presidential Budget justification (page 513).

16 USC 1861
note.

SEC. 113. (a) The Secretary of Commerce may—

(1) develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organization, whether or not the United States is a party to the agreement establishing such organization; and

(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established in applicable international fishery management and trade agreements.

(b) Action taken by the Secretary under subsection (a)(2) that include measures to restrict use of or access to ports or port services shall apply to all ports of the United States and its territories.

(c) The Secretary may promulgate regulations to implement this section.

SEC. 114. (a) Of the amounts provided for the “National Oceanic and Atmospheric Administration, Operations, Research and Facilities”, \$5,856,600 shall be for necessary expenses in support of an agreement between the Administrator of the National Oceanic and Atmospheric Administration and the National Academy of Sciences under which the National Academy of Sciences shall establish the Climate Change Study Committee to investigate and study the serious and sweeping issues relating to global climate change and make recommendations regarding what steps must be taken and what strategies must be adopted in response to global climate change, including the science and technology challenges thereof.

(b) The agreement shall provide for: establishment of and appointment of members to the Climate Change Study Committee by the National Academy of Sciences; organization by the National Academy of Sciences of a Summit on Global Climate Change to help define the parameters of the study, not to exceed 3 days in length and to be attended by preeminent experts on global climate change selected by the National Academy of Sciences; and issuance of a report by the Climate Change Study Committee not later than 2 years after the date the Climate Change Study Committee is first convened, containing its findings, conclusions, and recommendations. Of such amount, \$856,600 shall be for the Summit on Global Climate Change and \$5,000,000 shall be for the other activities of the Climate Change Study Committee.

This title may be cited as the “Department of Commerce Appropriations Act, 2008”.

Establishment.
Summit.
Reports.
Deadline.

TITLE II

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Department
of Justice
Appropriations
Act, 2008.

For expenses necessary for the administration of the Department of Justice, \$97,832,000, of which not to exceed \$3,317,000 is for security and construction of Department of Justice facilities, to remain available until expended: *Provided*, That the Attorney General is authorized to transfer funds appropriated within General Administration to any office in this account: *Provided further*, That no appropriations for any office within General Administration shall be increased or decreased by more than 5 percent by all such transfers: *Provided further*, That \$12,221,000 is for Department Leadership; \$7,383,000 is for Intergovernmental Relations/External Affairs; \$11,402,000 is for Executive Support/Professional Responsibility; and \$66,826,000 is for the Justice Management Division: *Provided further*, That any change in funding greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations consistent with the terms of section 505 of this Act: *Provided further*, That this transfer authority is in addition to transfers authorized under section 505 of this Act.

JUSTICE INFORMATION SHARING TECHNOLOGY

For necessary expenses for information sharing technology, including planning, development, deployment and departmental direction, \$85,540,000, to remain available until expended, of which

not less than \$19,740,000 is for the unified financial management system.

TACTICAL LAW ENFORCEMENT WIRELESS COMMUNICATIONS

For the costs of developing and implementing a nation-wide Integrated Wireless Network supporting Federal law enforcement, and for the costs of operations and maintenance of existing Land Mobile Radio legacy systems, \$74,260,000, to remain available until September 30, 2009: *Provided*, That the Attorney General shall transfer to this account all funds made available to the Department of Justice for the purchase of portable and mobile radios: *Provided further*, That any transfer made under the preceding proviso shall be subject to section 505 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, \$232,649,000, of which \$4,000,000 shall be derived by transfer from the Executive Office for Immigration Review fees deposited in the “Immigration Examinations Fee” account: *Provided*, That \$3,760,000 shall be expended on the Executive Office for Immigration Review’s Legal Orientation Programs.

For an additional amount for “Administrative Review and Appeals”, \$8,000,000 shall be for border security and immigration enforcement along the Southwest border: *Provided*, That the amount provided by this paragraph is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

DETENTION TRUSTEE

For necessary expenses of the Federal Detention Trustee, \$1,225,920,000, to remain available until expended: *Provided*, That the Trustee shall be responsible for managing the Justice Prisoner and Alien Transportation System: *Provided further*, That not to exceed \$5,000,000 shall be considered “funds appropriated for State and local law enforcement assistance” pursuant to 18 U.S.C. 4013(b).

OFFICE OF INSPECTOR GENERAL

Deadline.
Audit.
Reports.

For necessary expenses of the Office of Inspector General, \$70,603,000, including not to exceed \$10,000 to meet unforeseen emergencies of a confidential character: *Provided*, That within 200 days of enactment of this Act, the Inspector General shall conduct an audit and issue a report to the Committees on Appropriations of all expenses of the legislative and public affairs offices at each location of the Justice Department, its bureaus and agencies, including but not limited to every field office and headquarters component; the audit shall include any and all expenses related to these activities.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized, \$11,462,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed \$20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia, \$735,549,000, of which not to exceed \$10,000,000 for litigation support contracts shall remain available until expended: *Provided*, That of the total amount appropriated, not to exceed \$1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further*, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for litigation activities of the Civil Division, the Attorney General may transfer such amounts to “Salaries and Expenses, General Legal Activities” from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

For an additional amount for “Legal Activities, General Legal Activities”, \$10,000,000 shall be for border security and immigration enforcement along the Southwest border: *Provided*, That the amount provided by this paragraph is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed \$6,833,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, \$147,819,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection (and estimated to be \$139,000,000 in fiscal year 2008), shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year 2008, so as to result in a final fiscal year 2008 appropriation from the general fund estimated at \$8,819,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including inter-governmental and cooperative agreements, \$1,747,822,000: *Provided*, That of the total amount appropriated, not to exceed \$8,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed \$20,000,000 shall remain available until expended: *Provided further*, That of the amount provided under this heading, \$5,000,000 shall be used for salaries and expenses for hiring assistant U.S. Attorneys to carry out section 704 of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248) concerning the prosecution of offenses relating to the sexual exploitation of children.

For an additional amount for “Salaries and Expenses, United States Attorneys”, \$7,000,000 shall be for border security and immigration enforcement along the Southwest border: *Provided*, That the amount provided by this paragraph is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized, \$209,763,000, of which \$20,000,000 shall be from prior year unobligated balances from funds previously appropriated, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That, notwithstanding any other provision of law, \$184,000,000 of offsetting collections pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and shall remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 2008, so as to result in a final fiscal year 2008 appropriation from the Fund estimated at \$763,000.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by section 3109 of title 5, United States Code, \$1,606,000.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Marshals Service, \$849,219,000; of which not to exceed \$6,000 shall be available for official reception and representation expenses; of which not to exceed \$4,000,000 shall be for information technology systems and shall remain available until expended; and of which not less than \$11,653,000 shall be available for the costs of courthouse security equipment, including furnishings, relocations, and telephone systems and cabling, and shall remain available until expended.

For an additional amount for “United States Marshals Service, Salaries and Expenses”, \$15,000,000 shall be for border security

and immigration enforcement along the Southwest border: *Provided*, That the amount provided by this paragraph is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

CONSTRUCTION

For construction in space controlled, occupied or utilized by the United States Marshals Service for prisoner holding and related support, \$2,304,000, to remain available until expended.

FEES AND EXPENSES OF WITNESSES

For fees and expenses of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, including advances, and for expenses of foreign counsel, \$168,300,000, to remain available until expended: *Provided*, That, not to exceed \$10,000,000 may be made available for construction of buildings for protected witness safesites: *Provided further*, That not to exceed \$3,000,000 may be made available for the purchase and maintenance of armored and other vehicles for witness security caravans: *Provided further*, That not to exceed \$9,000,000 may be made available for the purchase, installation, maintenance, and upgrade of secure telecommunications equipment and a secure automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, \$9,794,000: *Provided*, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict resolution and violence prevention activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(B), (F), and (G), \$20,990,000, to be derived from the Department of Justice Assets Forfeiture Fund.

NATIONAL SECURITY DIVISION

SALARIES AND EXPENSES

For expenses necessary to carry out the activities of the National Security Division, \$73,373,000; of which not to exceed \$5,000,000 for information technology systems shall remain available until expended: *Provided*, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for the activities

of the National Security Division, the Attorney General may transfer such amounts to this heading from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the identification, investigation, and prosecution of individuals associated with the most significant drug trafficking and affiliated money laundering organizations not otherwise provided for, to include inter-governmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, \$497,935,000, of which \$50,000,000 shall remain available until expended: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; \$6,349,950,000; of which not to exceed \$150,000,000 shall remain available until expended; and of which \$2,308,580,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to national security: *Provided*, That not to exceed \$205,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed \$170,000 shall be available in 2008 for expenses associated with the celebration of the 100th anniversary of the Federal Bureau of Investigation.

For an additional amount for “Federal Bureau of Investigation, Salaries and Expenses”, \$143,539,000 to address emerging threats in counterterrorism and cyber security: *Provided*, That the amount provided by this paragraph is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; \$164,200,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed \$70,000 to meet unforeseen emergencies of a confidential character pursuant to 28 U.S.C. 530C; and expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs, \$1,855,569,000; of which not to exceed \$75,000,000 shall remain available until expended; and of which not to exceed \$100,000 shall be available for official reception and representation expenses.

For an additional amount for “Drug Enforcement Administration, Salaries and Expenses”, \$2,000,000 for a communications intercept initiative in Afghanistan: *Provided*, That the amount provided by this paragraph is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco, Firearms and Explosives, including the purchase of not to exceed 822 vehicles for police-type use, of which 650 shall be for replacement only; not to exceed \$40,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; and for provision of laboratory assistance to State and local law enforcement agencies, with or without reimbursement, \$984,097,000, of which not to exceed \$1,000,000 shall be available for the payment of attorneys’ fees as provided by section 924(d)(2) of title 18, United States Code; and of which \$10,000,000 shall remain available until expended: *Provided*, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of Justice, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further*, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of “Curios or relics” in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: *Provided further*, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under section 925(c) of title 18, United States Code: *Provided further*, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco, Firearms and Explosives to other agencies or Departments in fiscal year 2008: *Provided further*, That, beginning in fiscal year 2008

18 USC 923 note.

and thereafter, no funds appropriated under this or any other Act may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), except to: (1) a Federal, State, local, tribal, or foreign law enforcement agency, or a Federal, State, or local prosecutor, solely in connection with and for use in a criminal investigation or prosecution; or (2) a Federal agency for a national security or intelligence purpose; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court or in an administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of chapter 44 of such title, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent: (A) the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(1)(10) of such title); (B) the sharing or exchange of such information among and between Federal, State, local, or foreign law enforcement agencies, Federal, State, or local prosecutors, and Federal national security, intelligence, or counterterrorism officials; or (C) the publication of annual statistical reports on products regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives, including total production, importation, and exportation by each licensed importer (as so defined) and licensed manufacturer (as so defined), or statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations: *Provided further*, That no funds made available by this or any other Act shall be expended to promulgate or implement any rule requiring a physical inventory of any business licensed under section 923 of title 18, United States Code: *Provided further*, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code: *Provided further*, That no funds authorized or made available under this or any other Act may be used to deny any application for a license under section 923 of title 18, United States Code, or renewal of such a license due to a lack of business activity, provided that the applicant is otherwise eligible to receive such a license, and is eligible to report business income or to claim an income tax deduction for business expenses under the Internal Revenue Code of 1986.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design or projects; \$23,500,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Federal Prison System for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 669, of which 642 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments, \$5,050,440,000: *Provided*, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System, where necessary, may enter into contracts with a fiscal agent or fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the Federal Prison System, furnish health services to individuals committed to the custody of the Federal Prison System: *Provided further*, That not to exceed \$6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed \$50,000,000 shall remain available for necessary operations until September 30, 2009: *Provided further*, That, of the amounts provided for contract confinement, not to exceed \$20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note), for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That the Director of the Federal Prison System may accept donated property and services relating to the operation of the prison card program from a not-for-profit entity which has operated such program in the past notwithstanding the fact that such not-for-profit entity furnishes services under contracts to the Federal Prison System relating to the operation of pre-release services, halfway houses, or other custodial facilities.

42 USC 250a.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, \$372,720,000, to remain available until expended, of which not to exceed \$14,000,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and

to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON
INDUSTRIES, INCORPORATED

Not to exceed \$2,328,000 of the funds of the Federal Prison Industries, Incorporated shall be available for its administrative expenses, and for services as authorized by section 3109 of title 5, United States Code, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which such accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION
PROGRAMS

For grants, contracts, cooperative agreements, and other assistance for the prevention and prosecution of violence against women, as authorized by the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) (“the 1968 Act”); the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (“the 1994 Act”); the Victims of Child Abuse Act of 1990 (Public Law 101–647) (“the 1990 Act”); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108–21); the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) (“the 1974 Act”); the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) (“the 2000 Act”); and the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) (“the 2005 Act”); \$400,000,000, including amounts for administrative costs, to remain available until expended: *Provided*, That except as otherwise provided by law, not to exceed 3 percent of funds made available under this heading may be used for expenses related to evaluation, training, and technical assistance: *Provided further*, That of the amount provided—

(1) \$13,160,000 for the court-appointed special advocate program, as authorized by section 217 of the 1990 Act;

(2) \$2,350,000 for child abuse training programs for judicial personnel and practitioners, as authorized by section 222 of the 1990 Act;

(3) \$183,800,000 for grants to combat violence against women, as authorized by part T of the 1968 Act, of which—

(A) \$17,390,000 shall be for transitional housing assistance grants for victims of domestic violence, stalking or

sexual assault as authorized by section 40299 of the 1994 Act; and

(B) \$1,880,000 shall be for the National Institute of Justice for research and evaluation of violence against women and related issues addressed by grant programs of the Office on Violence Against Women;

(4) \$59,220,000 for grants to encourage arrest policies as authorized by part U of the 1968 Act;

(5) \$9,400,000 for sexual assault victims assistance, as authorized by section 202 of the 2005 Act;

(6) \$40,420,000 for rural domestic violence and child abuse enforcement assistance grants, as authorized by section 40295 of the 1994 Act;

(7) \$3,290,000 for training programs as authorized by section 40152 of the 1994 Act, and for related local demonstration projects;

(8) \$2,820,000 for grants to improve the stalking and domestic violence databases, as authorized by section 40602 of the 1994 Act;

(9) \$9,400,000 for grants to reduce violent crimes against women on campus, as authorized by section 304 of the 2005 Act;

(10) \$36,660,000 for legal assistance for victims, as authorized by section 1201 of the 2000 Act;

(11) \$4,230,000 for enhancing protection for older and disabled women from domestic violence and sexual assault, as authorized by section 40802 of the 1994 Act;

(12) \$13,630,000 for the safe havens for children program, as authorized by section 1301 of the 2000 Act;

(13) \$6,580,000 for education and training to end violence against and abuse of women with disabilities, as authorized by section 1402 of the 2000 Act;

(14) \$2,820,000 for an engaging men and youth in prevention program, as authorized by the 2005 Act;

(15) \$940,000 for analysis and research on violence against Indian women, as authorized by section 904 of the 2005 Act;

(16) \$940,000 for tracking of violence against Indian women, as authorized by section 905 of the 2005 Act;

(17) \$2,820,000 for services to advocate and respond to youth, as authorized by section 401 of the 2005 Act;

(18) \$2,820,000 for grants to assist children and youth exposed to violence, as authorized by section 303 of the 2005 Act;

(19) \$2,820,000 for the court training and improvements program, as authorized by section 105 of the 2005 Act;

(20) \$940,000 for grants for televised testimony, as authorized by part N of the 1968 Act; and

(21) \$940,000 for the National Resource Center on Workplace Responses to assist victims of domestic violence, as authorized by section 41501 of the 1994 Act.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968; the Missing Children's Assistance Act (42

U.S.C. 5771 et seq.); the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108-21); the Justice for All Act of 2004 (Public Law 108-405); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162); the Victims of Crime Act of 1984 (Public Law 98-473); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248); subtitle D of title II of the Homeland Security Act of 2002 (Public Law 107-296), which may include research and development; and other programs (including Statewide Automated Victims Notification Program); including salaries and expenses in connection therewith, \$196,184,000, to remain available until expended: *Provided*, That grants under subparagraphs (1)(A) and (B) of Public Law 98-473 are issued pursuant to rules or guidelines that generally establish a publicly-announced, competitive process: *Provided further*, That not to exceed \$127,915,000 shall be expended in total for Office of Justice Programs management and administration.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) (“the 1994 Act”); the Omnibus Crime Control and Safe Streets Act of 1968 (“the 1968 Act”); the Justice for All Act of 2004 (Public Law 108-405); the Victims of Child Abuse Act of 1990 (Public Law 101-647) (“the 1990 Act”); the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109-164); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162); the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248); and the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386); and other programs; \$908,136,000 (including amounts for administrative costs, which shall be transferred to and merged with the “Justice Assistance” account), to remain available until expended as follows:

(1) \$170,433,000 for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of the 1968 Act, (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), of which \$2,000,000 is for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement and \$2,000,000 is for a program to improve State and local law enforcement intelligence capabilities including antiterrorism training and training to ensure that constitutional rights, civil liberties, civil rights, and privacy interests are protected throughout the intelligence process;

(2) \$410,000,000 for the State Criminal Alien Assistance Program, as authorized by section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5));

(3) \$30,080,000 for the Southwest Border Prosecutor Initiative to reimburse State, county, parish, tribal, or municipal governments for costs associated with the prosecution of criminal cases declined by local offices of the United States Attorneys;

(4) \$2,820,000 for the Northern Border Prosecutor Initiative to reimburse State, county, parish, tribal, or municipal governments for costs associated with the prosecution of criminal cases declined by local offices of the United States Attorneys;

(5) \$187,513,000 for discretionary grants to improve the functioning of the criminal justice system and to assist victims of crime (other than compensation);

(6) \$16,000,000 for competitive grants to improve the functioning of the criminal justice system and to assist victims of crime (other than compensation);

(7) \$940,000 for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(c) of the 1994 Act;

(8) \$9,400,000 for victim services programs for victims of trafficking, as authorized by section 107(b)(2) of Public Law 106-386 and for programs authorized under Public Law 109-164;

(9) \$15,200,000 for Drug Courts, as authorized by section 1001(25)(A) of title I of the 1968 Act;

(10) \$7,050,000 for a prescription drug monitoring program;

(11) \$17,860,000 for prison rape prevention and prosecution and other programs, as authorized by the Prison Rape Elimination Act of 2003 (Public Law 108-79) including statistics, data, and research, of which \$1,692,000 shall be transferred to the National Prison Rape Elimination Commission for authorized activities;

(12) \$9,400,000 for grants for Residential Substance Abuse Treatment for State Prisoners, as authorized by part S of the 1968 Act;

(13) \$22,440,000 for assistance to Indian tribes, of which—

(A) \$8,630,000 shall be available for grants under section 20109 of subtitle A of title II of the 1994 Act;

(B) \$8,630,000 shall be available for the Tribal Courts Initiative; and

(C) \$5,180,000 shall be available for tribal alcohol and substance abuse reduction assistance grants;

(14) \$2,500,000 for the Capital Litigation Improvement Grant Program as authorized by section 426 of Public Law 108-405; and

(15) \$6,500,000 for mental health courts and adult and juvenile collaboration program grants, as authorized by parts V and HH of title I of the 1968 Act:

Provided, That, if a unit of local government uses any of the funds made available under this heading to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

For an additional amount for “State and Local Law Enforcement Assistance”, \$100,000,000 for security and related costs, including overtime, associated with the two principal 2008 Presidential Candidate Nominating Conventions, to be divided equally between the conventions: *Provided, That the amount provided by this paragraph is designated as described in section 5 (in the matter preceding division A of this consolidated Act).*

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Office of Weed and Seed Strategies, to implement “Weed and Seed” program activities, \$32,100,000, to remain available until expended, as authorized by section 103 of the Omnibus Crime Control and Safe Streets Act of 1968.

COMMUNITY ORIENTED POLICING SERVICES

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322); the Omnibus Crime Control and Safe Streets Act of 1968 (“the 1968 Act”); the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162); subtitle D of title II of the Homeland Security Act of 2002 (Public Law 107-296), which may include research and development; and the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177) (including administrative costs), \$587,233,000, to remain available until expended: *Provided*, That of the funds under this heading, not to exceed \$2,575,000 shall be available for the Office of Justice Programs for reimbursable services associated with programs administered by the Community Oriented Policing Services Office: *Provided further*, That any balances made available through prior year deobligations shall only be available in accordance with section 505 of this Act. Of the amount provided (which shall be by transfer, for programs administered by the Office of Justice Programs)—

(1) \$25,850,000 is for the matching grant program for armor vests for law enforcement officers, as authorized by section 2501 of the 1968 Act: *Provided*, That \$1,880,000 is transferred directly to the National Institute of Standards and Technology’s Office of Law Enforcement Standards from the Community Oriented Policing Services Office for research, testing, and evaluation programs;

(2) \$61,187,000 is for grants to entities described in section 1701 of the 1968 Act, to address public safety and methamphetamine manufacturing, sale, and use in hot spots as authorized by section 754 of Public Law 109-177 and for other anti-methamphetamine-related activities;

(3) \$205,366,000 is for a law enforcement technologies and interoperable communications program, and related law enforcement and public safety equipment;

(4) \$11,750,000 is for an offender re-entry program;

(5) \$9,400,000 is for grants to upgrade criminal records, as authorized under the Crime Identification Technology Act of 1998 (42 U.S.C. 14601);

(6) \$152,272,000 is for DNA related and forensic programs and activities as follows:

(A) \$147,391,000 for a DNA analysis and capacity enhancement program including the purposes of section 2 of the DNA Analysis Backlog Elimination Act of 2000, as amended by the Debbie Smith Act of 2004, and further amended by Public Law 109-162;

(B) \$4,881,000 for the purposes described in the Kirk Bloodsworth Post-Conviction DNA Testing Program (Public Law 108-405, section 412): *Provided*, That unobligated funds appropriated in fiscal years 2006 and 2007 for grants as authorized under sections 412 and 413 of the foregoing

public law are hereby made available, instead, for the purposes here specified;

(7) \$15,040,000 is for improving tribal law enforcement, including equipment and training;

(8) \$20,000,000 is for programs to reduce gun crime and gang violence;

(9) \$3,760,000 is for training and technical assistance;

(10) \$18,800,000 is for Paul Coverdell Forensic Sciences Improvement Grants under part BB of title I of the 1968 Act;

(11) not to exceed \$28,200,000 is for program management and administration;

(12) \$20,000,000 is for grants under section 1701 of title I of the 1968 Act (42 U.S.C. 3796dd) for the hiring and rehiring of additional career law enforcement officers under part Q of such title notwithstanding subsection (i) of such section; and

(13) \$15,608,000 is for a national grant program the purpose of which is to assist State and local law enforcement to locate, arrest and prosecute child sexual predators and exploiters, and to enforce State offender registration laws described in section 1701(b) of the 1968 Act, of which:

(A) \$4,162,000 is for sex offender management assistance as authorized by the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-162), and the Violent Crime Control Act of 1994 (Public Law 103-322); and

(B) \$850,000 is for the National Sex Offender Public Registry.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974 (“the 1974 Act”), the Omnibus Crime Control and Safe Streets Act of 1968 (“the 1968 Act”), the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162), and other juvenile justice programs, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, \$383,513,000, to remain available until expended as follows:

(1) \$658,000 for concentration of Federal efforts, as authorized by section 204 of the 1974 Act;

(2) \$74,260,000 for programs authorized by section 221 of the 1974 Act, and for training and technical assistance to assist small, non-profit organizations with the Federal grants process;

(3) \$93,835,000 for grants and projects, as authorized by sections 261 and 262 of the 1974 Act;

(4) \$70,000,000 for youth mentoring grants;

(5) \$61,100,000 for delinquency prevention, as authorized by section 505 of the 1974 Act, of which, pursuant to sections 261 and 262 thereof—

(A) \$14,100,000 shall be for the Tribal Youth Program;

(B) \$18,800,000 shall be for a gang resistance education and training program; and

(C) \$25,000,000 shall be for grants of \$360,000 to each State and \$4,840,000 shall be available for discretionary

grants, for programs and activities to enforce State laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors, for prevention and reduction of consumption of alcoholic beverages by minors, and for technical assistance and training;

(6) \$15,040,000 for expenses authorized by part AA of the 1968 Act (Secure Our Schools);

(7) \$16,920,000 for programs authorized by the Victims of Child Abuse Act of 1990; and

(8) \$51,700,000 for the Juvenile Accountability Block Grants program as authorized by part R of the 1968 Act and Guam shall be considered a State:

Provided, That not more than 10 percent of each amount may be used for research, evaluation, and statistics activities designed to benefit the programs or activities authorized: *Provided further*, That not more than 2 percent of each amount may be used for training and technical assistance: *Provided further*, That the previous two provisos shall not apply to grants and projects authorized by sections 261 and 262 of the 1974 Act.

PUBLIC SAFETY OFFICERS BENEFITS

For payments and expenses authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), such sums as are necessary, as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340) (including amounts for administrative costs, which amounts shall be paid to the "Justice Assistance" account), to remain available until expended; and \$4,854,000 for payments authorized by section 1201(b) of such Act; and \$3,980,000 for educational assistance, as authorized by section 1212 of such Act: *Provided*, That, hereafter, funds available to conduct appeals under section 1205(c) of the 1968 Act, which includes all claims processing, shall be available also for the same under subpart 2 of such part L and under any statute authorizing payment of benefits described under subpart 1 thereof, and for appeals from final decisions of the Bureau (under such part or any such statute) to the Court of Appeals for the Federal Circuit, which shall have exclusive jurisdiction thereof (including those, and any related matters, pending), and for expenses of representation of hearing examiners (who shall be presumed irrebuttably to enjoy quasi-judicial immunity in the discharge of their duties under such part or any such statute) in connection with litigation against them arising from such discharge.

42 USC 3796c-2.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed \$50,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses.

Abortion.

SEC. 202. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided*, That should this prohibition be

declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 203. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 204. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 203 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section: *Provided further*, That none of the funds appropriated to “Buildings and Facilities, Federal Prison System” in this or any other Act may be transferred to “Salaries and Expenses, Federal Prison System”, or any other Department of Justice account, unless the President certifies that such a transfer is necessary to the national security interests of the United States, and such authority shall not be delegated, and shall be subject to section 505 of this Act.

SEC. 206. The Attorney General is authorized to extend through September 30, 2009, the Personnel Management Demonstration Project transferred to the Attorney General pursuant to section 1115 of the Homeland Security Act of 2002, Public Law 107-296 (6 U.S.C. 533) without limitation on the number of employees or the positions covered.

5 USC 3104 note.

SEC. 207. Notwithstanding any other provision of law, Public Law 102-395 section 102(b) shall extend to the Bureau of Alcohol, Tobacco, Firearms and Explosives in the conduct of undercover investigative operations and shall apply without fiscal year limitation with respect to any undercover investigative operation initiated by the Bureau of Alcohol, Tobacco, Firearms and Explosives that is necessary for the detection and prosecution of crimes against the United States.

Applicability.
28 USC 533 note.

SEC. 208. None of the funds made available to the Department of Justice in this Act may be used for the purpose of transporting an individual who is a prisoner pursuant to conviction for crime under State or Federal law and is classified as a maximum or high security prisoner, other than to a prison or other facility certified by the Federal Bureau of Prisons as appropriately secure for housing such a prisoner.

SEC. 209. (a) None of the funds appropriated by this Act may be used by Federal prisons to purchase cable television services, to rent or purchase videocassettes, videocassette recorders, or other audiovisual or electronic equipment used primarily for recreational purposes.

(b) The preceding sentence does not preclude the renting, maintenance, or purchase of audiovisual or electronic equipment for inmate training, religious, or educational programs.

Certification.

SEC. 210. None of the funds made available under this title shall be obligated or expended for Sentinel, or for any other major new or enhanced information technology program having total estimated development costs in excess of \$100,000,000, unless the Deputy Attorney General and the investment review board certify to the Committees on Appropriations that the information technology program has appropriate program management and contractor oversight mechanisms in place, and that the program is compatible with the enterprise architecture of the Department of Justice.

SEC. 211. Any deviation from the amounts designated for specific activities in this Act and accompanying report, or any use of deobligated balances of funds provided under this title in previous years, shall be subject to the procedures set forth in section 505 of this Act.

SEC. 212. (a) Section 589a of title 28, United States Code, is amended in subsection (b) by—

(1) striking “and” in paragraph (8);

(2) striking the period in paragraph (9) and inserting “; and”; and

(3) adding the following new paragraph:

“(10) fines imposed under section 110(l) of title 11, United States Code.”.

(b) Section 110(l)(4)(A) of title 11, United States Code, is amended to read as follows:

“(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustees, who shall deposit an amount equal to such fines in the United States Trustee Fund.”.

SEC. 213. (a) Section 1930(a) of title 28, United States Code, is amended in paragraph (6) by striking everything after “whichever occurs first.” and inserting in lieu thereof: “The fee shall be \$325 for each quarter in which disbursements total less than \$15,000; \$650 for each quarter in which disbursements total \$15,000 or more but less than \$75,000; \$975 for each quarter in which disbursements total \$75,000 or more but less than \$150,000; \$1,625 for each quarter in which disbursements total \$150,000 or more but less than \$225,000; \$1,950 for each quarter in which disbursements total \$225,000 or more but less than \$300,000; \$4,875 for each quarter in which disbursements total \$300,000 or more but less than \$1,000,000; \$6,500 for each quarter in which disbursements total \$1,000,000 or more but less than \$2,000,000; \$9,750 for each quarter in which disbursements total \$2,000,000 or more but less than \$3,000,000; \$10,400 for each quarter in which disbursements total \$3,000,000 or more but less than \$5,000,000; \$13,000 for each quarter in which disbursements total \$5,000,000 or more but less than \$15,000,000; \$20,000 for each quarter in which disbursements total \$15,000,000 or more but less than \$30,000,000; \$30,000 for each quarter in which disbursements total more than \$30,000,000. The fee shall be payable on the last day of the calendar month following the calendar quarter for which the fee is owed.”.

(b) This section and the amendment made by this section shall take effect January 1, 2008, or the date of the enactment of this Act, whichever is later.

SEC. 214. None of the funds appropriated by this Act may be used to plan for, begin, continue, finish, process, or approve a public-private competition under the Office of Management and

Effective date.
28 USC 1930
note.

Budget Circular A-76 or any successor administrative regulation, directive, or policy for work performed by employees of the Bureau of Prisons or of Federal Prison Industries, Incorporated.

SEC. 215. Notwithstanding any other provision of law, no funds shall be available for the salary, benefits, or expenses of any United States Attorney assigned dual or additional responsibilities by the Attorney General or his designee that exempt that United States Attorney from the residency requirements of 28 U.S.C. 545.

SEC. 216. Of the funds appropriated in this Act for the Federal Bureau of Investigation's Sentinel program, \$25,000,000 shall not be available for obligation until 60 days after the Committees on Appropriations receive from the Federal Bureau of Investigation a report on the results of a completed integrated baseline review for that program: *Provided*, That the report shall be submitted simultaneously to the Government Accountability Office: *Provided further*, That the Government Accountability Office shall review the Bureau's performance measurement baseline for the Sentinel program and shall submit its findings to the Committees on Appropriations of the Senate and House of Representatives within 60 days of its receipt of the report.

Reports.
Deadlines.

SEC. 217. None of the funds appropriated in this or any other Act shall be obligated for the initiation of a future phase of the Federal Bureau of Investigation's Sentinel program until the Attorney General certifies to the Committees on Appropriations that existing phases currently under contract for development or fielding have completed a majority of the work for that phase under the performance measurement baseline validated by the integrated baseline review referred to in section 216 of this Act: *Provided*, That this restriction does not apply to planning and design activities for future phases: *Provided further*, That the Bureau will notify the Committees on Appropriations of any significant changes to the baseline.

Certification.

Notification.

SEC. 218. (a) The Attorney General shall submit quarterly reports to the Inspector General of the Department of Justice regarding the costs and contracting procedures relating to each conference held by the Department of Justice during fiscal year 2008 for which the cost to the Government was more than \$20,000.

Reports.

(b) Each report submitted under subsection (a) shall include, for each conference described in that subsection held during the applicable quarter—

- (1) a description of the subject of and number of participants attending that conference;
- (2) a detailed statement of the costs to the Government relating to that conference, including—
 - (A) the cost of any food or beverages;
 - (B) the cost of any audio-visual services; and
 - (C) a discussion of the methodology used to determine which costs relate to that conference; and
- (3) a description of the contracting procedures relating to that conference, including—
 - (A) whether contracts were awarded on a competitive basis for that conference; and
 - (B) a discussion of any cost comparison conducted by the Department of Justice in evaluating potential contractors for that conference.

SEC. 219. Notwithstanding any other provision of law, a public or private institution of higher education may offer or provide

an officer or employee of any branch of the United States Government or of the District of Columbia, who is a current or former student of such institution, financial assistance for the purpose of repaying a student loan or forbearance of student loan repayment, and an officer or employee of any branch of the United States Government or of the District of Columbia may seek or receive such assistance or forbearance.

SEC. 220. (a) Section 2996(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797cc(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting “, territories, and Indian tribes (as defined in section 2704)” after “to assist States”; and

(B) in subparagraph (B), by striking “and local” and inserting “, territorial, Tribal, and local”;

(2) in paragraph (2), by inserting “, territories, and Indian tribes” after “make grants to States”; and

(3) in paragraph (3)(C), by inserting “, Tribal,” after “support State”.

(b) Section 755(a) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (42 U.S.C. 3797cc–2(a)) is amended by inserting “, territories, and Indian tribes (as defined in section 2704 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797d))” after “make grants to States”.

(c) Section 756 of the USA PATRIOT Improvement and Reauthorization Act of 2005 (42 U.S.C. 3797cc–3) is amended—

(1) in subsection (a)(2), by inserting “, territorial, or Tribal” after “State”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting “, territorial, or Tribal” after “State”; and

(ii) by striking “and/or” and inserting “or”;

(B) in paragraph (2)—

(i) by inserting “, territory, Indian tribe,” after “agency of the State”; and

(ii) by inserting “, territory, Indian tribe,” after “criminal laws of that State”; and

(C) by adding at the end the following:

“(C) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 2704 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797d).”; and

(3) in subsection (c)—

(A) in paragraph (3), by striking “Indian Tribes” and inserting “Indian tribes”; and

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A)—

(I) by striking “State’s”; and

(II) by striking “and/or” and inserting “or”;

(ii) in subparagraph (A), by striking “State”;

(iii) in subparagraph (C), by inserting “, Indian tribes,” after “involved counties”; and

(iv) in subparagraph (D), by inserting “, Tribal” after “Federal, State”.

This title may be cited as the “Department of Justice Appropriations Act, 2008”.

TITLE III

SCIENCE

Science
Appropriations
Act, 2008.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601–6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed \$2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, \$5,184,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE, AERONAUTICS AND EXPLORATION

For necessary expenses in the conduct and support of science, aeronautics and exploration research and development activities, including research, development, operations, support and services; maintenance; construction of facilities including repair, rehabilitation, revitalization and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control and communications activities including operations, production, and services; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; not to exceed \$35,000 for official reception and representation expenses; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, \$10,543,100,000, to remain available until September 30, 2009: *Provided*, That, of the amounts provided under this heading, \$5,577,310,000 shall be for science, \$625,280,000 shall be for aeronautics research, \$3,842,010,000 shall be for exploration systems, and \$556,400,000 shall be for cross-agency support programs: *Provided further*, That the amounts in the previous proviso shall be reduced by \$57,900,000 in corporate and general administrative expenses and the reduction shall be applied proportionally to each amount therein: *Provided further*, That none of the funds under this heading shall be used for any research, development, or demonstration activities related exclusively to the human exploration of Mars.

Mars.

EXPLORATION CAPABILITIES

For necessary expenses in the conduct and support of exploration capabilities research and development activities, including research, development, operations, support and services; space flight, spacecraft control and communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, revitalization and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; program

management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; not to exceed \$35,000 for official reception and representation expenses; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, \$6,733,700,000, to remain available until September 30, 2009: *Provided*, That of the amounts provided under this heading, \$4,000,000,000 shall be for Space Shuttle operations, production, research, development, and support and \$2,220,000,000 shall be for International Space Station operations, production, research, development, and support: *Provided further*, That amounts funded under this heading shall be reduced by \$32,000,000 in corporate and general administrative expenses and the reduction shall be applied proportionally to each amount therein.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, \$32,600,000, to remain available until September 30, 2009.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding the limitation on the duration of availability of funds appropriated for “Science, Aeronautics and Exploration” or “Exploration Capabilities” under this title, when any activity has been initiated by the incurrence of obligations for construction of facilities or environmental compliance and restoration activities as authorized by law, such amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated for institutional minor revitalization and minor construction of facilities, and institutional facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for “Science, Aeronautics and Exploration” or “Exploration Capabilities” by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 2010.

Funds for announced prizes otherwise authorized shall remain available, without fiscal year limitation, until the prize is claimed or the offer is withdrawn. Funding shall not be made available for Centennial Challenges unless authorized.

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the National Aeronautics and Space Administration in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers. Any transfer pursuant to this provision shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

Notwithstanding any other provision of law, no funds shall be used to implement any Reduction in Force or other involuntary separations (except for cause) by the National Aeronautics and Space Administration prior to September 30, 2008.

The Administrator of the National Aeronautics and Space Administration shall prepare a strategy for minimizing job losses when the National Aeronautics and Space Administration transitions from the Space Shuttle to a successor human-rated space transport vehicle. This strategy shall include: (1) specific initiatives that the National Aeronautics and Space Administration has undertaken, or plans to undertake, to maximize the utilization of existing civil service and contractor workforces at each of the affected Centers; (2) efforts to equitably distribute tasks and workload between the Centers to mitigate the brunt of job losses being borne by only certain Centers; (3) new workload, tasks, initiatives, and missions being secured for the affected Centers; and (4) overall projections of future civil service and contractor workforce levels at the affected Centers. The Administrator shall transmit this strategy to Congress not later than 90 days after the date of enactment of this Act. The Administrator shall update and transmit to Congress this strategy not less than every six months thereafter until the successor human-rated space transport vehicle is fully operational.

Strategy.
42 USC 16762
note.

Deadlines.

For fiscal year 2009 and hereafter, the National Aeronautics and Space Administration shall provide, at a minimum, the following information in its annual budget justification:

42 USC 16611b.

(1) The actual, current, proposed funding level, and estimated budgets for the next five fiscal years by directorate, theme, program, project and activity within each appropriations account.

(2) The proposed programmatic and non-programmatic construction of facilities.

(3) The budget for headquarters including—

(A) the budget by office, and any division thereof, for the actual, current, proposed funding level, and estimated budgets for the next five fiscal years;

(B) the travel budget for each office, and any division thereof, for the actual, current, and proposed funding level; and

(C) the civil service full time equivalent assignments per headquarters office, and any division thereof, including the number of Senior Executive Service, noncareer, detailee, and contract personnel per office.

(4) Within 14 days of the submission of the budget to the Congress an accompanying volume shall be provided to the Committees on Appropriations containing the following information for each center, facility managed by any center, and federally funded research and development center operated on behalf of the National Aeronautics and Space Administration:

Deadline.

(A) The actual, current, proposed funding level, and estimated budgets for the next five fiscal years by directorate, theme, program, project, and activity.

(B) The proposed programmatic and non-programmatic construction of facilities.

(C) The number of civil service full time equivalent positions per center for each identified fiscal year.

(D) The number of civil service full time equivalent positions considered to be uncovered capacity at each location for each identified fiscal year.

(5) The proposed budget as designated by object class for each directorate, theme, and program.

(6) Sufficient narrative shall be provided to explain the request for each program, project, and activity, and an explanation for any deviation to previously adopted baselines for all justification materials provided to the Committees.

Reports.
Deadline.

The Administrator of the National Aeronautics and Space Administration shall submit quarterly reports to the Inspector General of the National Aeronautics and Space Administration regarding the costs and contracting procedures relating to each conference or meeting, held by the National Aeronautics and Space Administration during fiscal year 2008 for which the cost to the Government was more than \$20,000.

Each report submitted shall include, for each conference described in that subsection held during the applicable quarter—

(1) a description of the number of and purpose of participants attending that conference or meeting;

(2) a detailed statement of the costs to the Government relating to that conference or meeting, including—

(A) the cost of any food or beverages;

(B) the cost of any audio-visual services;

(C) the cost of all related travel; and

(D) a discussion of the methodology used to determine which costs relate to that conference or meeting; and

(3) a description of the contracting procedures relating to that conference or meeting, including—

(A) whether contracts were awarded on a competitive basis; and

(B) a discussion of any cost comparison conducted by the National Aeronautics and Space Administration in evaluating potential contractors for any conference or meeting.

Reports.
Deadline.

The Administrator of NASA shall, not later than September 30, 2008, submit to the appropriate committees of Congress a report on each conference for which the agency paid travel expenses during fiscal year 2008 that includes—

(1) the itemized expenses paid by the agency, including travel expenses and any agency expenditure to otherwise support the conference;

(2) the primary sponsor of the conference;

(3) the location of the conference;

(4) in the case of a conference for which the agency was the primary sponsor, a statement that—

(A) justifies the location selected;

(B) demonstrates the cost efficiency of the location;

(C) the date of the conference;

(D) a brief explanation how the conference advanced the mission of the agency; and

(E) the total number of individuals who travel or attendance at the conference was paid for in part or full by the agency.

In this provision, the term conference means a meeting that—

(1) is held for consultation, education, awareness, or discussion;

(2) includes participants who are not all employees of the same agency;

(3) is not held entirely at an agency facility;

(4) involves costs associated with travel and lodging for some participants; and

(5) is sponsored by 1 or more agencies, 1 or more organizations that are not agencies, or a combination of such agencies or organizations.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; and authorized travel; \$4,821,474,000, to remain available until September 30, 2009, of which not to exceed \$510,000,000 shall remain available until expended for polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program: *Provided*, That from funds specified in the fiscal year 2008 budget request for icebreaking services, up to \$57,000,000 shall be available for the procurement of polar icebreaking services: *Provided further*, That the National Science Foundation shall only reimburse the Coast Guard for such sums as are agreed to according to the existing memorandum of agreement: *Provided further*, That \$2,240,000 shall be transferred to the “Office of Science and Technology Policy” for costs associated with the Science and Technology Policy Institute/RaDiUS: *Provided further*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation.

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

For necessary expenses for the acquisition, construction, commissioning, and upgrading of major research equipment, facilities, and other such capital assets pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including authorized travel, \$220,740,000, to remain available until expended.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109, authorized travel, and rental of conference rooms in the District of Columbia, \$725,600,000, to remain available until September 30, 2009.

AGENCY OPERATIONS AND AWARD MANAGEMENT

For agency operations and award management necessary in carrying out the National Science Foundation Act of 1950, as

amended (42 U.S.C. 1861-1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed \$9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; \$281,790,000: *Provided*, That contracts may be entered into under this heading in fiscal year 2008 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF THE NATIONAL SCIENCE BOARD

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, and the employment of experts and consultants under section 3109 of title 5, United States Code) involved in carrying out section 4 of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1863) and Public Law 86-209 (42 U.S.C. 1880 et seq.), \$3,969,000: *Provided*, That not to exceed \$9,000 shall be available for official reception and representation expenses.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, \$11,427,000, to remain available until September 30, 2009.

This title may be cited as the “Science Appropriations Act, 2008”.

TITLE IV

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, \$8,460,000: *Provided*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the chairperson, who is permitted 125 billable days.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized

by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; and not to exceed \$29,140,000 for payments to State and local enforcement agencies for authorized services to the Commission, \$329,300,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed \$2,500 from available funds: *Provided further*, That the Commission may take no action to implement any workforce repositioning, restructuring, or reorganization until such time as the House and Senate Committees on Appropriations have been notified of such proposals, in accordance with the reprogramming requirements of section 505 of this Act.

Notification.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed \$2,500 for official reception and representation expenses, \$68,400,000, to remain available until expended.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, \$350,490,000, of which \$332,390,000 is for basic field programs and required independent audits; \$3,000,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; \$12,500,000 is for management and administration; \$2,100,000 is for client self-help and information technology; and \$500,000 is for loan repayment assistance: *Provided*, That the Legal Services Corporation may continue to provide locality pay to officers and employees at a rate no greater than that provided by the Federal Government to Washington, DC-based employees as authorized by 5 U.S.C. 5304, notwithstanding section 1005(d) of the Legal Services Corporation Act, 42 U.S.C. 2996(d).

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of, sections 501, 502, 503, 504, 505, and 506 of Public Law 105–119, and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such sections, except that all references in sections 502 and 503 to 1997 and 1998 shall be deemed to refer instead to 2007 and 2008, respectively.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, \$2,820,000.

NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses of the National Veterans Business Development Corporation established under section 33 of the Small Business Act (15 U.S.C. 657c), \$1,410,000, to remain available until expended.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

Negotiations.

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, \$44,120,000, of which \$1,000,000 shall remain available until expended: *Provided*, That not to exceed \$124,000 shall be available for official reception and representation expenses: *Provided further*, That negotiations shall be conducted within the World Trade Organization to recognize the right of members to distribute monies collected from antidumping and countervailing duties: *Provided further*, That negotiations shall be conducted within the World Trade Organization consistent with the negotiating objectives contained in the Trade Act of 2002, Public Law 107-210.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1992 (Public Law 102-572), \$3,760,000: *Provided*, That not to exceed \$2,500 shall be available for official reception and representation expenses.

TITLE V

GENERAL PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 501. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 504. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 505. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes or renames offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds.

Notifications.
Deadlines.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings, including savings from a reduction in personnel, which would result in a change in existing programs, activities, or projects as approved by Congress; unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds.

SEC. 506. Hereafter, none of the funds made available in this Act or any other Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

33 USC 891e-1.

SEC. 507. Hereafter, none of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

Religious
harassment.

SEC. 508. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 509. The Departments of Commerce and Justice, the National Science Foundation, and the National Aeronautics and Space Administration, shall provide to the House and Senate

Deadline.
Reports.

Committees on Appropriations a quarterly accounting of the cumulative balances of any unobligated funds that were received by such agency during any previous fiscal year.

SEC. 510. Any costs incurred by a department or agency funded under this Act resulting from, or to prevent, personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

Tobacco and
tobacco products.

SEC. 511. None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

SEC. 512. None of the funds appropriated pursuant to this Act or any other provision of law may be used for—

(1) the implementation of any tax or fee in connection with the implementation of subsection 922(t) of title 18, United States Code; and

(2) any system to implement subsection 922(t) of title 18, United States Code, that does not require and result in the destruction of any identifying information submitted by or on behalf of any person who has been determined not to be prohibited from possessing or receiving a firearm no more than 24 hours after the system advises a Federal firearms licensee that possession or receipt of a firearm by the prospective transferee would not violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law.

42 USC 10601
note.

SEC. 513. Notwithstanding any other provision of law, amounts deposited or available in the Fund established under 42 U.S.C. 10601 in any fiscal year in excess of \$590,000,000 shall not be available for obligation until the following fiscal year.

Discrimination.

SEC. 514. None of the funds made available to the Department of Justice in this Act may be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.

SEC. 515. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

President.
International
agreements.

SEC. 516. With the consent of the President, the Secretary of Commerce shall represent the United States Government in negotiating and monitoring international agreements regarding fisheries, marine mammals, or sea turtles: *Provided*, That the Secretary of Commerce shall be responsible for the development and interdepartmental coordination of the policies of the United States with respect to the international negotiations and agreements referred to in this section.

SEC. 517. Any funds provided in this Act used to implement E-Government Initiatives shall be subject to the procedures set forth in section 505 of this Act.

SEC. 518. (a) Tracing studies conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives are released without adequate disclaimers regarding the limitations of the data.

(b) The Bureau of Alcohol, Tobacco, Firearms and Explosives shall include in all such data releases, language similar to the following that would make clear that trace data cannot be used to draw broad conclusions about firearms-related crime:

Firearm traces.

(1) Firearm traces are designed to assist law enforcement authorities in conducting investigations by tracking the sale and possession of specific firearms. Law enforcement agencies may request firearm traces for any reason, and those reasons are not necessarily reported to the Federal Government. Not all firearms used in crime are traced and not all firearms traced are used in crime.

(2) Firearms selected for tracing are not chosen for purposes of determining which types, makes, or models of firearms are used for illicit purposes. The firearms selected do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe. Firearms are normally traced to the first retail seller, and sources reported for firearms traced do not necessarily represent the sources or methods by which firearms in general are acquired for use in crime.

SEC. 519. (a) The Inspectors General of the Department of Commerce, the Department of Justice, the National Aeronautics and Space Administration, and the National Science Foundation shall conduct audits, pursuant to the Inspector General Act (5 U.S.C. App.), of grants or contracts for which funds are appropriated by this Act, and shall submit reports to Congress on the progress of such audits, which may include preliminary findings and a description of areas of particular interest, within 180 days after initiating such an audit and every 180 days thereafter until any such audit is completed.

Audits.
Reports.
Deadlines.

(b) Within 60 days after the date on which an audit described in subsection (a) by an Inspector General is completed, the Secretary, Attorney General, Administrator, or Director, as appropriate, shall make the results of the audit available to the public on the Internet website maintained by the Department, Administration, or Foundation, respectively. The results shall be made available in redacted form to exclude—

Public
information.
Website.

(1) any matter described in section 552(b) of title 5, United States Code; and

(2) sensitive personal information for any individual, the public access to which could be used to commit identity theft or for other inappropriate or unlawful purposes.

(c) A grant or contract funded by amounts appropriated by this Act may not be used for the purpose of defraying the costs of a banquet or conference that is not directly and programmatically related to the purpose for which the grant or contract was awarded, such as a banquet or conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract.

(d) Any person awarded a grant or contract funded by amounts appropriated by this Act shall submit a statement to the Secretary

Certification.

of Commerce, the Attorney General, the Administrator, or the Director, as appropriate, certifying that no funds derived from the grant or contract will be made available through a subcontract or in any other manner to another person who has a financial interest in the person awarded the grant or contract.

Effective date.

(e) The provisions of the preceding subsections of this section shall take effect 30 days after the date on which the Director of the Office of Management and Budget, in consultation with the Director of the Office of Government Ethics, determines that a uniform set of rules and requirements, substantially similar to the requirements in such subsections, consistently apply under the executive branch ethics program to all Federal departments, agencies, and entities.

SEC. 520. None of the funds appropriated or otherwise made available under this Act may be used to issue patents on claims directed to or encompassing a human organism.

Torture.

SEC. 521. None of the funds made available in this Act shall be used in any way whatsoever to support or justify the use of torture by any official or contract employee of the United States Government.

Exports.
Canada.

SEC. 522. (a) Notwithstanding any other provision of law or treaty, none of the funds appropriated or otherwise made available under this Act or any other Act may be expended or obligated by a department, agency, or instrumentality of the United States to pay administrative expenses or to compensate an officer or employee of the United States in connection with requiring an export license for the export to Canada of components, parts, accessories or attachments for firearms listed in Category I, section 121.1 of title 22, Code of Federal Regulations (International Trafficking in Arms Regulations (ITAR), part 121, as it existed on April 1, 2005) with a total value not exceeding \$500 wholesale in any transaction, provided that the conditions of subsection (b) of this section are met by the exporting party for such articles.

(b) The foregoing exemption from obtaining an export license—

(1) does not exempt an exporter from filing any Shipper's Export Declaration or notification letter required by law, or from being otherwise eligible under the laws of the United States to possess, ship, transport, or export the articles enumerated in subsection (a); and

(2) does not permit the export without a license of—

(A) fully automatic firearms and components and parts for such firearms, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada;

(B) barrels, cylinders, receivers (frames) or complete breech mechanisms for any firearm listed in Category I, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada; or

(C) articles for export from Canada to another foreign destination.

(c) In accordance with this section, the District Directors of Customs and postmasters shall permit the permanent or temporary export without a license of any unclassified articles specified in subsection (a) to Canada for end use in Canada or return to the United States, or temporary import of Canadian-origin items from Canada for end use in the United States or return to Canada for a Canadian citizen.

(d) The President may require export licenses under this section on a temporary basis if the President determines, upon publication first in the Federal Register, that the Government of Canada has implemented or maintained inadequate import controls for the articles specified in subsection (a), such that a significant diversion of such articles has and continues to take place for use in international terrorism or in the escalation of a conflict in another nation. The President shall terminate the requirements of a license when reasons for the temporary requirements have ceased.

Federal Register,
publication.
President.

SEC. 523. Notwithstanding any other provision of law, no department, agency, or instrumentality of the United States receiving appropriated funds under this Act or any other Act shall obligate or expend in any way such funds to pay administrative expenses or the compensation of any officer or employee of the United States to deny any application submitted pursuant to 22 U.S.C. 2778(b)(1)(B) and qualified pursuant to 27 CFR section 478.112 or .113, for a permit to import United States origin “curios or relics” firearms, parts, or ammunition.

SEC. 524. None of the funds made available in this Act may be used to include in any new bilateral or multilateral trade agreement the text of—

(1) paragraph 2 of article 16.7 of the United States-Singapore Free Trade Agreement;

(2) paragraph 4 of article 17.9 of the United States-Australia Free Trade Agreement; or

(3) paragraph 4 of article 15.9 of the United States-Morocco Free Trade Agreement.

SEC. 525. (a)(1) The Administrator of the National Aeronautics and Space Administration shall modify the Administration’s financial management system and perform all appropriate testing and assurance activities necessary for the system to be capable of properly budgeting, accounting for, controlling, and reporting on appropriations made to the Administration for fiscal year 2009 and thereafter under the appropriation accounts set out for the Administration in H.R. 3093 of the 110th Congress, as passed by the House of Representatives.

Reports.
Certifications.
Deadlines.

(2) The Administrator shall transmit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate a written report, on a monthly basis until the certification under paragraph (3) is transmitted, on progress in complying with this subsection.

(3) Not later than April 1, 2008, the Administrator shall transmit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate a written certification that the Administration’s financial management system meets the requirements of this section.

(b) Beginning for the first full month after the date of enactment of this Act, the Administrator shall report in writing to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, on the 15th business day of each month, financial information on the execution of the Administration’s budget for the preceding month and for the fiscal year to date. Each report under this subsection shall provide information on the Administration’s budget, obligations incurred, and disbursements made, presented by—

Effective date.

(1) mission area (as reflected in the appropriation accounts set out for the Administration in H.R. 3093 of the 110th Congress, as passed by the House of Representatives);

(2) program or project;

(3) Center; and

(4) object class, as well as any other financial information requested by the Committee on Appropriations of the House of Representatives or the Committee on Appropriations of the Senate.

SEC. 526. None of the funds made available in this Act may be used to authorize or issue a national security letter in contravention of any of the following laws authorizing the Federal Bureau of Investigation to issue national security letters: The Right to Financial Privacy Act; The Electronic Communications Privacy Act; The Fair Credit Reporting Act; The National Security Act of 1947; USA PATRIOT Act; and the laws amended by these Acts.

SEC. 527. None of the funds appropriated or otherwise made available by this Act may be made available for a public-private competition conducted under Office of Management and Budget Circular A–76 or to convert a function performed by Federal employees to private sector performance without such a competition unless a representative designated by a majority of the employees engaged in the performance of the activity or function for which the public-private competition is conducted or which is to be converted without such a competition is treated as an interested party with respect to such competition or decision to convert to private sector performance for purposes of subchapter V of chapter 35 of title 31, United States Code.

SEC. 528. Section 605 of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 note) is amended—

(1) in the matter preceding paragraph (1) by striking “\$25,500,000 for fiscal year 2008” and inserting “\$30,000,000 for each of fiscal years 2008 through 2010”;

(2) in each of paragraphs (1), (2), (3), (4), and (6) by striking “2008” and inserting “2010”; and

(3) in paragraph (5) by striking “fiscal year 2008” and inserting “each of fiscal years 2008 through 2010”.

SEC. 529. Effective January 13, 2007, section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853a) is amended—

(1) by striking “association” in subsection (c)(4)(A)(iii) and inserting “association, among willing parties”;

(2) by striking paragraph (2) of subsection (i);

(3) by striking “(1) IN GENERAL.—” in subsection (i) and resetting paragraph (1) as a full measure paragraph following “(i) TRANSITION RULES.—”; and

(4) by redesignating subparagraphs (A), (B), and (C) of subsection (i)(1) (before its amendment by paragraph (3)) as paragraphs (1), (2), and (3), respectively and resetting them as indented paragraphs 2 ems from the left margin.

SEC. 530. If at any time during any quarter, the program manager of a project within the jurisdiction of the Departments of Commerce or Justice, the National Aeronautics and Space Administration, or the National Science Foundation totaling more than \$75,000,000 has reasonable cause to believe that the total program cost has increased by 10 percent, the program manager

Effective date.
16 USC 1853a
note.

Notification.

shall immediately inform the Secretary, Administrator, or Director. The Secretary, Administrator, or Director shall notify the House and Senate Committees on Appropriations within 30 days in writing of such increase, and shall include in such notice: the date on which such determination was made; a statement of the reasons for such increases; the action taken and proposed to be taken to control future cost growth of the project; changes made in the performance or schedule milestones and the degree to which such changes have contributed to the increase in total program costs or procurement costs; new estimates of the total project or procurement costs; and a statement validating that the project's management structure is adequate to control total project or procurement costs.

Deadline.

SEC. 531. Notwithstanding section 505 of this Act, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances.

SEC. 532. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence or intelligence related activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2008 until the enactment of the Intelligence Authorization Act for Fiscal Year 2008.

SEC. 533. (a) Subsection (a) of section 315 of the National Aeronautics and Space Administration Act of 1958 (42 U.S.C. 2459j) is amended—

(1) by striking “Notwithstanding any other provision of law, the Administrator” and inserting “The Administrator”; and

(2) by striking “any real property” and inserting “any non-excess real property and related personal property”; and

(3) by striking “at no more than two (2) National Aeronautics and Space Administration (NASA) centers”.

(b) Subsection (b) of such section is amended—

(1) in paragraph (1), by striking “consideration” and all that follows through the end of the paragraph and inserting “cash consideration for the lease at fair market value as determined by the Administrator.”;

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) in paragraph (2), as redesignated by paragraph (3) of this subsection—

(A) in subparagraph (B), by striking “maintenance” and all that follows through “centers selected for this demonstration program” and inserting “capital revitalization and construction projects and improvements of real property assets and related personal property under the jurisdiction of the Administrator”; and

(B) by adding at the end the following new subparagraph:

“(C) Amounts utilized under subparagraph (B) may not be utilized for daily operating costs.”.

(c) Subsection (e) of such section is amended—

(1) by striking “LEASE RESTRICTIONS.—NASA” and inserting the following: “LEASE RESTRICTIONS.—

“(1) NASA”; and

(2) by adding at the end the following new paragraph:

Certification.

“(2) NASA is not authorized to enter into an out-lease under this section unless the Administrator certifies that such out-lease will not have a negative impact on NASA’s mission.”.

(d) Such section is further amended by adding at the end the following new subsection (f):

“(f) SUNSET.—The authority to enter into leases under this section shall expire on the date that is ten years after the date of the enactment of the Commerce, Justice, Science, and Related Agencies Appropriations Act of 2008. The expiration under this subsection of authority to enter into leases under this section shall not affect the validity or term of leases or NASA’s retention of proceeds from leases entered into under this section before the date of the expiration of such authority.”.

(e) The heading of such section is amended by striking “Enhanced-use lease of real property demonstration” and inserting “Lease of non-excess property”.

Effective date.
42 USC 2459j
note.
5 USC app. 6
note.

(f) This section shall become effective on December 31, 2008.
SEC. 534. The Departments, agencies, and commissions funded under this Act, shall establish and maintain on the homepages of their Internet websites—

(1) a direct link to the Internet websites of their Offices of Inspectors General; and

(2) a mechanism on the Offices of Inspectors General website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to those Departments, agencies, and commissions.

Contracts.
Grants.
Certification.

SEC. 535. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than \$5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that, to the best of its knowledge and belief, the contractor or grantee has filed all Federal tax returns required during the three years preceding the certification, has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

ED 1.0 Act.
47 USC 902 note.

SEC. 536. This section may be cited as the “ED 1.0 Act”.

(a) In this section:

(1) The term “Administrator” means the Administrator of the National Telecommunications and Information Administration.

(2) The term “eligible educational institution” means an institution that is—

(A) a historically Black college or university;

(B) a Hispanic-serving institution as that term is defined in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5));

(C) a tribally controlled college or university as that term is defined in section 2(a)(4) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)(4));

(D) an Alaska Native-serving institution as that term is defined in section 317(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)(2)); or

(E) a Native Hawaiian-serving institution as that term is defined in section 317(b)(4) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)(4)).

(3) The term “historically Black college or university” means a part B institution as that term is defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

(b)(1)(A) There is established within the National Telecommunications and Information Administration a pilot program under which the Administrator shall award 9 grants to eligible educational institutions to enable the eligible educational institutions to develop digital and wireless networks for online educational programs of study within the eligible educational institutions. The Administrator shall award not less than 1 grant to each type of eligible educational institution, enumerated under subsection (a)(2). Grants.

(B)(i) The Administrator shall award a total of 9 grants under this subsection.

(ii) The Administrator shall make grant payments under this subsection in the amount of \$500,000.

(2)(A) In awarding grants under this subsection the Administrator shall give priority to an eligible educational institution that, according to the most recent data available (including data available from the Bureau of the Census), serves a county, or other appropriate political subdivision where no counties exist—

(i) in which 50 percent of the residents of the county, or other appropriate political subdivision where no counties exist, are members of a racial or ethnic minority;

(ii) in which less than 18 percent of the residents of the county, or other appropriate political subdivision where no counties exist, have obtained a baccalaureate degree or a higher education;

(iii) that has an unemployment rate of 7 percent or greater;

(iv) in which 20 percent or more of the residents of the county, or other appropriate political subdivision where no counties exist, live in poverty;

(v) that has a negative population growth rate; or

(vi) that has a family income of not more than \$32,000.

(B) In awarding grants under this subsection the Administrator shall give the highest priority to an eligible educational institution that meets the greatest number of requirements described in clauses (i) through (vi) of subparagraph (A).

(3) An eligible educational institution receiving a grant under this subsection may use the grant funds—

(A) to acquire equipment, instrumentation, networking capability, hardware, software, digital network technology, wireless technology, or wireless infrastructure;

(B) to develop and provide educational services, including faculty development; or

(C) to develop strategic plans for information technology investments.

(4) The Administrator shall not require an eligible educational institution to provide matching funds for a grant awarded under this subsection.

(5)(A) The Administrator shall consult with the Committee on Appropriations and the Committee on Commerce, Science, and

Reports.
Deadline.

Transportation of the Senate and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives, on a quarterly basis regarding the pilot program assisted under this subsection.

(B) Not later than 1 year after the date of enactment of this section, the Administrator shall submit to the committees described in subparagraph (A) a report evaluating the progress of the pilot program assisted under this subsection.

(c) There are authorized to be appropriated to carry out this section \$4,500,000 for each of fiscal years 2008 and 2009.

(d) The Administrator shall carry out this section only with amounts appropriated in advance specifically to carry out this section.

SEC. 537. None of the funds appropriated or otherwise made available in this Act may be used in a manner that is inconsistent with the principal negotiating objective of the United States with respect to trade remedy laws to preserve the ability of the United States—

(1) to enforce vigorously its trade laws, including anti-dumping, countervailing duty, and safeguard laws;

(2) to avoid agreements that—

(A) lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies; or

(B) lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(3) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

SEC. 538. None of the funds made available in this Act may be used to purchase first class or premium airline travel in contravention of sections 301-10.122 through 301-10.124 of title 41 of the Code of Federal Regulations.

SEC. 539. Section 2301 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (47 U.S.C. 901 note) is amended by striking “the ‘Improving Emergency Communications Act of 2007.’” and inserting “the ‘911 Modernization Act’.”

SEC. 540. Section 504(a)(11)(E) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134; 110 Stat. 1321-55) is amended by inserting before “an alien” the following: “a nonimmigrant worker admitted to, or permitted to remain in, the United States under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) for forestry labor or”.

SEC. 541. None of the funds made available in this Act may be used in contravention of section 402(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

SEC. 542. None of the funds in this Act may be used to employ workers described in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

SEC. 543. None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than

50 employees from a Federal department or agency at any single conference occurring outside the United States.

TITLE VI

RESCISSIONS

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSION)

Of the unobligated balances available under this heading from prior year appropriations, \$5,700,000 are rescinded.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

(RESCISSION)

Of the unobligated balances available under this heading from prior year appropriations, \$800,000 are rescinded.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the unobligated balances available under this heading from prior year appropriations, \$18,800,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

(RESCISSION)

Of the unobligated balances available in accounts under this heading from prior year appropriations, \$11,372,000 are rescinded.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

(RESCISSION)

Of the unobligated balances available under this heading, \$7,400,000 are rescinded.

JUSTICE INFORMATION SHARING TECHNOLOGY

(RESCISSION)

Of the unobligated balances available under this heading, \$5,000,000 are rescinded.

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading, \$41,000,000 are rescinded.

TELECOMMUNICATIONS CARRIER COMPLIANCE FUND

(RESCISSION)

Of the unobligated balances available under this heading, \$1,300,000 are rescinded.

DETENTION TRUSTEE

(RESCISSION)

Of the unobligated balances available under this heading, \$145,000,000 are rescinded.

LEGAL ACTIVITIES

ASSETS FORFEITURE FUND

(RESCISSION)

Of the unobligated balances available under this heading, \$240,000,000 are rescinded.

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION
PROGRAMS

(RESCISSION)

Of the unobligated balances available under this heading from prior year appropriations, \$14,700,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

(RESCISSION)

Of the unobligated balances available under this heading from prior year appropriations, \$87,500,000 are rescinded, not later than September 30, 2008.

COMMUNITY ORIENTED POLICING SERVICES

(RESCISSIONS)

Of the unobligated balances available under this heading from prior year appropriations, \$87,500,000 are rescinded, not later than September 30, 2008.

Of the unobligated funds previously appropriated from the Violent Crime Reduction Trust Fund under this heading, \$10,278,000 are rescinded.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

(RESCISSION)

Of the unobligated balances available to the National Aeronautics and Space Administration from prior year appropriations, \$192,475,000 are rescinded: *Provided*, That within 30 days after the date of the enactment of this section the Administrator shall submit to the Committees on Appropriations a report specifying the amount of each rescission made pursuant to this section.

Deadline.
Reports.

NATIONAL SCIENCE FOUNDATION

(RESCISSION)

Of the unobligated balances available to the National Science Foundation from prior year appropriations, \$33,000,000 are rescinded: *Provided*, That within 30 days after the date of the enactment of this section the Director shall submit to the Committees on Appropriations a report specifying the amount of each rescission made pursuant to this section.

Deadline.
Reports.

This Act may be cited as the “Commerce, Justice, Science, and Related Agencies Appropriations Act, 2008”.

DIVISION C—ENERGY AND WATER DEVELOPMENT AND
RELATED AGENCIES APPROPRIATIONS ACT, 2008

Energy
and Water
Development and
Related Agencies
Appropriations
Act, 2008.

TITLE I

CORPS OF ENGINEERS—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related purposes.

INVESTIGATIONS

(INCLUDING RESCISSION OF FUNDS)

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related projects; restudy of authorized projects, miscellaneous investigations; and, when authorized by law, surveys and detailed studies, and plans and specifications of projects prior to construction, \$167,261,000, to remain available until expended: *Provided*, That of the funds provided under this heading of Public Law 106–554, \$100,000 are rescinded: *Provided further*, That using \$2,952,000 of the funds provided herein, the Secretary of the Army acting through the Chief of Engineers shall continue the Louisiana Coastal Protection and Restoration study at full Federal expense: *Provided further*, That using \$1,968,000 of the funds provided

herein, the Secretary of the Army acting through the Chief of Engineers shall continue the Coastal Mississippi Hurricane and Storm Damage Reduction study at full Federal expense: *Provided further*, That funds in the amount of \$461,000 are provided to continue environmental studies for the Pine Mountain Dam, Arkansas, project: *Provided further*, That cost sharing of preconstruction engineering and design shall be as previously applied to this activity.

CONSTRUCTION

(INCLUDING RESCISSIONS OF FUNDS)

For expenses necessary for the construction of river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related projects authorized by law, including a portion of the expenses for the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989; for conducting detailed studies, and plans and specifications, of such projects (including those involving participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); \$2,294,029,000, to remain available until expended; of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction and rehabilitation of inland waterways projects (including the rehabilitation costs for Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; Lock 27, Mississippi River, Illinois; Markland Locks and Dam, Kentucky and Indiana; Emsworth Locks and Dam, Ohio River, Pennsylvania; and Lock and Dam 3, Mississippi River, Minnesota) shall be derived from the Inland Waterways Trust Fund; and of which \$7,380,000 shall be exclusively for projects and activities authorized under section 107 of the River and Harbor Act of 1960; and of which \$4,796,000 shall be exclusively for projects and activities authorized under section 111 of the River and Harbor Act of 1968; and of which \$4,428,000 shall be exclusively for projects and activities authorized under section 103 of the River and Harbor Act of 1962; and of which \$42,312,000 shall be exclusively for projects and activities authorized under section 205 of the Flood Control Act of 1948; and of which \$9,840,000 shall be exclusively for projects and activities authorized under section 14 of the Flood Control Act of 1946; and of which \$0 shall be exclusively for projects and activities authorized under section 208 of the Flood Control Act of 1954; and of which \$29,520,000 shall be exclusively for projects and activities authorized under section 1135 of the Water Resources Development Act of 1986; and of which \$29,520,000 shall be exclusively for projects and activities authorized under section 206 of the Water Resources Development Act of 1996; and of which \$5,292,000 shall be exclusively for projects and activities authorized under sections 204 and 207 of the Water Resources Development Act of 1992 and section 933 of the Water Resources Development

Act of 1986: *Provided*, That the Chief of Engineers is directed to use \$12,792,000 of the funds appropriated herein for the Dallas Floodway Extension, Texas, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: *Provided further*, That the Chief of Engineers is directed to use \$1,968,000 of the funds provided herein for the Hawaii Water Management Project: *Provided further*, That the Chief of Engineers is directed to use \$5,166,000 of the funds appropriated herein for planning, engineering, design or construction of the Grundy, Buchanan County, and Dickenson County, Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: *Provided further*, That the Chief of Engineers is directed to use \$18,204,000 of the funds appropriated herein to continue planning, engineering, design or construction of the Lower Mingo County, Upper Mingo County, Wayne County, McDowell County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$4,920,000 of the funds appropriated herein for the Clover Fork, City of Cumberland, Town of Martin, Pike County (including Levisa Fork and Tug Fork Tributaries), Bell County, Harlan County in accordance with the Draft Detailed Project Report dated January 2002, Floyd County, Martin County, Johnson County, and Knox County, Kentucky, detailed project report, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River: *Provided further*, That the Secretary of the Army is directed to use any remaining available funds from funds appropriated in Public Law 103-126 (107 Stat. 1315) for carrying out engineering and design for the relocation of the comfort and lifeguard stations on the Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York, project for construction of other features of the project: *Provided further*, That the Secretary of the Army is directed to use any remaining available funds from the funds appropriated in Public Law 107-66 (115 Stat. 488) for increasing the authorized level of protection for the Bois Brule Drainage and Levee District, Missouri, project, to continue design deficiency repairs on the project: *Provided further*, That the Chief of Engineers is directed to use \$2,952,000 of the funds provided herein to initiate planning and design of a rural health care facility on the Fort Berthold Reservation of the Three Affiliated Tribes, North Dakota: *Provided further*, That \$1,476,000 of the funds provided herein shall be available to continue detailed design including plans and specifications, execute a PCA and initiate construction of Phases I and II for the Greenbrier River Basin, Marlinton, West Virginia, project: *Provided further*, That the Secretary of the Army shall use up to \$5,904,000 including the prior unobligated balance of \$4,972,000 from the Devils Lake Outlet, North Dakota, project for the North Dakota environmental infrastructure project: *Provided further*, That the Secretary of the Army shall use the prior year unobligated balance of \$1,500,000 from the Waterbury Dam repairs project for the Lake Champlain Watershed project: *Provided further*, That of the funds provided under this heading the following amounts are rescinded: from Public Law 101-101, \$435,000; from Public Law 102-377, \$1,740,000; from Public Law 103-126, \$797,000; and from Public Law 105-245, \$1,716,000.

MISSISSIPPI RIVER AND TRIBUTARIES

For expenses necessary for the flood damage reduction program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, \$387,402,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund: *Provided*, That the Chief of Engineers is directed to use \$9,840,000 of the funds provided herein for design and real estate activities and pump supply elements for the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use \$9,840,000 appropriated herein for construction of water withdrawal features of the Grand Prairie, Arkansas, project.

OPERATION AND MAINTENANCE

For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law, for providing security for infrastructure owned and operated by, or on behalf of, the United States Army Corps of Engineers (the “Corps”), including administrative buildings and facilities, and laboratories, and the Washington Aqueduct; for the maintenance of harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, \$2,243,637,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for coastal harbors and channels, and inland harbors shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662 may be derived from that fund; of which such sums as become available from the special account for the Corps established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l-6a(i)), may be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104-303, shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which fees have been collected: *Provided*, That utilizing funds appropriated herein, for the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, the Chief of Engineers, is directed to reimburse the State of Delaware for normal operation and maintenance costs incurred by the State of Delaware for the SR1 Bridge from station 58 + 00 to station 293 + 00 between October 1, 2007, and September 30, 2008: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use up to \$350,000 of the funds appropriated herein to reimburse the City of Glen Cove, New York, for costs associated with the maintenance dredging of Glen Cove Creek incurred prior to enactment of this Act.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$180,000,000, to remain available until expended.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended.

EXPENSES

For expenses necessary for general administration and related civil works functions in the headquarters of the United States Army Corps of Engineers, the offices of the Division Engineers, the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the United States Army Engineer Research and Development Center, and the United States Army Corps of Engineers Finance Center, \$175,046,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the civil works activities of the Office of the Chief of Engineers or the civil works executive direction and management activities of the division offices.

OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

For the Office of the Assistant Secretary of the Army (Civil Works) as authorized by 10 U.S.C. 3016(b)(3), \$4,500,000 is provided.

ADMINISTRATIVE PROVISION

Appropriations in this title shall be available for official reception and representation expenses (not to exceed \$5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS—CIVIL

SEC. 101. (a) None of the funds provided in title I of this Act, or provided by previous appropriations Acts to the agencies or entities funded in title I of this Act that remain available for obligation or expenditure in fiscal year 2008, shall be available for obligation or expenditure through a reprogramming of funds that:

- (1) creates or initiates a new program, project, or activity;
- (2) eliminates a program, project, or activity;
- (3) increases funds or personnel for any program, project, or activity for which funds have been denied or restricted by this Act, unless prior approval is received from the House and Senate Committees on Appropriations;
- (4) proposes to use funds directed for a specific activity by either the House or the Senate Committees on Appropriations for a different purpose, unless prior approval is received from the House and Senate Committees on Appropriations;

(5) augments or reduces existing programs, projects or activities in excess of the amounts contained in subsections 6 through 10, unless prior approval is received from the House and Senate Committees on Appropriations;

(6) INVESTIGATIONS.—For a base level over \$100,000, reprogramming of 25 percent of the base amount up to a limit of \$150,000 per project, study or activity is allowed: *Provided*, That for a base level less than \$100,000, the reprogramming limit is \$25,000; *Provided further*, That up to \$25,000 may be reprogrammed into any continuing study or activity that did not receive an appropriation for existing obligations and concomitant administrative expenses;

(7) CONSTRUCTION.—For a base level over \$2,000,000, reprogramming of 15 percent of the base amount up to a limit of \$3,000,000 per project, study or activity is allowed: *Provided*, That for a base level less than \$2,000,000, the reprogramming limit is \$300,000: *Provided further*, That up to \$3,000,000 may be reprogrammed for settled contractor claims, changed conditions, or real estate deficiency judgments; *Provided further*, That up to \$300,000 may be reprogrammed into any continuing study or activity that did not receive an appropriation for existing obligations and concomitant administrative expenses;

(8) OPERATION AND MAINTENANCE.—Unlimited reprogramming authority is granted in order for the Corps to be able to respond to emergencies: *Provided*, That the Chief of Engineers must notify the House and Senate Committees on Appropriations of these emergency actions as soon thereafter as practicable: *Provided further*, That for a base level over \$1,000,000, reprogramming of 15 percent of the base amount up to a limit of \$5,000,000 per project, study or activity is allowed: *Provided further*, That for a base level less than \$1,000,000, the reprogramming limit is \$150,000: *Provided further*, That \$150,000 may be reprogrammed into any continuing study or activity that did not receive an appropriation;

(9) MISSISSIPPI RIVER AND TRIBUTARIES.—The same reprogramming guidelines for the Investigations, Construction, and Operation and Maintenance portions of the Mississippi River and Tributaries Account as listed above; and

(10) FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM.—Reprogramming of up to 15 percent of the base of the receiving project is permitted.

(b) CONTINUING AUTHORITIES PROGRAM.—Subsection (a)(1) shall not apply to any project or activity funded under the continuing authorities program.

(c) Not later than 60 days after the date of enactment of this Act, the Corps of the Engineers shall submit a report to the House and Senate Committees on Appropriations to establish the baseline for application of reprogramming and transfer authorities for the current fiscal year: *Provided*, That the report shall include:

(1) A table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(2) A delineation in the table for each appropriation both by object class and program, project and activity as detailed in the budget appendix for the respective appropriations; and

Notification.

Deadline.
Reports.

(3) An identification of items of special congressional interest: *Provided further*, That the amount appropriated for salaries and expenses of the Corps of Engineers shall be reduced by \$100,000 per day for each day after the required date that the report has not been submitted to the Congress.

SEC. 102. None of the funds made available in this title may be used to award any continuing contract or make modifications to any existing continuing contract that commits an amount for a project in excess of the amounts appropriated for that project that remain unobligated, except that such amounts may include any funds that have been made available through reprogramming to that project pursuant to section 101 of this Act.

SEC. 103. None of the funds in this Act, or previous Acts, making funds available for Energy and Water Development, shall be used to implement any pending or future competitive sourcing actions under OMB Circular A-76 or High Performing Organizations for the U.S. Army Corps of Engineers.

SEC. 104. None of the funds appropriated in this or any other Act shall be used to demonstrate or implement any plans divesting or transferring any Civil Works missions, functions, or responsibilities of the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 105. Within 90 days of the date of the Chief of Engineers Report on a water resource matter, the Assistant Secretary of the Army (Civil Works) shall submit the report to the appropriate authorizing and appropriating committees of the Congress.

Deadline.
Reports.

SEC. 106. WATER REALLOCATION, LAKE CUMBERLAND, KENTUCKY. (a) IN GENERAL.—Subject to subsection (b), none of the funds made available by this Act may be used to carry out any water reallocation project or component under the Wolf Creek Project, Lake Cumberland, Kentucky, authorized under the Act of June 28, 1938 (52 Stat. 1215, ch. 795) and the Act of July 24, 1946 (60 Stat. 636, ch. 595).

(b) EXISTING REALLOCATIONS.—Subsection (a) shall not apply to any water reallocation for Lake Cumberland, Kentucky, that is carried out subject to an agreement or payment schedule in effect on the date of enactment of this Act.

SEC. 107. Using amounts available in the Revolving Fund, the Secretary of the Army is authorized to construct a new Environmental Laboratory and improvements to the Information Technology Laboratory at the Engineer Research and Development Center in Vicksburg, Mississippi: *Provided*, That the Secretary shall ensure that the Revolving Fund is appropriately reimbursed from appropriations of the Corps' benefiting programs by collection each year of amounts sufficient to repay the capitalized cost of such construction and improvements.

SEC. 108. Notwithstanding section 729 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2267a), the Secretary shall credit toward the non-Federal share of the cost of the Rio Grande Basin Watershed Study, New Mexico, Colorado and Texas, the cost of in-kind services contributed by the New Mexico Interstate Stream Commission for the Study up to the full amount of the required non-Federal share, in accordance with the Agreement between the Commission and the Department of the Army dated December 3, 2001, as modified on January 14, 2002.

SEC. 109. Section 121 of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2256) is amended by striking subsection (a) and inserting the following:

“(a) The Secretary of the Army may carry out and fund planning studies, watershed surveys and assessments, or technical studies at 100 percent Federal expense to accomplish the purposes of the 2003 Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) as amended by subsection (b) and the collaborative program long-term plan. In carrying out a study, survey, or assessment under this subsection, the Secretary of the Army shall consult with Federal, State, tribal and local governmental entities, as well as entities participating in the Middle Rio Grande Endangered Species Collaborative Program referred to in section 205 of this Act: *Provided*, That the Secretary of the Army may also provide planning and administrative assistance to the Middle Rio Grande Endangered Species Collaborative Program, which shall not be subject to cost sharing requirements with non-Federal interests.”.

SEC. 110. The Secretary of the Army, acting through the Chief of Engineers, is directed to convey at no cost, lands to Tate County School District, Tate County, Mississippi, the transfer of any real property interests, not to exceed 50 acres, at Arkabutla Lake deemed available by the Army that is located adjacent to school district property in the vicinity of State Highway 306 west of Coldwater, Mississippi. Such transfer shall be subject to the reservation of any required flowage easements for the operation of Arkabutla Lake and which preclude structures for human habitation. This property shall be used by the Tate County School District for public educational purposes.

113 Stat. 381.

SEC. 111. Section 594 of the Water Resources Development Act of 1999 is amended by striking “SEC. 594. OHIO.” and inserting in lieu thereof “SEC. 594. OHIO AND NORTH DAKOTA.” and in (a) strike “Ohio.” and insert in lieu thereof “Ohio and North Dakota.” and in (b) strike “Ohio,” and insert in lieu thereof “Ohio and North Dakota,” and in (h) strike “\$240,000,000.” and insert in lieu thereof “\$240,000,000 for Ohio and \$100,000,000 for North Dakota.”.

SEC. 112. The Secretary of the Army, acting through the Chief of Engineers, is directed and authorized to conduct preconstruction engineering and design activities at full Federal expense for the Kahuku Storm Damage Reduction Project, Oahu, Hawaii, which includes interior drainage and related improvements to be constructed on lands that may include Federal land, the cost of the preconstruction, engineering, and design activities shall be included in total project costs to be cost shared at the rate of 65 percent Federal and 35 percent non-Federal, as a part of construction and the Decision Document contents shall be limited to a design analysis and supporting NEPA documentation for drainage improvements.

33 USC 426h.

SEC. 113. Section 227 of Public Law 104-303 is amended in section 5(a) by striking “7” and inserting “12” in lieu thereof.

10 USC 3036
note.

SEC. 114. All budget documents and justification materials for the Corps of Engineers annual budget submission to Congress shall be assembled and presented based on the most recent annual appropriations Act: *Provided*, That new budget proposals for fiscal year 2008 and thereafter, shall not be integrated into the budget

justifications submitted to Congress but shall be submitted separately from the budget justifications documents.

SEC. 115. The Secretary of the Army acting through the Chief of Engineers is directed to plan, design, and construct a rural health care facility on the Fort Berthold Indian Reservation of the Three Affiliated Tribes, North Dakota, at an estimated Federal cost of \$20,000,000. The Secretary shall transfer this facility to the Secretary of the Interior for operation and maintenance upon the completion of construction.

SEC. 116. The last sentence of section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d–5a(a)) is amended by striking “\$5,000,000” and inserting “\$7,000,000”.

SEC. 117. JOHNSON CREEK, ARLINGTON, TEXAS. (a) IN GENERAL.—The project for flood damage reduction, environmental restoration and recreation, Johnson Creek, Arlington, Texas, authorized by section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280–281) is modified to authorize the Secretary to construct the project substantially in accordance with the report entitled Johnson Creek: A Vision of Conservation, dated March 30, 2006, at a total cost of \$80,000,000, with an estimated Federal cost of \$52,000,000 and an estimated non-Federal cost of \$28,000,000 if the Secretary determines that the project is technically sound and environmentally acceptable.

(b) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The non-Federal share of the cost of the project may be provided in cash or in the form of in-kind services or materials.

(2) CREDIT AND REIMBURSEMENT.—The Secretary shall credit toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for implementation of the project, if the Secretary determines that the work is integral to the project. Subject to the availability of funds, the non-Federal interest shall be reimbursed for costs incurred by the non-Federal interest that exceed the non-Federal share of project costs.

(c) CONFORMING AMENDMENT.—Section 134 of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2264) and section 5143 of the Water Resources Development Act of 2007, (Public Law 110–114) are repealed.

SEC. 118. The Secretary is authorized and directed to reimburse local governments for expenses they have incurred in storm-proofing pumping stations, constructing safe houses for operators, and other interim flood control measures in and around the New Orleans metropolitan area, provided the Secretary determines those elements of work and related expenses to be integral to the overall plan to ensure operability of the stations during hurricanes, storms and high water events and the flood control plan for the area.

SEC. 119. Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102–580, 106 Stat. 4835 et seq.), as amended, is further amended by striking subsection “(71) Coronado, California”, in its entirety and inserting the following:

“(71) CORONADO, CALIFORNIA.

“(A) \$10,000,000 is authorized for wastewater infrastructure, Coronado, California.

“(B) The Federal Share may be in the form of grants or reimbursements of project costs incurred by the non-

Ante, p. 1254.

Federal sponsor for work performed by the non-Federal sponsor before or after the execution of a project cooperation agreement, if the Secretary determines that such work is integral to the project.

“(C) The Secretary is authorized to credit towards the non-Federal share of project costs the costs incurred by the non-Federal sponsor for work performed by the non-Federal sponsor before or after the execution of a project cooperation agreement, if the Secretary determines that such work is integral to the project.”

SEC. 120. NAVAJO RESERVATION, ARIZONA, NEW MEXICO, AND UTAH.—Section 520(b) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 345) is amended by inserting after the second sentence “The local match for the funds appropriated for flood plain delineation on the Navajo reservation in Arizona, New Mexico, and Utah may be provided as in-kind services.”

16 USC 460-3a.

SEC. 121. The Secretary of the Army may, under such terms and conditions as the Secretary deems appropriate, contract with any public or private entity to provide visitor reservation services. Any such contract in effect on or after October 1, 2004, may provide that the contractor shall be permitted to deduct a commission to be fixed by the Secretary from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency.

SEC. 122. The project for flood control, Redwood River, Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 and modified by section 4(k) of the Water Resources Development Act of 1988 is further modified to authorize the Secretary to construct the project at a total cost of \$11,863,000, with an estimated first Federal cost of \$8,722,000 and an estimated first non-Federal cost of \$3,141,000.

SEC. 123. The project for St. John's Bayou and New Madrid Floodway in the State of Missouri as authorized by subsection (d) of the matter under the heading “Lower Mississippi River” under section 203 of the Flood Control Act of 1954 (68 Stat. 1258) and section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), and as modified by section 331 of the Water Resources Development Act of 1996 (110 Stat. 3658) as described in the June 2002 Revised Supplemental Impact Statement, as supplemented by the March 2006 Revised Supplemental Environmental Impact Statement 2 for this project is economically justified: *Provided*, That the levee closure and gravity structure at the south end of the New Madrid Floodway portion of the Project are part of the Mississippi River Levee feature of the Mississippi River and Tributaries Project and are not a separable element of that Project.

SEC. 124. Funds provided in title V, chapter 3 of Public Law 110-28 under the heading “Construction” may be used for restoration of shore protection projects in New Jersey damaged by the same meteorological events that resulted in Presidential Disaster Declaration FEMA-1694-DR.

SEC. 125. The project for flood control, Cedar Hammock (Wares Creek), Florida, authorized by section 101(a)(10) of Public Law 104-303 (110 Stat. 3664), is modified to authorize the Secretary to construct the project at a total cost of \$42,600,000.

SEC. 126. Section 156 of Public Law 108–137 is amended by inserting “or reimburse” after “non-Federal share of the cost of the project” in paragraphs (2) and (3). 117 Stat. 1845.

SEC. 127. Notwithstanding any other provision of law, the requirements regarding the use of continuing contracts under the authority of section 206 of the Water Resources Development Act of 1999 (33 U.S.C. 2331) shall apply only to projects funded under the Operation and Maintenance account and the Operation and Maintenance subaccount of the Mississippi River and Tributaries account. Applicability.

SEC. 128. Section 3020 of the Water Resources Development Act of 2007, Public Law 110–114, is amended by inserting “or after” following the word “before”. Ante, p. 1110.

SEC. 129. Notwithstanding provisions of 42 U.S.C. 2011 et seq. and 42 U.S.C. 7901 et seq. the U.S. Army Corps of Engineers shall have the authority to arrange disposal of waste materials from the Maywood, New Jersey, Formerly Utilized Sites Remedial Action Program (FUSRAP) site at off-site facilities permitted to accept such waste materials under subtitle C of the Resource Conservation and Recovery Act (42 U.S.C. 6921 et seq.). FUSRAP waste materials from the Maywood site may be, but shall not be required to be, disposed at sites licensed under the Atomic Energy Act (42 U.S.C. 2011 et seq.).

SEC. 130. AMERICAN AND SACRAMENTO RIVERS, CALIFORNIA. Section 101(a)(1)(B) of the Water Resources Development Act of 1996 (Public Law 104–303: 110 Stat. 3662) is modified to read as follows:

“(B) CREDIT TOWARD NON-FEDERAL SHARE.—The non-Federal interest shall receive credit toward the non-Federal share of project costs for expenses that the non-Federal interest incurs for design or construction of any authorized project feature, including credit for work commenced before the date of execution of a cooperation agreement for the affected feature. The amount of the credit shall be determined by the Secretary.”

SEC. 131. WHITE RIVER NAVIGATION TO BATESVILLE, ARKANSAS. The project for navigation, White River Navigation to Batesville, Arkansas, as authorized in Public Law 99–662 is amended to extend the project from mile 255, near Newport, Arkansas, to approximately mile 296, near Batesville, Arkansas; to include a harbor at Batesville, Arkansas; and environmental restoration within the White River Basin including federally owned lands.

SEC. 132. LANDFILLS USED FOR CERTAIN WASTE. (a) IN GENERAL.—The funding prohibition set forth in section 103 of the Energy and Water Development Appropriations Act, 2006 shall not apply to the construction or expansion of any landfill in the Muskingum River watershed if—

(1) the landfill is used solely for the disposal of—

(A) wastes generated from the combustion or gasification of coal,

(B) wastes consisting of byproducts from pollution control technology installed to comply with the Clean Air Act, or

(C) both of such types of wastes.

(2) the landfill is owned by the waste generator or any affiliated person, and

(3) the facility at which the wastes are generated is located in the same watershed as the landfill.

(b) DEFINITIONS.—For purposes of this section:

(1) The term “affiliated person” means any person who, directly or indirectly, owns or controls the waste generator, is owned or controlled by the waste generator, or is under common ownership or control with the waste generator.

(2) The term “Muskingum River watershed” shall mean the area within the watershed of the Muskingum River, as delineated by the Secretary of the Army, acting through the Chief of Engineers.

Deadline.

SEC. 133. CONVEYANCE TO STORY COUNTY, IOWA. Not later than 180 days after the date of enactment of this Act, the Chief of the Army Corps of Engineers shall convey to Story County, Iowa, without consideration, all rights, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 197 acres originally proposed for the Skunk River Reservoir, located between Ames, Iowa, and Story City, Iowa.

Deadline.

SEC. 134. None of the funds provided herein may be used to implement any new water control manuals for the Apalachicola-Chattahoochee-Flint and Alabama-Coosa-Tallapoosa river systems: *Provided*, That in updating the water control manuals the Secretary of the Army, acting through the Chief of Engineers is directed to provide the following information by September 30, 2008:

(1) an estimate of the amount of withdrawals from each respective river basin for entities withdrawing one million gallons per day or more over the preceding 60 months;

(2) a flow data set for the respective river basin updated through the most recently completed calendar year; and

(3) an estimated projection of total water usage in the respective basins over the next 25 years.

120 Stat. 454.

SEC. 135. Title II, chapter 3 of Public Law 109-234 under the heading “Construction” is modified by striking “construction: *Provided*,” and inserting in lieu thereof “: *Provided*, That the Secretary of the Army, in implementing projects and measures in the New Orleans metropolitan area required to achieve certification for participation in the National Flood Insurance Program as directed in Public Law 109-234 shall include all authorized features of the Southeast Louisiana Flood Control project and related internal pumping requirements as integral elements of the comprehensive protection system for the area and shall complete all authorized work for the Southeast Louisiana project concurrently and integrally with other area projects: *Provided further*,”.

Deadlines.

SEC. 136. Utilizing funds appropriated under Alaska Coastal Erosion or other available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to prepare a preliminary action plan for any community that requests assistance pursuant to section 117, as contained in title I, division C of Public Law 108-447: *Provided*, That the preliminary action plan pursuant to this authority shall be presented to the Assistant Secretary of the Army (Civil Works) and the Alaska Congressional Delegation not later than 90 days after the initial request from the community: *Provided further*, That the preliminary action plan will recommend the most appropriate course of action (relocation or erosion stabilization), including a preliminary cost estimate and, at a minimum, the first year funding requirements: *Provided further*, That if the

Notification.

Alaska District is unable to comply with this reporting requirement, the District shall provide written notification to the Assistant Secretary of the Army (Civil Works) and the Alaska Congressional Delegation within 30 days of the community assistance request explaining why they are unable to comply.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, \$41,380,000, to remain available until expended, of which \$976,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,620,000, to remain available until expended.

For fiscal year 2008, the Commission may use an amount not to exceed \$1,500,000 for administrative expenses.

BUREAU OF RECLAMATION

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFERS OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, federally recognized Indian tribes, and others, \$949,882,000, to remain available until expended, of which \$60,258,000 shall be available for transfer to the Upper Colorado River Basin Fund and \$26,787,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than \$500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 4601–6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*,

That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: *Provided further*, That funds provided for the Friant-Kern and Madera Canals improvements may be expended on a non-reimbursable basis: *Provided further*, That \$2,952,000 of the funds appropriated under this heading shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of title I of appendix D of Public Law 106-554.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$59,122,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575: *Provided further*, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

CALIFORNIA BAY-DELTA RESTORATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out activities authorized by the Water Supply, Reliability, and Environmental Improvement Act, consistent with plans to be approved by the Secretary of the Interior, \$40,098,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes: *Provided*, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management: *Provided further*, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior: *Provided further*, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program.

POLICY AND ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$58,811,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses: *Provided further*, That, of

the funds provided under this heading, \$10,000,000 shall be transferred to “Water and Related Resources” upon the expiration of the 60-day period following the date of enactment of this Act if, during such period, the Secretary of the Interior has not submitted to the Committees on Appropriations of the House of Representatives and the Senate the Bureau of Reclamation’s five-year budget plan.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, which are for replacement only.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 201. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the “Cleanup Program-Alternative Repayment Plan” and the “SJVDP-Alternative Repayment Plan” described in the report entitled “Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995”, prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

SEC. 202. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

New Mexico.

SEC. 203. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation.

SEC. 204. The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts and States to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the States identified in the Act of June 17, 1902, as amended, and supplemented: *Provided*, That when such improvements are to federally owned facilities,

Grants.
Contracts.

such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works: *Provided further*, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies: *Provided further*, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity: *Provided further*, That this section shall not supercede any existing project-specific funding authority: *Provided further*, That the Secretary is also authorized to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.

SEC. 205. (a) Section 209 of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137; 117 Stat. 1850) is repealed.

Establishment.

(b) The Secretary of the Interior (referred to in this section as the “Secretary”) shall establish an Executive Committee of the Middle Rio Grande Endangered Species Collaborative Program (referred to in this section as the “Executive Committee”) consistent with the bylaws of the Middle Rio Grande Endangered Species Collaborative Program adopted on October 2, 2006.

(c) In compliance with applicable Federal and State laws, the Secretary (acting through the Commissioner of Reclamation), in collaboration with the Executive Committee, may enter into any grants, contracts, cooperative agreements, interagency agreements, or other agreements that the Secretary determines to be necessary to comply with the 2003 Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) as amended by section 121(b) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2256) or in furtherance of the objectives set forth in the collaborative program long-term plan.

(d)(1) The acquisition of water under subsection (c) and any administrative costs associated with carrying out subsection (c) shall be at full Federal expense.

(2) Not more than 15 percent of amounts appropriated to carry out subsection (c) shall be made available for the payment of administrative expenses associated with carrying out that subsection.

(e)(1) The non-Federal share of activities carried out under subsection (c) (other than an activity or a cost described in subsection (d)(1)) shall be 25 percent. The non-Federal cost share shall be determined on a programmatic, rather than a project-by-project basis.

(2) The non-Federal share required under paragraph (1) may be in the form of in-kind contributions, the value of which shall be determined by the Secretary in consultation with the executive committee.

(f) Nothing in this section modifies or expands the discretion of the Secretary with respect to operating reservoir facilities under the jurisdiction of the Secretary in the Rio Grande Valley, New Mexico.

SEC. 206. In furtherance of section 529 of Public Law 106-541, the Secretary of the Interior shall continue to participate in implementation of the Project at Las Vegas Wash and Lake Mead in accordance with the Plan, and may provide grants to

the Southern Nevada Water Authority to carry out the implementation of the Project at Las Vegas Wash and Lake Mead in accordance with the Plan: *Provided*, That issuance of any such grants shall not modify the cost sharing requirements provided in section 529(b) of Public Law 106-541.

SEC. 207. In carrying out section 2507 of Public Law 107-171, the Secretary of the Interior, acting through the Commissioner of Reclamation, shall use \$2,000,000 to provide grants, to be divided equally, to the State of Nevada and the State of California to implement the Truckee River Settlement Act, Public Law 101-618.

Grants.
Nevada.
California.

SEC. 208. (a) Notwithstanding any other provision of law, of amounts made available under section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary of the Interior—

Nevada.
Native
Americans.
Fish and fishing.

(1) acting through the Commissioner of Reclamation, shall use—

(A) subject to subsection (b), \$3,000,000 for activities necessary to convey to the State of Nevada the land known as the “Carson Lake and Pasture”, as authorized by section 206(e) of the Truckee-Carson-Pyramid Lake Water Rights Settlement Act (Public Law 101-618: 104 Stat. 3311);

(B) \$10,000,000 for the removal of the Numana Dam and other obsolete irrigation structures located on the Pyramid Lake Paiute Reservation for the benefit of the Pyramid Lake Paiute Tribe because of their status as Indians;

(C) in consultation with the Corps of Engineers, as applicable, \$5,000,000 to study and prepare plans for the development and construction of a pipeline to convey water from Dixie Valley to Churchill County, Nevada;

(D) \$10,000,000 for—

(i) design and construction of the Derby Dam fish screen to allow passage of fish, including the cui-ui and Lahontan cutthroat trout; and

(ii) any improvements to Derby Dam necessary to make the fish screen operable;

(E) \$6,000,000 for the acquisition of not more than 4 small hydroelectric power plants from the Sierra Pacific Power Company to improve water allocation and fish passage in the Truckee River; and

(F) \$6,000,000 for Lower Truckee River restoration projects identified by the cities of Reno and Sparks, Nevada, and Washoe County, Nevada;

(2) shall allocate \$9,000,000 to a nonprofit conservation organization, acting in consultation with the Truckee Meadows Water Authority, for—

(A) the acquisition of land surrounding Independence Lake; and

(B) protection of the native fishery and water quality of Independence Lake;

(3) shall allocate \$1,000,000 to the Summit Lake Paiute Tribe to plan and complete restoration efforts at the Summit Lake in Northern Washoe County, Nevada, for the benefit of the Tribe because of their status as Indians;

(4) shall allocate \$3,000,000 to the Newlands Project Water Rights Fund for a Federal-State-Pyramid Lake Paiute Tribe program, to be administered by an entity identified by the

3 applicable parties, for the retirement of water rights pursuant to the Truckee-Carson-Pyramid Lake Water Rights Settlement Act (Public Law 101-618; 104 Stat. 3311);

(5) shall allocate \$2,500,000 to the United States Fish and Wildlife Service to analyze, in cooperation and consultation with external experts, the impacts of low water flows on reproduction at the Walker Lake fishery, including an analysis of methods to prevent permanent effects on the fishery from low water flows;

(6) shall allocate \$4,000,000 to the State of Nevada to prepare watershed inventories, with a particular focus on the Walker and Carson River Basins;

(7) shall allocate \$5,000,000 for joint planning and development activities for water, wastewater, and sewer facilities by the city of Fernley, Nevada, and the Pyramid Lake Paiute Tribe;

(8) shall allocate \$500,000 for the Walker River Paiute Tribe for legal and professional services in support of settling tribal water claims in the Walker River Basin and to Walker Lake;

(9) shall allocate \$1,000,000 to the Walker River Irrigation District—

(A) to plan and implement a weed control program to improve conveyance efficiency of water controlled by the Irrigation District; and

(B) to make improvements to water gauges controlled by the Irrigation District to enhance the water monitoring activities of the Irrigation District; and

(10) shall allocate \$250,000 to Churchill County, Nevada, to provide testing of groundwater wells.

Deadline.

(b)(1) The Secretary shall achieve compliance with all applicable Federal laws (including regulations) relating to the conveyance of the Carson Lake and Pasture to the State of Nevada as described in subsection (a)(1)(A) by not later than June 30, 2010.

(2) Any amounts made available to carry out the conveyance described in subsection (a)(1)(A) but not expended for that purpose shall be made available to the State of Nevada to supplement funds provided under section 217(a)(1) of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137; 117 Stat. 1852), to purchase water rights from willing sellers and to make necessary improvements to benefit the Carson Lake and Pasture.

SEC. 209. Section 10(a) of the Mni Wiconi Project Act of 1988 (Public Law 100-516; 102 Stat. 2571; 116 Stat. 3033) is amended in the second sentence by striking “2008” and inserting “2013”.

SEC. 210. INLAND EMPIRE AND CUCAMONGA VALLEY RECYCLING PROJECTS. The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

43 USC 390h-21. “SEC. 16 ____ . INLAND EMPIRE REGIONAL WATER RECYCLING PROJECT.

“(a) IN GENERAL.—The Secretary, in cooperation with the Inland Empire Utilities Agency, may participate in the design, planning, and construction of the Inland Empire regional water recycling project described in the report submitted under section 1606(c).

“(b) **COST SHARING.**—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

“(c) **LIMITATION.**—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section, \$20,000,000.

“SEC. 16 ____ . CUCAMONGA VALLEY WATER RECYCLING PROJECT.

California.
43 USC 390h-22.

“(a) **IN GENERAL.**—The Secretary, in cooperation with the Cucamonga Valley Water District, may participate in the design, planning, and construction of the Cucamonga Valley Water District satellite recycling plants in Rancho Cucamonga, California, to reclaim and recycle approximately 2 million gallons per day of domestic wastewater.

“(b) **COST SHARING.**—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the capital cost of the project.

“(c) **LIMITATION.**—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section, \$10,000,000.

“(e) **SUNSET OF AUTHORITY.**—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.”.

(c) **CONFORMING AMENDMENTS.**—The table of sections in section 2 of Public Law 102-575 is amended by inserting after the last item the following:

“16 ____ . Inland Empire Regional Water Recycling Program.
“16 ____ . Cucamonga Valley Water Recycling Project.”.

SEC. 211. Prior to the unilateral termination or removal of cabin or trailer sites on Bureau of Reclamation lands in North Dakota for the purpose of changing land use, the Secretary of the Interior is directed to submit a report describing the action to the Committee on Energy and Natural Resources, United States Senate and the Committee on Natural Resources, United States House of Representatives and the House and Senate Committees on Appropriations: *Provided*, That the Secretary shall not move forward with the proposed action until 60 days after the report is submitted to the Committee Chairmen.

North Dakota.
Reports.

Deadline.

SEC. 212. Section 3507(b) of Public Law 102-575 (106 Stat. 4600) is amended by striking “\$4,660,000” and inserting “\$12,660,000”.

106 Stat. 4733.

SEC. 213. AUTHORITY TO EXTEND WATER CONTRACT. The Secretary of the Interior may extend the water contract 14-06-600-3593, as amended, between the United States and the East Bench Irrigation District for water services, until the earlier of—

(1) the expiration of the 2-year period beginning on the date on which the contract would expire but for this section; or

(2) the date on which a new long-term water contract is executed by the parties to the contract listed in subsection (b).

SEC. 214. SOUTHERN CALIFORNIA DESERT REGION INTEGRATED WATER AND ECONOMIC SUSTAINABILITY PLAN. (a) **IN GENERAL.**—

The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following new section:

43 USC 390h-23. **“SEC. 16 ____ . SOUTHERN CALIFORNIA DESERT REGION INTEGRATED WATER AND ECONOMIC SUSTAINABILITY PLAN.**

“(a) AUTHORIZATION.—The Secretary, in cooperation with the Mojave Water Agency is authorized to participate in the design, planning, and construction of projects to implement the ‘Mojave Water Agency’s Integrated Regional Water Management Plan’.

“(b) COST SHARE.—The Federal share of the costs of the projects authorized by this section shall not exceed 25 percent of the total cost.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$20,000,000.”.

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102-575 is amended by inserting after the last item relating to title XVI the following:

“16 ____ . Southern California desert region integrated water and economic sustainability plan.”.

43 USC 390h-23
note.

(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project authorized by this section.

(d) CREDITS TOWARD NON-FEDERAL SHARE.—For purposes of subsection (b) the Secretary shall credit the Mojave Water Agency with the value of all expenditures made prior to the date of the enactment of this Act that are used toward completion of projects that are compatible with this section.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy efficiency and renewable energy activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,739,541,000, to remain available until expended: *Provided*, That the Secretary is directed to make fiscal year 2008 weatherization funding available from October 1, 2007, through March 31, 2009, for States that submit plans requesting allocations for all or part of this period: *Provided further*, That the funds provided for Federal technical assistance and training are intended to be used exclusively to support the effective delivery of weatherization services as set forth in statute and applicable regulations: *Provided further*, That any change in program implementation should be proposed to Congress in the Department’s budget submission and not implemented before congressional approval is obtained.

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for electricity delivery and energy reliability activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$140,000,000, to remain available until expended.

NUCLEAR ENERGY

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for nuclear energy activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed 20 passenger motor vehicles for replacement only, including one ambulance, \$970,525,000, to remain available until expended: *Provided*, That \$233,849,000 is authorized to be appropriated for Project 99-D-143 Mixed Oxide (MOX) Fuel Fabrication Facility, Savannah River Site, South Carolina: *Provided further*, That the Department of Energy adhere strictly to Department of Energy Order 413.3A for Project 99-D-143.

LEGACY MANAGEMENT

For Department of Energy expenses for Legacy Management activities, \$34,183,000, to remain available until expended.

CLEAN COAL TECHNOLOGY

(INCLUDING DEFERRAL AND TRANSFER OF FUNDS)

Of the funds made available under this heading for obligation in prior years, \$149,000,000 shall not be available until October 1, 2008: *Provided*, That funds made available in previous appropriations Acts shall be made available for any ongoing project regardless of the separate request for proposal under which the project was selected: *Provided further*, That \$166,000,000 of uncommitted balances are transferred to Fossil Energy Research and Development to be used until expended.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair,

42 USC 7269c.

and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), \$750,000,000, to remain available until expended, of which \$166,000,000 shall be derived by transfer from “Clean Coal Technology”: *Provided further*, That funds appropriated for prior solicitations under the Clean Coal Technology Program, Power Plant Improvement Initiative, and Clean Coal Power Initiative, but not required by the Department to meet its obligations on projects selected under such solicitations, may be utilized for the Clean Coal Power Initiative Round III solicitation under this Act in accordance with the requirements of this Act rather than the Acts under which the funds were appropriated: *Provided further*, That no project may be selected for which full funding is not available to provide for the total project: *Provided further*, That financial assistance for costs in excess of those estimated as of the date of award of original Clean Coal Power Initiative financial assistance may not be provided in excess of the proportion of costs borne by the Government in the original agreement and shall be limited to 25 percent of the original financial assistance: *Provided further*, That at least 50 percent cost-sharing shall be required in each budget period of a project: *Provided further*, That in accordance with section 988(e) of Public Law 109-58, repayment of the DOE contribution to a project shall not be a condition of making an award under this solicitation: *Provided further*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That in this Act and future Acts, up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activities not included in this Fossil Energy account: *Provided further*, That in this Act and future Acts, the salaries for Federal employees performing research and development activities at the National Energy Technology Laboratory can continue to be funded from any appropriate DOE program accounts: *Provided further*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under the Fossil Energy Research and Development account may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum and oil shale reserve activities, including the hire of passenger motor vehicles, \$20,472,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), including the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, and the reimbursement to the General Services Administration for security guard services, \$188,472,000, to remain available until expended, of which \$25,000,000 shall be provided to carry out new site land acquisition activities consistent with the budget request.

NORTHEAST HOME HEATING OIL RESERVE

For necessary expenses for Northeast Home Heating Oil Reserve storage, operation, and management activities pursuant to the Energy Policy and Conservation Act, \$12,448,000, to remain available until expended.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, \$96,337,000, to remain available until expended.

NON-DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed three passenger motor vehicles for replacement only, \$183,937,000, to remain available until expended: *Provided*, That \$13,000,000 is appropriated for environmental remediation activities associated with the Energy Technology and Engineering Center (ETEC) at the Santa Susana Field Laboratory (SSFL), subject to the following: (1) the Department shall use a portion of this funding to enter into an interagency agreement with the Environmental Protection Agency to conduct a joint comprehensive radioactive site characterization of Area IV of the SSFL; (2) the Department shall ensure that all aspects of the cleanup of radioactive contamination at Area IV of the SSFL comply fully with the Comprehensive Environmental Response, Compensation and Liability Act, if applicable; and (3) the Department shall retain Federal control of ETEC and it shall not be released for other use until such time as the Department has complied with actions directed in paragraphs (1) and (2).

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING
FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954,

as amended, and title X, subtitle A, of the Energy Policy Act of 1992, \$627,876,000, to be derived from the Fund, to remain available until expended, of which \$20,000,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

(INCLUDING RESCISSION OF FUNDS)

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed 30 passenger motor vehicles for replacement only, \$4,055,483,000, to remain available until expended: *Provided*, That of the funds made available in section 130 of division H (Miscellaneous Appropriations and Offsets) of the Consolidated Appropriations Act, 2004, Public Law 108-199, as amended by section 315 of Public Law 109-103, for the Coralville, Iowa, project, \$44,569,000 is rescinded.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended (the “Act”), including the acquisition of real property or facility construction or expansion, \$189,000,000, to remain available until expended, and to be derived from the Nuclear Waste Fund: *Provided*, That of the funds made available in this Act for Nuclear Waste Disposal, \$5,000,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Act: *Provided further*, That notwithstanding the lack of a written agreement with the State of Nevada under section 117(c) of the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, not less than \$1,000,000 shall be provided to Nye County, Nevada, for on-site oversight activities under section 117(d) of that Act: *Provided further*, That \$9,000,000 shall be provided to affected units of local government, as defined in the Act, to conduct appropriate activities and participate in licensing activities: *Provided further*, That of the \$9,000,000 provided, 7.5 percent of the funds provided shall be made available to affected units of local government in California with the balance made available to affected units of local government in Nevada for distribution as determined by the Nevada units of local government. This funding shall be provided to affected units of local government, as defined in the Act, to conduct appropriate activities and participate in licensing activities. The Committee requires the entities to certify that within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each of the affected units of local government shall provide certification to the Department of Energy that all funds expended from such payments have been expended for the activities authorized by the Act and this Act: *Provided*, That notwithstanding

California.
Nevada.

Certification.
Deadline.
Nevada.

the provisions of chapters 65 and 75 of title 31, United States Code, the Department shall have no monitoring, auditing or other oversight rights or responsibilities over amounts provided to affected units of local government in this or any previous year: *Provided further*, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and to units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each of the affected units of local government shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by the Act and this Act: *Provided further*, That failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action, except for normal and recognized executive-legislative communications, on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Act, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended: *Provided further*, That no funds provided in this Act or any previous Act may be used to pursue repayment or collection of funds provided in any fiscal year to affected units of local government for oversight activities that had been previously approved by the Department of Energy, or to withhold payment of any such funds.

Deadline.
Certification.
Nevada.

Lobbying.

TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE LOAN PROGRAM

For the cost of the guaranteed loans as authorized by section 1702(b)(2) of the Energy Policy Act of 2005, such sums as are hereafter derived from amounts received from borrowers pursuant to section 1702(b)(2) of that Act, to remain available until September 30, 2009: *Provided*, That the source of such payment received from borrowers is not a loan or other debt obligation that is guaranteed by the Federal Government: *Provided further*, That none of the funds made available in this or prior Acts shall be available for the execution of a new solicitation with respect to such guaranteed loans until 45 days after the Department of Energy has submitted to the Committees on Appropriations a loan guarantee implementation plan that defines the proposed award levels and eligible technologies: *Provided further*, That the Department shall not deviate from such plan without 45 days prior notice to the Committees: *Provided further*, That for necessary administrative expenses to carry out this Loan Guarantee program, \$5,500,000 is appropriated, to remain available until expended: *Provided further*, That fees collected pursuant to section 1702(h) of the Energy Policy Act of 2005 shall be credited as offsetting collections to this account, so as to result in a final fiscal year 2008 appropriation from the general fund estimated at not more than \$0.

Plan.
Deadline.

Notification.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses not to exceed \$30,000, \$311,596,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total \$161,818,000 in fiscal year 2008 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during 2008, and any related appropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2008 appropriation from the general fund estimated at not more than \$149,778,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$46,480,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; \$6,355,633,000, to remain available until expended: *Provided*, That \$38,957,000 is authorized to be appropriated for Project 06-D-140-05 (PED) Uranium Processing Facility, Y-12 Plant, Oak Ridge, Tennessee: *Provided further*, That \$69,330,000 is authorized to be appropriated for Project 99-D-141 Pit Disassembly and Conversion Facility (PDCF), Savannah River Site, South Carolina: *Provided further*, That \$74,809,000 is authorized to be appropriated for 04-D-125 Chemistry and Metallurgy facility replacement project, Los Alamos, New Mexico: *Provided further*, That \$10,000,000 is authorized to be appropriated for Ion Beam Laboratory refurbishment,

Sandia National Laboratory, Albuquerque, New Mexico: *Provided further*, That \$14,846,000 is authorized to be appropriated for Material Security and Consolidation project, Idaho National Laboratory, Idaho.

DEFENSE NUCLEAR NONPROLIFERATION

(INCLUDING RESCISSIONS OF FUNDS)

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,673,275,000, to remain available until expended: *Provided*, That \$50,000,000 of such funds shall be available until expended for the contribution of the United States to create a low-enriched uranium stockpile for an International Nuclear Fuel Bank supply of nuclear fuel for peaceful means under the International Atomic Energy Agency: *Provided further*, That \$25,000,000 is authorized to be appropriated for Project 06-D-180 National Security Laboratory at the Pacific Northwest National Laboratory, Richland, Washington: *Provided further*, That of the funds made available under this heading in appropriation Acts for fiscal year 2007 and prior fiscal years for Project 99-D-143 Mixed Oxide (MOX) Fuel Fabrication Facility, Savannah River Site, South Carolina, \$115,000,000 are rescinded: *Provided further*, That of the funds made available under this heading in appropriation Acts for fiscal year 2007 and prior fiscal years for Russian Surplus Fissile Materials Disposition, \$57,000,000 are rescinded: *Provided further*, That of the funds made available in the first paragraph under the heading “Atomic Energy Defense Activities—Other Defense Activities” in chapter 2 of title I of division B of Public Law 105-277 and subsequently transferred by the Department of Energy to the Defense Nuclear Nonproliferation program, \$150,000,000 are rescinded.

NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, \$781,800,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses not to exceed \$12,000, \$405,987,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed three passenger motor vehicles for replacement only, \$5,398,573,000, to remain available until expended, of which \$463,000,000 shall be transferred to and deposited in the “Uranium Enrichment Decontamination and Decommissioning Fund”.

OTHER DEFENSE ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed twelve passenger motor vehicles for replacement only, \$761,290,000, to remain available until expended: *Provided*, That of the funds provided under this heading in Public Law 109-103, \$4,900,000 are transferred to “Weapons Activities” for special nuclear material consolidation activities associated with safeguards and security.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$201,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for the Lower Granite Dam fish trap, the Kootenai River White Sturgeon Hatchery, the Nez Perce Tribal Hatchery, Redfish Lake Sockeye Captive Brood expansion, hatchery production facilities to supplement Chinook salmon below Chief Joseph Dam in Washington, Hood River Production Facility, Klickitat production expansion, Mid-Columbia Coho restoration, and Yakama Coho restoration, and in addition, for official reception and representation expenses in an amount not to exceed \$1,500. During fiscal year 2008, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$6,463,000, to remain available until expended: *Provided*, That, notwithstanding the provisions of 31 U.S.C. 3302, beginning in fiscal year 2008 and thereafter, such funds as are received by the Southeastern Power Administration from any State, municipality, corporation, association, firm, district, or individual as advance payment for work that is associated with Southeastern's Operations and Maintenance, consistent with that authorized in section 5 of the Flood Control Act of 1944, shall be credited to this account and be available until expended: *Provided further*, That, notwithstanding 31 U.S.C. 3302, up to \$48,413,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

16 USC 825s-5.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER
ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed \$1,500 in carrying out section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the Southwestern Power Administration, \$30,442,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, up to \$35,000,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE,
WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including the operation, maintenance, and purchase through transfer, exchange, or sale of one helicopter for replacement only, and official reception and representation expenses in an amount not to exceed \$1,500; \$231,030,000, to remain available until expended, of which \$221,094,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, \$7,167,000 is for deposit into the Utah Reclamation Mitigation and Conservation

Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That notwithstanding the provision of 31 U.S.C. 3302, up to \$308,702,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, \$2,500,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses not to exceed \$3,000, \$260,425,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed \$260,425,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2008 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as revenues are received during fiscal year 2008 so as to result in a final fiscal year 2008 appropriation from the general fund estimated at not more than \$0.

42 USC 7171
note.

GENERAL PROVISIONS, DEPARTMENT OF ENERGY

SEC. 301. CONTRACT COMPETITION. (a) None of the funds in this or any other appropriations Act for fiscal year 2008 or any previous fiscal year may be used to make payments for a non-competitive management and operating contract, or a contract for environmental remediation or waste management in excess of \$100,000,000 in annual funding at a current or former management and operating contract site or facility, or award a significant extension or expansion to an existing management and operating contract, or other contract covered by this section, unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) The term “competitive procedures” has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) and includes procedures described in section

303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) other than a procedure that solicits a proposal from only one source.

(c) Within 30 days of formally notifying an incumbent contractor that the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the Subcommittees of the waiver and setting forth, in specificity, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

Deadline.
Reports.

SEC. 302. UNFUNDED REQUESTS FOR PROPOSALS. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

SEC. 303. WORKFORCE RESTRUCTURING. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy, under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 42 U.S.C. 7274h).

SEC. 304. SECTION 3161 ASSISTANCE. None of the funds appropriated by this Act may be used to augment the funds made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request to the appropriate congressional committees.

SEC. 305. UNEXPENDED BALANCES. The unexpended balances of prior appropriations provided for activities in this Act may be available to the same appropriation accounts for such activities established pursuant to this title. Available balances may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 306. BONNEVILLE POWER AUTHORITY SERVICE TERRITORY. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. 307. USER FACILITIES. When the Department of Energy makes a user facility available to universities or other potential users, or seeks input from universities or other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users. When the Department of Energy considers the participation of a university or other potential user as a formal partner in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a partner. For purposes of this section, the term

“user facility” includes, but is not limited to: (1) a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); (2) a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and (3) any other Departmental facility designated by the Department as a user facility.

SEC. 308. INTELLIGENCE ACTIVITIES. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2008 until the enactment of the Intelligence Authorization Act for fiscal year 2008.

50 USC 2791a.

SEC. 309. LABORATORY DIRECTED RESEARCH AND DEVELOPMENT. Of the funds made available by the Department of Energy for activities at government-owned, contractor-operator operated laboratories funded in this Act or subsequent Energy and Water Development Appropriations Acts, the Secretary may authorize a specific amount, not to exceed 8 percent of such funds, to be used by such laboratories for laboratory-directed research and development: *Provided*, That the Secretary may also authorize a specific amount not to exceed 4 percent of such funds, to be used by the plant manager of a covered nuclear weapons production plant or the manager of the Nevada Site Office for plant or site-directed research and development: *Provided further*, That notwithstanding Department of Energy order 413.2A, dated January 8, 2001, beginning in fiscal year 2006 and thereafter, all DOE laboratories may be eligible for laboratory directed research and development funding.

SEC. 310. YIELD RATE. For fiscal year 2008, except as otherwise provided by law in effect as of the date of this Act or unless a rate is specifically set by an Act of Congress thereafter, the Administrators of the Southeastern Power Administration, the Southwestern Power Administration, and the Western Area Power Administration, shall use the “yield” rate in computing interest during construction and interest on the unpaid balance of the costs of Federal power facilities. The yield rate shall be defined as the average yield during the preceding fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity.

SEC. 311. USE PERMIT. The Use Permit granted to the contractor for activities conducted at the Pacific Northwest National Laboratory by Agreement DE-GM05-00RL01831 between the Department of Energy and the contractor shall continue in effect during the term of the existing Operating Contract and the extensions or renewals thereof and shall be incorporated into any future management and operating contract for the Pacific Northwest National Laboratory and such Use Permit may not be waived, modified or terminated unless agreed to by both contractor and the Department of Energy.

SEC. 312. (a) ACROSS-THE-BOARD RESCISSIONS.—There is hereby rescinded—

(1) from discretionary accounts in this title that contain congressionally directed projects, an amount equal to 1.6 percent of the budget authority provided for fiscal year 2008 for such projects; and

(2) from all discretionary accounts in this title, an amount equal to 0.91 percent of the other budget authority provided for fiscal year 2008.

(b) DEFINITIONS.—For purposes of this section:

(1) The term “congressionally directed project” means a congressional earmark or congressionally directed spending item specified in the list of such earmarks and items for this division that is included in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

(2) The term “other budget authority” means an amount equal to all discretionary budget authority, less the amount provided for congressionally directed projects.

(c) PROPORTIONATE APPLICATION TO OTHER PROGRAMS, PROJECTS, AND ACTIVITIES.—Any rescission made by subsection (a)(2) shall be applied proportionately—

(1) to each discretionary account; and

(2) within each such account, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account).

(d) REPORT.—Within 30 days after the date of the enactment of this section, the Director of the Secretary of Energy shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, not withstanding 40 U.S.C. 14704, and, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$73,032,000, to remain available until expended: *Provided*, That any congressionally directed spending shall be taken from within that State’s allocation in the fiscal year in which it is provided.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, \$21,909,000, to remain available until expended.

DELTA REGIONAL AUTHORITY

SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), 382M, and 382N of said Act, \$11,685,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction, and acquisition of plant and capital equipment as necessary and other expenses, \$21,800,000, to remain available until expended, notwithstanding the limitations contained in section 306(g) of the Denali Commission Act of 1998.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954, including official representation expenses (not to exceed \$25,000), \$917,334,000, to remain available until expended: *Provided*, That of the amount appropriated herein, \$29,025,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$771,220,000 in fiscal year 2008 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2008 so as to result in a final fiscal year 2008 appropriation estimated at not more than \$146,114,000: *Provided further*, That such funds as are made available for necessary expenses of the Commission by this Act or any other Act may be used for lease payments for additional office space provided by the General Services Administration for personnel of the U.S. Nuclear Regulatory Commission as close as reasonably possible to the Commission's headquarters location in Rockville, Maryland, and of such square footage and for such lease term, as are determined by the Commission to be necessary to maintain the agency's regulatory effectiveness, efficiency, and emergency response capability: *Provided further*, That notwithstanding any other provision of law or any prevailing practice, the rental square foot rate paid for the lease of space for such purpose shall, to the extent necessary to obtain the space, be based on the prevailing lease rates in the immediate vicinity of the Commission's headquarters.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$8,744,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$7,870,000 in fiscal

year 2008 shall be retained and be available until expended, for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2008 so as to result in a final fiscal year 2008 appropriation estimated at not more than \$874,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, \$3,621,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

OFFICE OF THE FEDERAL COORDINATOR FOR ALASKA NATURAL GAS TRANSPORTATION PROJECTS

For necessary expenses for the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects pursuant to the Alaska Natural Gas Pipeline Act of 2004, \$2,261,000.

GENERAL PROVISION, INDEPENDENT AGENCIES

SEC. 401. Section 2(f)(2) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831a(f)(2)) is amended by striking the phrase “stipend under paragraph (1)(A)(i)” and inserting in lieu thereof “stipends under paragraph (1)(A)”.

TITLE V

GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. Lobbying.

SEC. 502. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in this Act or any other appropriation Act.

This division may be cited as the “Energy and Water Development and Related Agencies Appropriations Act, 2008”.

Financial
Services and
General
Government
Appropriations
Act, 2008.
Department of
the Treasury
Appropriations
Act, 2008.

DIVISION D—FINANCIAL SERVICES AND GENERAL
GOVERNMENT APPROPRIATIONS ACT, 2008

TITLE I

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business, \$248,360,000, of which not to exceed \$10,840,000 is for executive direction program activities; not to exceed \$9,909,000 is for general counsel program activities; not to exceed \$44,242,000 is for economic policies and programs activities; not to exceed \$29,464,000 is for financial policies and programs activities; not to exceed \$56,775,000 is for terrorism and financial intelligence activities; not to exceed \$18,505,000 is for Treasury-wide management policies and programs activities; and not to exceed \$78,625,000 is for administration programs activities: *Provided*, That the Secretary of the Treasury is authorized to transfer funds appropriated for any program activity of the Departmental Offices to any other program activity of the Departmental Offices upon notification to the House and Senate Committees on Appropriations: *Provided further*, That no appropriation for any program activity shall be increased or decreased by more than 2 percent by all such transfers: *Provided further*, That any change in funding greater than 2 percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That of the amount appropriated under this heading, not to exceed \$3,000,000, to remain available until September 30, 2009, is for information technology modernization requirements; not to exceed \$150,000 is for official reception and representation expenses; and not to exceed \$258,000 is for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate: *Provided further*, That of the amount appropriated under this heading, \$5,114,000, to remain available until September 30, 2009, is for the Treasury-wide Financial Statement Audit and Internal Control Program, of which such amounts as may be necessary may be transferred to accounts of the Department's offices and bureaus to conduct audits: *Provided further*, That this transfer authority shall be in addition to any other provided in this Act: *Provided further*, That of the amount appropriated under this heading, \$3,000,000, to remain available until September 30, 2009, is for secure space requirements: *Provided further*, That of the amount appropriated under this heading, \$2,300,000, to remain available until September 30, 2009, is for salary and benefits for hiring of personnel whose work will require completion of a security clearance investigation in order to perform highly classified work to further the activities of the Office of

Terrorism and Financial Intelligence: *Provided further*, That of the amount appropriated under this heading, \$2,100,000, to remain available until September 30, 2010, is to develop and implement programs within the Office of Critical Infrastructure Protection and Compliance Policy, including entering into cooperative agreements.

DEPARTMENT-WIDE SYSTEMS AND CAPITAL INVESTMENTS PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, \$18,710,000, to remain available until September 30, 2010: *Provided*, That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That none of the funds appropriated under this heading shall be used to support or supplement "Internal Revenue Service, Operations Support" or "Internal Revenue Service, Business Systems Modernization".

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, not to exceed \$2,000,000 for official travel expenses, including hire of passenger motor vehicles; and not to exceed \$100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury, \$18,450,000, of which not to exceed \$2,500 shall be available for official reception and representation expenses.

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Treasury Inspector General for Tax Administration in carrying out the Inspector General Act of 1978, including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); services authorized by 5 U.S.C. 3109, at such rates as may be determined by the Inspector General for Tax Administration; \$140,533,000, of which not to exceed \$6,000,000 shall be available for official travel expenses; of which not to exceed \$500,000 shall be available for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General for Tax Administration; and of which not to exceed \$1,500 shall be available for official reception and representation expenses.

AIR TRANSPORTATION STABILIZATION PROGRAM ACCOUNT

(INCLUDING RESCISSION)

49 USC 40101
note; 115 Stat.
234.

Sections 101(a)(1), 102, 104, and 107(2) of the Air Transportation Safety and System Stabilization Act (title I, Public Law 107–42) are hereby repealed. All unobligated balances under this heading are rescinded.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel and training expenses of non-Federal and foreign government personnel to attend meetings and training concerned with domestic and foreign financial intelligence activities, law enforcement, and financial regulation; not to exceed \$14,000 for official reception and representation expenses; and for assistance to Federal law enforcement agencies, with or without reimbursement, \$85,844,000, of which not to exceed \$16,340,000 shall remain available until September 30, 2010; and of which \$8,955,000 shall remain available until September 30, 2009: *Provided*, That funds appropriated in this account may be used to procure personal services contracts.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, \$234,423,000, of which not to exceed \$9,220,000 shall remain available until September 30, 2010, for information systems modernization initiatives; and of which not to exceed \$2,500 shall be available for official reception and representation expenses.

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

SALARIES AND EXPENSES

For necessary expenses of carrying out section 1111 of the Homeland Security Act of 2002, including hire of passenger motor vehicles, \$93,515,000; of which not to exceed \$6,000 for official reception and representation expenses; not to exceed \$50,000 for cooperative research and development programs for laboratory services; and provision of laboratory assistance to State and local agencies with or without reimbursement.

UNITED STATES MINT

UNITED STATES MINT PUBLIC ENTERPRISE FUND

Pursuant to section 5136 of title 31, United States Code, the United States Mint is provided funding through the United States Mint Public Enterprise Fund for costs associated with the production of circulating coins, numismatic coins, and protective services, including both operating expenses and capital investments. The aggregate amount of new liabilities and obligations incurred during fiscal year 2008 under such section 5136 for circulating coinage

and protective service capital investments of the United States Mint shall not exceed \$33,200,000.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States, \$182,871,000, of which not to exceed \$2,500 shall be available for official reception and representation expenses, and of which not to exceed \$2,000,000 shall remain available until September 30, 2010, for systems modernization: *Provided*, That the sum appropriated herein from the general fund for fiscal year 2008 shall be reduced by not more than \$10,000,000 as definitive security issue fees and Legacy Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 2008 appropriation from the general fund estimated at \$172,871,000. In addition, \$70,000 to be derived from the Oil Spill Liability Trust Fund to reimburse the Bureau for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101-380.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

To carry out the Community Development Banking and Financial Institutions Act of 1994 (Public Law 103-325), including services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for ES-3, \$94,000,000, to remain available until September 30, 2009, of which \$8,000,000 shall be for financial assistance, technical assistance, training and outreach programs designed to benefit Native American, Native Hawaiian, and Alaskan Native communities and provided primarily through qualified community development lender organizations with experience and expertise in community development banking and lending in Indian country, Native American organizations, tribes and tribal organizations and other suitable providers, and up to \$13,500,000 may be used for administrative expenses, including administration of the New Markets Tax Credit, up to \$7,500,000 may be used for the cost of direct loans, and up to \$250,000 may be used for administrative expenses to carry out the direct loan program: *Provided*, That the cost of direct loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$16,000,000.

INTERNAL REVENUE SERVICE

TAXPAYER SERVICES

For necessary expenses of the Internal Revenue Service to provide taxpayer services, including pre-filing assistance and education, filing and account services, taxpayer advocacy services, and other services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$2,150,000,000, of which not less than \$3,000,000 shall be for the Tax Counseling for the

Elderly Program, of which not less than \$9,000,000 shall be available for low-income taxpayer clinic grants, of which not less than \$8,000,000, to remain available until September 30, 2009, shall be available to establish and administer a Community Volunteer Income Tax Assistance matching grants demonstration program for tax return preparation assistance, and of which not less than \$177,000,000 shall be available for operating expenses of the Taxpayer Advocate Service.

ENFORCEMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Internal Revenue Service to determine and collect owed taxes, to provide legal and litigation support, to conduct criminal investigations, to enforce criminal statutes related to violations of internal revenue laws and other financial crimes, to purchase (for police-type use, not to exceed 850) and hire of passenger motor vehicles (31 U.S.C. 1343(b)), and to provide other services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$4,780,000,000, of which not less than \$57,252,000 shall be for the Interagency Crime and Drug Enforcement program: *Provided*, That up to \$10,000,000 may be transferred as necessary from this account to the Internal Revenue Service Operations Support appropriations solely for the purposes of the Interagency Crime and Drug Enforcement program: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act.

OPERATIONS SUPPORT

For necessary expenses of the Internal Revenue Service to operate and support taxpayer services and enforcement programs, including rent payments; facilities services; printing; postage; physical security; headquarters and other IRS-wide administration activities; research and statistics of income; telecommunications; information technology development, enhancement, operations, maintenance, and security; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and other services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; \$3,680,059,000, of which \$75,000,000 shall remain available until September 30, 2009, for information technology support; of which not to exceed \$1,000,000 shall remain available until September 30, 2010, for research; of which not less than \$2,000,000 shall be for the Internal Revenue Service Oversight Board; and of which not to exceed \$25,000 shall be for official reception and representation.

BUSINESS SYSTEMS MODERNIZATION

For necessary expenses of the Internal Revenue Service's business systems modernization program, \$267,090,000, to remain available until September 30, 2010, for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including related Internal Revenue Service labor costs, and contractual costs associated with operations authorized by 5 U.S.C. 3109: *Provided*, That, with the exception of labor costs, none of these funds may be

obligated until the Internal Revenue Service submits to the Committees on Appropriations, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A-11; (2) complies with the Internal Revenue Service's enterprise architecture, including the modernization blueprint; (3) conforms with the Internal Revenue Service's enterprise life cycle methodology; (4) is approved by the Internal Revenue Service, the Department of the Treasury, and the Office of Management and Budget; (5) has been reviewed by the Government Accountability Office; and (6) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government.

HEALTH INSURANCE TAX CREDIT ADMINISTRATION

For expenses necessary to implement the health insurance tax credit included in the Trade Act of 2002 (Public Law 107-210), \$15,235,000.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service or not to exceed 3 percent of appropriations under the heading "Enforcement" may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the Committees on Appropriations.

SEC. 102. The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with taxpayers, and in cross-cultural relations.

SEC. 103. The Internal Revenue Service shall institute and enforce policies and procedures that will safeguard the confidentiality of taxpayer information.

Confidentiality.

SEC. 104. Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and increased staffing to provide sufficient and effective 1-800 help line service for taxpayers. The Commissioner shall continue to make the improvement of the Internal Revenue Service 1-800 help line service a priority and allocate resources necessary to increase phone lines and staff to improve the Internal Revenue Service 1-800 help line service.

SEC. 105. Section 9503(a) of title 5, United States Code, is amended by striking "for a period of 10 years after the date of enactment of this section" and inserting "before July 23, 2013".

SEC. 106. Sections 9504(a) and (b), and 9505(a) of title 5, United States Code, are amended by striking "For a period of 10 years after the date of enactment of this section" each place it occurs and inserting "Before July 23, 2013".

SEC. 107. Section 9502(a) of title 5, United States Code, is amended by striking "Office of Management and Budget" and inserting "Office of Personnel Management".

SEC. 108. Of the funds made available by this Act for the Internal Revenue Service, not less than \$7,350,000 shall be available for increasing above fiscal year 2007 levels the number of

full-time equivalent positions and related support activities performing Automated Collection System functions.

ADMINISTRATIVE PROVISIONS—DEPARTMENT OF THE TREASURY

(INCLUDING TRANSFERS OF FUNDS)

SEC. 109. Appropriations to the Department of the Treasury in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 110. Not to exceed 2 percent of any appropriations in this Act made available to the Departmental Offices—Salaries and Expenses, Office of Inspector General, Financial Management Service, Alcohol and Tobacco Tax and Trade Bureau, Financial Crimes Enforcement Network, and Bureau of the Public Debt, may be transferred between such appropriations upon the advance approval of the Committees on Appropriations: *Provided*, That no transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 111. Not to exceed 2 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to the Treasury Inspector General for Tax Administration's appropriation upon the advance approval of the Committees on Appropriations: *Provided*, That no transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 112. Of the funds available for the purchase of law enforcement vehicles, no funds may be obligated until the Secretary of the Treasury certifies that the purchase by the respective Treasury bureau is consistent with departmental vehicle management principles: *Provided*, That the Secretary may delegate this authority to the Assistant Secretary for Management.

SEC. 113. None of the funds appropriated in this Act or otherwise available to the Department of the Treasury or the Bureau of Engraving and Printing may be used to redesign the \$1 Federal Reserve note.

SEC. 114. The Secretary of the Treasury may transfer funds from Financial Management Services, Salaries and Expenses to Debt Collection Fund as necessary to cover the costs of debt collection: *Provided*, That such amounts shall be reimbursed to such salaries and expenses account from debt collections received in the Debt Collection Fund.

SEC. 115. Section 122(g)(1) of Public Law 105-119 (5 U.S.C. 3104 note), is further amended by striking "8 years" and inserting "10 years".

SEC. 116. None of the funds appropriated or otherwise made available by this or any other Act may be used by the United States Mint to construct or operate any museum without the explicit approval of the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs.

SEC. 117. None of the funds appropriated or otherwise made available by this or any other Act or source to the Department of the Treasury, the Bureau of Engraving and Printing, and the United States Mint, individually or collectively, may be used to consolidate any or all functions of the Bureau of Engraving and Printing and the United States Mint without the explicit approval of the House Committee on Financial Services; the Senate Committee on Banking, Housing, and Urban Affairs; the House Committee on Appropriations; and the Senate Committee on Appropriations.

SEC. 118. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for the Department of the Treasury's intelligence or intelligence related activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2008 until the enactment of the Intelligence Authorization Act for Fiscal Year 2008.

SEC. 119. Section 3333(a) of title 31, United States Code, is amended by deleting paragraph (3) and inserting in lieu thereof the following:

“(3) The amount of the relief and the amount of any relief granted to an official or agent of the Department of the Treasury under 31 U.S.C. 3527, shall be charged to the Check Forgery Insurance Fund (31 U.S.C. 3343). A recovery or repayment of a loss for which replacement is made out of the fund shall be credited to the fund and is available for the purposes for which the fund was established.”.

This title may be cited as the “Department of the Treasury Appropriations Act, 2008”.

TITLE II

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

Executive Office
of the President
Appropriations
Act, 2008.

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of \$50,000 per annum as authorized by 3 U.S.C. 102, \$450,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code.

WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed \$3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed \$100,000 to be expended and accounted for as provided by 3 U.S.C. 103); and not to exceed \$19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; \$51,656,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, \$12,814,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109, 110, and 112-114.

REIMBURSABLE EXPENSES

For the reimbursable expenses of the Executive Residence at the White House, such sums as may be necessary: *Provided*, That all reimbursable operating expenses of the Executive Residence shall be made in accordance with the provisions of this paragraph: *Provided further*, That, notwithstanding any other provision of law, such amount for reimbursable operating expenses shall be the exclusive authority of the Executive Residence to incur obligations and to receive offsetting collections, for such expenses: *Provided further*, That the Executive Residence shall require each person sponsoring a reimbursable political event to pay in advance an amount equal to the estimated cost of the event, and all such advance payments shall be credited to this account and remain available until expended: *Provided further*, That the Executive Residence shall require the national committee of the political party of the President to maintain on deposit \$25,000, to be separately accounted for and available for expenses relating to reimbursable political events sponsored by such committee during such fiscal year: *Provided further*, That the Executive Residence shall ensure that a written notice of any amount owed for a reimbursable operating expense under this paragraph is submitted to the person owing such amount within 60 days after such expense is incurred, and that such amount is collected within 30 days after the submission of such notice: *Provided further*, That the Executive Residence shall charge interest and assess penalties and other charges on any such amount that is not reimbursed within such 30 days, in accordance with the interest and penalty provisions applicable to an outstanding debt on a United States Government claim under section 3717 of title 31, United States Code: *Provided further*, That each such amount that is reimbursed, and any accompanying interest and charges, shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That the Executive Residence shall prepare and submit to the Committees on Appropriations, by not later than 90 days after the end of the fiscal year covered by this Act, a report setting forth the reimbursable operating expenses of the Executive Residence during the preceding fiscal year, including the total amount of such expenses, the amount of such total that consists of reimbursable official and ceremonial events, the amount of such total that consists of reimbursable political events, and the portion of each such amount that has been reimbursed as of the date of the report: *Provided further*, That the Executive Residence shall maintain a system for the tracking of expenses related to reimbursable events within the Executive Residence that includes a standard for the classification of any such expense as political or nonpolitical: *Provided further*, That no provision of this paragraph may be construed to exempt the Executive Residence

Notice.
Deadlines.

Deadline.

Deadline.
Reports.

Records.

from any other applicable requirement of subchapter I or II of chapter 37 of title 31, United States Code.

WHITE HOUSE REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Executive Residence at the White House, \$1,600,000, to remain available until expended, for required maintenance, safety and health issues, and continued preventative maintenance.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council of Economic Advisers in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021 et seq.), \$4,118,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, \$3,482,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, \$8,640,000.

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

SALARIES AND EXPENSES

For necessary expenses of the Privacy and Civil Liberties Oversight Board, as authorized by section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), \$2,000,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles, \$91,745,000, of which \$11,923,000 shall remain available until expended for continued modernization of the information technology infrastructure within the Executive Office of the President.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109 and to carry out the provisions

of chapter 35 of title 44, United States Code, \$78,000,000, of which not to exceed \$3,000 shall be available for official representation expenses: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made and shall be allocated in accordance with the terms and conditions set forth in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act) except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committees on Appropriations or their subcommittees: *Provided further*, That the preceding shall not apply to printed hearings released by the Committees on Appropriations: *Provided further*, That none of the funds provided in this or prior Acts shall be used, directly or indirectly, by the Office of Management and Budget, for evaluating or determining if water resource project or study reports submitted by the Chief of Engineers acting through the Secretary of the Army are in compliance with all applicable laws, regulations, and requirements relevant to the Civil Works water resource planning process: *Provided further*, That the Office of Management and Budget shall have not more than 60 days in which to perform budgetary policy reviews of water resource matters on which the Chief of Engineers has reported: *Provided further*, That the Director of the Office of Management and Budget shall notify the appropriate authorizing and appropriating committees when the 60-day review is initiated: *Provided further*, That if water resource reports have not been transmitted to the appropriate authorizing and appropriating committees within 15 days after the end of the Office of Management and Budget review period based on the notification from the Director, Congress shall assume Office of Management and Budget concurrence with the report and act accordingly.

Deadline.
Policy reviews.

Notification.

Reports.
Deadline.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

For necessary expenses of the Office of National Drug Control Policy (ONDCP); for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law 109-469); not to exceed \$10,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement, \$26,402,000; of which \$250,000 shall remain available until expended for policy research and evaluation: *Provided*, That of the funds provided under this heading, \$1,250,000 shall be allocated for the National Academy of Public Administration to conduct an independent study and analysis of ONDCP's organization and management: *Provided further*, That within two months after the date of enactment of this Act, the ONDCP shall

Deadline.
Contracts.

contract with the National Academy of Public Administration for purposes as described in the previous proviso: *Provided further*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Office.

COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Counterdrug Technology Assessment Center for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law 109-469), \$1,000,000, which shall remain available until expended for counternarcotics research and development projects: *Provided*, That such amount shall be available for transfer to other Federal departments or agencies: *Provided further*, That the Office of National Drug Control Policy shall submit for approval by the Committees on Appropriations of the House of Representatives and the Senate, a spending plan for the use of these funds no later than 90 days after enactment of this Act.

Spending plan.
Deadline.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, \$230,000,000, to remain available until September 30, 2009, for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than 51 percent shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of the date of enactment of this Act: *Provided*, That up to 49 percent may be transferred to Federal agencies and departments at a rate to be determined by the Director, of which not less than \$2,100,000 shall be used for auditing services and associated activities, and up to \$400,000 which shall be for the final year of development and implementation of a data collection system to measure the performance of the High Intensity Drug Trafficking Areas Program: *Provided further*, That High Intensity Drug Trafficking Areas Programs designated as of September 30, 2007, shall be funded at no less than the fiscal year 2007 initial allocation levels unless the Director submits to the Committees on Appropriations of the House of Representatives and the Senate, and the Committees approve, justification for changes in those levels based on clearly articulated priorities for the High Intensity Drug Trafficking Areas Programs, as well as published Office of National Drug Control Policy performance measures of effectiveness: *Provided further*, That a request shall be submitted in compliance with the reprogramming guidelines to the Committees on Appropriations for approval prior to the obligation of funds of an amount in excess of the fiscal year 2007 budget request: *Provided further*, That the Office of National Drug Control Policy (ONDCP) shall submit recommendations for approval to the Committees on Appropriations for both the initial High-Intensity

Deadline.

Funding
justification.

Budget request.

Recommendations.
Deadlines.

Drug Trafficking Area (HIDTA) allocation funding within 90 days after the enactment of this Act and the discretionary HIDTA funding, according to the framework proposed jointly by the HIDTA Directors and ONDCP, within 120 days after the enactment of this Act: *Provided further*, That within the discretionary funding amount, plans for use of such funds shall be subject to committee approval: *Provided further*, That at least \$2,000,000 shall be available for new counties, not including previously funded counties, with priority given to meritorious applicants who have submitted previously and have not been funded.

OTHER FEDERAL DRUG CONTROL PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For activities to support a national anti-drug campaign for youth, and for other purposes, authorized by the Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law 109-469), \$164,300,000, to remain available until expended, of which the amounts are available as follows: \$60,000,000 to support a national media campaign: *Provided*, That the Office of National Drug Control Policy shall maintain funding for non-advertising services for the media campaign at no less than the fiscal year 2003 ratio of service funding to total funds and shall continue the corporate outreach program as it operated prior to its cancellation; \$90,000,000 to continue a program of matching grants to drug-free communities, of which \$2,000,000 shall be made available as directed by section 4 of Public Law 107-82, as amended by Public Law 109-469 (21 U.S.C. 1521 note); \$500,000 for demonstration programs as authorized by section 1119 of Public Law 109-469; \$1,000,000 for the National Drug Court Institute; \$9,600,000 for the United States Anti-Doping Agency for anti-doping activities; \$1,700,000 for the United States membership dues to the World Anti-Doping Agency; \$1,250,000 for the National Alliance for Model State Drug Laws; and \$250,000 for evaluations and research related to National Drug Control Program performance measures: *Provided further*, That such funds may be transferred to other Federal departments and agencies to carry out such activities: *Provided further*, That of the amounts appropriated for a national media campaign, not to exceed 10 percent shall be for administration, advertising production, research and testing, labor, and related costs of the national media campaign.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, as authorized by 3 U.S.C. 108, \$1,000,000.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions; services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106,

which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles, \$4,432,000.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the care, operation, refurbishing, improvement, and to the extent not otherwise provided for, heating and lighting, including electric power and fixtures, of the official residence of the Vice President; the hire of passenger motor vehicles; and not to exceed \$90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate, \$320,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

ADMINISTRATIVE PROVISIONS—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. From funds made available in this Act under the headings “White House Office”, “Executive Residence at the White House”, “White House Repair and Restoration”, “Council of Economic Advisors”, “National Security Council”, “Office of Administration”, “Office of Policy Development”, “Special Assistance to the President”, and “Official Residence of the Vice President”, the Director of the Office of Management and Budget (or such other officer as the President may designate in writing), may, 15 days after giving notice to the House and Senate Committees on Appropriations, transfer not to exceed 10 percent of any such appropriation to any other such appropriation, to be merged with and available for the same time and for the same purposes as the appropriation to which transferred: *Provided*, That the amount of an appropriation shall not be increased by more than 50 percent by such transfers: *Provided further*, That no amount shall be transferred from “Special Assistance to the President” or “Official Residence of the Vice President” without the approval of the Vice President.

Notification.

SEC. 202. The President shall submit to the Committees on Appropriations not later than 30 days after the date of the enactment of this Act, and prior to the initial obligation of funds appropriated under the heading “Office of National Drug Control Policy”, a financial plan on the proposed uses of all funds under the heading by program, project, and activity, for which the obligation of funds is anticipated: *Provided*, That up to 20 percent of funds appropriated under this heading may be obligated before the submission of the report subject to prior approval of the Committees on Appropriations: *Provided further*, That the report shall be updated and submitted to the Committees on Appropriations every six months and shall include information detailing how the estimates and assumptions contained in previous reports have changed: *Provided further*, That any new projects and changes in funding of ongoing projects shall be subject to the prior approval of the Committees on Appropriations.

Deadline.
Financial plan.

Reports.
Deadlines.

SEC. 203. Not to exceed 2 percent of any appropriations in this Act made available to the Office of National Drug Control Policy may be transferred between appropriated programs upon the advance approval of the Committees on Appropriations: *Provided*, That no transfer may increase or decrease any such appropriation by more than 3 percent.

SEC. 204. Not to exceed \$1,000,000 of any appropriations in this Act made available to the Office of National Drug Control Policy may be reprogrammed within a program, project, or activity upon the advance approval of the Committees on Appropriations.

This title may be cited as the “Executive Office of the President Appropriations Act, 2008”.

Judiciary
Appropriations
Act, 2008.

TITLE III

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance, and operation of an automobile for the Chief Justice, not to exceed \$10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed \$10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve, \$66,526,000, of which \$2,000,000 shall remain available until expended.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon the Architect by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), \$12,201,000, which shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, \$27,072,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services, and necessary expenses of the court, as authorized by law, \$16,632,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL
SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, \$4,604,762,000 (including the purchase of firearms and ammunition); of which not to exceed \$27,817,000 shall remain available until expended for space alteration projects and for furniture and furnishings related to new space alteration and construction projects.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986 (Public Law 99-660), not to exceed \$4,099,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

In addition, \$14,500,000 shall be available to address critically understaffed workload associated with increased immigration enforcement: *Provided*, That this amount is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

DEFENDER SERVICES

For the operation of Federal Defender organizations; the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964 (18 U.S.C. 3006A); the compensation and reimbursement of expenses of persons furnishing investigative, expert, and other services under the Criminal Justice Act of 1964 (18 U.S.C. 3006A(e)); the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel; the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences; the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d); and for necessary training and general administrative expenses, \$835,601,000, to remain available until expended.

In addition, \$10,500,000 shall be available for the reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964 as a result of increased immigration enforcement: *Provided*, That this amount is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized

by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)), \$63,081,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses, not otherwise provided for, incident to the provision of protective guard services for United States courthouses and other facilities housing Federal court operations, and the procurement, installation, and maintenance of security systems and equipment for United States courthouses and other facilities housing Federal court operations, including building ingress-egress control, inspection of mail and packages, directed security patrols, perimeter security, basic security services provided by the Federal Protective Service, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702), \$410,000,000, of which not to exceed \$15,000,000 shall remain available until expended, to be expended directly or transferred to the United States Marshals Service, which shall be responsible for administering the Judicial Facility Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, \$76,036,000, of which not to exceed \$8,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, \$24,187,000; of which \$1,800,000 shall remain available through September 30, 2009, to provide education and training to Federal court personnel; and of which not to exceed \$1,500 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), \$59,400,000; to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), \$2,300,000; and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), \$3,700,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, \$15,477,000, of which not to exceed \$1,000 is authorized for official reception and representation expenses.

ADMINISTRATIVE PROVISIONS—THE JUDICIARY

(INCLUDING TRANSFER OF FUNDS)

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and Other Judicial Services, Defender Services" and "Courts of Appeals, District Courts, and Other Judicial Services, Fees of Jurors and Commissioners", shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under sections 605 and 610 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 303. Notwithstanding any other provision of law, the salaries and expenses appropriation for "Courts of Appeals, District Courts, and Other Judicial Services" shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided*, That such available funds shall not exceed \$11,000 and shall be administered by the Director of the Administrative Office of the United States Courts in the capacity as Secretary of the Judicial Conference.

SEC. 304. Within 90 days after the date of the enactment of this Act, the Administrative Office of the U.S. Courts shall submit to the Committees on Appropriations a comprehensive financial plan for the Judiciary allocating all sources of available funds including appropriations, fee collections, and carryover balances, to include a separate and detailed plan for the Judiciary Information Technology fund.

Deadline.
Financial plan.

SEC. 305. Pursuant to section 140 of Public Law 97–92, and from funds appropriated in this Act, Justices and judges of the United States are authorized during fiscal year 2008, to receive a salary adjustment in accordance with 28 U.S.C. 461.

28 USC 461 note.

Applicability.

SEC. 306. Section 3313(a) of title 40, United States Code, shall be applied by substituting “executive” for “federal” each place it appears.

SEC. 307. In accordance with 28 U.S.C. 561–569, and notwithstanding any other provision of law, the United States Marshals Service shall provide, for such courthouses as its Director may designate in consultation with the Director of the Administrative Office of the United States Courts, for purposes of a pilot program, the security services that 40 U.S.C. 1315 authorizes the Department of Homeland Security to provide, except for the services specified in 40 U.S.C. 1315(b)(2)(E). For building-specific security services at these courthouses, the Director of the Administrative Office of the United States Courts shall reimburse the United States Marshals Service rather than the Department of Homeland Security.

SEC. 308. Section 128(b) of title 28, United States Code, is amended by striking “Bellingham, Seattle, and Tacoma” and inserting “Bellingham, Seattle, Tacoma, and Vancouver”.

SEC. 309. Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101-650; 28 U.S.C. 133 note), is amended—

(1) in the third sentence (relating to the District of Kansas), by striking “16 years” and inserting “17 years”;

(2) in the sixth sentence (relating to the Northern District of Ohio), by striking “15 years” and inserting “17 years”.

This title may be cited as the “Judiciary Appropriations Act, 2008”.

District of
Columbia
Appropriations
Act, 2008.

TITLE IV

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, \$33,000,000, to remain available until expended: *Provided*, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to \$2,500 each year at eligible private institutions of higher education: *Provided further*, That the awarding of such funds may be prioritized on the basis of a resident’s academic merit, the income and need of eligible students and such other factors as may be authorized: *Provided further*, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: *Provided further*, That the account shall be under the control of the District of Columbia Chief Financial Officer, who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: *Provided further*, That the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees

Accounts.

Reports.

on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS
IN THE DISTRICT OF COLUMBIA

For necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, \$3,352,000, to remain available until expended; of which \$3,000,000 is to reimburse the District of Columbia for the costs of providing public safety at events related to the presence of the national capital in the District of Columbia and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions; and \$352,000 is for the District of Columbia National Guard retention and college access program: *Provided*, That any amount provided under this heading shall be available only after such amount has been apportioned pursuant to chapter 15 of title 31, United States Code.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, \$223,920,000 to be allocated as follows: for the District of Columbia Court of Appeals, \$10,800,000, of which not to exceed \$1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, \$98,359,000, of which not to exceed \$1,500 is for official reception and representation expenses; for the District of Columbia Court System, \$52,170,000, of which not to exceed \$1,500 is for official reception and representation expenses; and \$62,591,000, to remain available until September 30, 2009, for capital improvements for District of Columbia courthouse facilities, including structural improvements to the District of Columbia cell block at the Moultrie Courthouse: *Provided*, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause “availability of Funds” found at 48 CFR 52.232–18: *Provided further*, That funds made available for capital improvements shall be expended consistent with the General Services Administration (GSA) master plan study and building evaluation report: *Provided further*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the GSA, and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate: *Provided further*, That 30 days after providing written

Contracts.

Reports.

Deadline.
Notification.

notice to the Committees on Appropriations of the House of Representatives and Senate, the District of Columbia Courts may reallocate not more than \$1,000,000 of the funds provided under this heading among the items and entities funded under this heading for operations, and not more than 4 percent of the funds provided under this heading for facilities.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11-2604 and section 11-2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code, or pursuant to contractual agreements to provide guardian ad litem representation, training, technical assistance, and such other services as are necessary to improve the quality of guardian ad litem representation, payments for counsel appointed in adoption proceedings under chapter 3 of title 16, D.C. Code, and payments for counsel authorized under section 21-2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), \$47,975,000, to remain available until expended: *Provided*, That the funds provided in this Act under the heading “Federal Payment to the District of Columbia Courts” (other than the \$62,591,000 provided under such heading for capital improvements for District of Columbia courthouse facilities) may also be used for payments under this heading: *Provided further*, That in addition to the funds provided under this heading, the Joint Committee on Judicial Administration in the District of Columbia may use funds provided in this Act under the heading “Federal Payment to the District of Columbia Courts” (other than the \$62,591,000 provided under such heading for capital improvements for District of Columbia courthouse facilities), to make payments described under this heading for obligations incurred during any fiscal year: *Provided further*, That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: *Provided further*, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

Contracts.
Reports.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia, as authorized by the National

Capital Revitalization and Self-Government Improvement Act of 1997, \$190,343,000, of which not to exceed \$2,000 is for official receptions and representation expenses related to Community Supervision and Pretrial Services Agency programs; of which not to exceed \$25,000 is for dues and assessments relating to the implementation of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002; of which not to exceed \$400,000 for the Community Supervision Program and \$160,000 for the Pretrial Services Program, both to remain available until September 30, 2009, are for information technology infrastructure enhancement acquisitions; of which \$140,499,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to the supervision of adults subject to protection orders or the provision of services for or related to such persons; of which \$49,894,000 shall be available to the Pretrial Services Agency: *Provided*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: *Provided further*, That not less than \$1,000,000 shall be available for re-entrant housing in the District of Columbia: *Provided further*, That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: *Provided further*, That the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection: *Provided further*, That the Court Services and Offender Supervision Agency Director is authorized to accept and use reimbursement from the District of Columbia Government for space and services provided on a cost reimbursable basis.

Records.
Public
information.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA PUBLIC DEFENDER
SERVICE

For salaries and expenses, including the transfer and hire of motor vehicles, of the District of Columbia Public Defender Service, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, \$32,710,000: *Provided*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of Federal agencies.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND
SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, \$8,000,000, to remain available until expended, to continue implementation of the Combined Sewer Overflow Long-Term Plan: *Provided*, That the District of Columbia Water and Sewer Authority provides a match of \$6,000,000 and the District of Columbia provides a match of \$2,000,000 in local funds for this payment.

FEDERAL PAYMENT TO THE CRIMINAL JUSTICE COORDINATING
COUNCIL

For a Federal payment to the Criminal Justice Coordinating Council, \$1,300,000, to remain available until expended, to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

FEDERAL PAYMENT TO THE OFFICE OF THE CHIEF FINANCIAL OFFICER
OF THE DISTRICT OF COLUMBIA

Reports.
Deadlines.

For a Federal payment to the Office of the Chief Financial Officer of the District of Columbia, \$5,453,000: *Provided*, That each entity that receives funding under this heading shall submit to the Office of the Chief Financial Officer of the District of Columbia (CFO) a report on the activities to be carried out with such funds no later than March 15, 2008, and the CFO shall submit a comprehensive report to the Committees on Appropriations of the House of Representatives and the Senate no later than June 1, 2008.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

For a Federal payment for a school improvement program in the District of Columbia, \$40,800,000, to be allocated as follows: for the District of Columbia Public Schools, \$13,000,000 to improve public school education in the District of Columbia; for the State Education Office, \$13,000,000 to expand quality public charter schools in the District of Columbia, to remain available until expended; for the Secretary of the Department of Education, \$14,800,000 to provide opportunity scholarships for students in the District of Columbia in accordance with division C, title III of the District of Columbia Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 126), of which up to \$1,800,000 may be used to administer and fund assessments.

FEDERAL PAYMENT FOR CONSOLIDATED LABORATORY FACILITY

For a Federal payment to the District of Columbia, \$5,000,000, to remain available until September 30, 2009, for costs associated with the construction of a consolidated bioterrorism and forensics laboratory: *Provided*, That the District of Columbia provides a 100 percent match for this payment.

FEDERAL PAYMENT FOR CENTRAL LIBRARY AND BRANCH LOCATIONS

For a Federal payment to the District of Columbia, \$9,000,000, to remain available until expended, for the Federal contribution for costs associated with the renovation and rehabilitation of District libraries.

FEDERAL PAYMENT TO REIMBURSE THE FEDERAL BUREAU OF
INVESTIGATION

For a Federal payment to the District of Columbia, \$4,000,000, to remain available until September 30, 2010, for reimbursement to the Federal Bureau of Investigation for additional laboratory services.

FEDERAL PAYMENT TO THE EXECUTIVE OFFICE OF THE MAYOR OF THE
DISTRICT OF COLUMBIA

For a Federal payment to the Executive Office of the Mayor of the District of Columbia, \$5,000,000: *Provided*, That these funds shall be available to support the District's efforts to enhance the public education system, to improve environmental quality, to expand pediatric healthcare services and for historic preservation: *Provided further*, That no funds shall be expended until the Mayor of the District of Columbia submits a detailed expenditure plan, including performance measures, to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the District submit a preliminary progress report on activities no later than June 1, 2008, and a final report including a detailed description of outcomes achieved no later than November 1, 2009.

Expenditure
plan.Reports.
Deadlines.

DISTRICT OF COLUMBIA FUNDS

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: *Provided*, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act, approved November 2, 2000 (114 Stat. 2440; D.C. Official Code, sec. 1-204.50a) and provisions of this Act: The total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2008 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or \$9,773,775,000 (of which \$6,111,623,000 (including \$348,929,000 from dedicated taxes) shall be from local funds, \$2,015,854,000 shall be from Federal grant funds, \$1,637,736,000 shall be from other funds, and \$8,562,000 shall be from private funds), in addition, \$114,905,000 from funds previously appropriated in this Act as Federal payments: *Provided further*, That of the local funds, \$339,989,000 shall be derived from the District's general fund balance: *Provided further*, That of these funds the District's intradistrict authority shall be \$648,290,000: in addition for capital construction projects there is appropriated an increase of \$1,607,703,000, of which \$1,042,712,000 shall be from local funds, \$38,523,000 from the District of Columbia Highway Trust Fund, \$73,260,000 from the Local Street Maintenance fund, \$75,000,000 from revenue bonds, \$150,000,000 from financing for construction of a consolidated laboratory facility, \$42,200,000 for construction of a baseball stadium, \$186,008,000 from Federal grant funds, and a rescission of \$212,696,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of \$1,395,007,000, to remain available until expended: *Provided further*, That the amounts provided under this heading are to be subject to the provisions of and allocated and expended as proposed under "Title III—District of Columbia Funds Summary of Expenses" of the Fiscal Year 2008 Proposed Budget and Financial Plan submitted to the Congress of the United States by the District of Columbia on June 7, 2007 as amended on June 29, 2007 and such title is hereby incorporated by reference as though set forth fully herein: *Provided further*,

Incorpor-
ation by
reference.

That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: *Provided further*, That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act approved December 24, 1973 (87 Stat. 777; D.C. Official Code, sec. 1–201.01 et seq.), as amended by this Act: *Provided further*, That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2008, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

This title may be cited as the “District of Columbia Appropriations Act, 2008”.

TITLE V

INDEPENDENT AGENCIES

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable under 5 U.S.C. 5376, purchase of nominal awards to recognize non-Federal officials’ contributions to Commission activities, and not to exceed \$1,000 for official reception and representation expenses, \$80,000,000.

ELECTION ASSISTANCE COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Help America Vote Act of 2002, \$16,530,000, of which \$3,250,000 shall be transferred to the National Institute of Standards and Technology for election reform activities authorized under the Help America Vote Act of 2002: *Provided*, That \$200,000 shall be for a competitive grant program to support community involvement in student and parent mock elections.

ELECTION REFORM PROGRAMS

For necessary expenses to carry out programs under the Help America Vote Act of 2002 (Public Law 107–252), \$115,000,000 which shall be available for requirements payments under part 1 of subtitle D of title II of such Act.

ELECTION DATA COLLECTION GRANTS

For necessary expenses to carry out an election data collection grants program under section 501 of this Act, \$10,000,000, which shall remain available until expended.

ADMINISTRATIVE PROVISION—ELECTION ASSISTANCE COMMISSION

SEC. 501. (a) ELECTION DATA COLLECTION GRANTS.—Not later than March 30, 2008, the Election Assistance Commission (in this section referred to as the “Commission”) shall establish an election data collection grant program (in this section referred to as the “program”) to provide a grant of \$2,000,000 to 5 eligible States to improve the collection of data relating to the regularly scheduled general election for Federal office held in November 2008. For purposes of this section, the term “State” has the meaning given such term in section 901 of the Help America Vote Act of 2002 (42 U.S.C. 15541).

Deadlines.
42 USC 15381
note.

(b) ELIGIBILITY.—A State is eligible to receive a grant under the program if it submits to the Commission, at such time and in such form as the Commission may require, an application containing the following information and assurances:

(1) A plan for the use of the funds provided by the grant which will expand and improve the collection of the election data described in subsection (a) at the precinct level and will provide for the collection of such data in a common electronic format (as determined by the Commission).

(2) An assurance that the State will comply with all requests made by the Commission for the compilation and submission of the data.

(3) An assurance that the State will provide the Commission with such information as the Commission may require to prepare and submit the report described in subsection (d).

(4) Such other information and assurances as the Commission may require.

(c) TIMING OF GRANTS; AVAILABILITY.—

(1) TIMING.—The Commission shall award grants under the program to eligible States not later than 60 days after the date on which the Commission establishes the program.

(2) AVAILABILITY OF FUNDS.—Amounts provided by a grant under the program shall remain available without fiscal year limitation until expended.

(d) REPORT TO CONGRESS.—

(1) REPORT.—Not later than June 30, 2009, the Commission, in consultation with the States receiving grants under the program and the Election Assistance Commission Board of Advisors, shall submit a report to Congress on the impact of the program on the collection of the election data described in subsection (a).

(2) RECOMMENDATIONS.—The Commission shall include in the report submitted under paragraph (1) such recommendations as the Commission considers appropriate to improve the collection of data relating to regularly scheduled general elections for Federal office in all States, including recommendations for changes in Federal law or regulations and the Commission’s estimate of the amount of funding necessary to carry out such changes.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901-5902; not to exceed \$4,000 for official reception and representation expenses; purchase and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109, \$313,000,000: *Provided*, That \$312,000,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 2008 so as to result in a final fiscal year 2008 appropriation estimated at \$1,000,000: *Provided further*, That any offsetting collections received in excess of \$312,000,000 in fiscal year 2008 shall not be available for obligation: *Provided further*, That remaining offsetting collections from prior years collected in excess of the amount specified for collection in each such year and otherwise becoming available on October 1, 2007, shall not be available for obligation: *Provided further*, That notwithstanding 47 U.S.C. 309(j)(8)(B), proceeds from the use of a competitive bidding system that may be retained and made available for obligation shall not exceed \$85,000,000 for fiscal year 2008: *Provided further*, That, in addition, not to exceed \$21,480,000 may be transferred from the Universal Service Fund in fiscal year 2008 to remain available until expended, to monitor the Universal Service Fund program to prevent and remedy waste, fraud and abuse, and to conduct audits and investigations by the Office of Inspector General.

ADMINISTRATIVE PROVISIONS—FEDERAL COMMUNICATIONS
COMMISSION

118 Stat. 3997. SEC. 510. Section 302 of the Universal Service Antideficiency Temporary Suspension Act is amended by striking “December 31, 2007”, each place it appears and inserting “December 31, 2008”.

SEC. 511. None of the funds appropriated by this Act may be used by the Federal Communications Commission to modify, amend, or change its rules or regulations for universal service support payments to implement the February 27, 2004 recommendations of the Federal-State Joint Board on Universal Service regarding single connection or primary line restrictions on universal service support payments.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$26,848,000, to be derived from the Deposit Insurance Fund and the FSLIC Resolution Fund.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, \$59,224,000, of which no less than \$8,100,000 shall be available for internal automated data processing systems, and of which not to exceed \$5,000 shall be available for reception and representation expenses.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services authorized by 5 U.S.C. 3109, and including hire of experts and consultants, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia and elsewhere, \$23,641,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further*, That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$2,000 for official reception and representation expenses, \$243,864,000, to remain available until expended: *Provided*, That not to exceed \$300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718: *Provided further*, That, notwithstanding any other provision of law, not to exceed \$139,000,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection, shall be retained and used for necessary expenses in this appropriation: *Provided further*, That, notwithstanding any other provision of law, not to exceed \$23,000,000 in offsetting collections derived from fees sufficient to implement and enforce the Telemarketing Sales Rule, promulgated under the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101 et seq.), shall be credited to this account, and be retained and used for necessary expenses in this appropriation: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year 2008, so as to result in a final fiscal year 2008

appropriation from the general fund estimated at not more than \$81,864,000: *Provided further*, That none of the funds made available to the Federal Trade Commission may be used to implement subsection (e)(2)(B) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t).

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

For an additional amount to be deposited in the Federal Buildings Fund, \$83,964,000. To carry out the purposes of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 592), the revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation, and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, and any other obligations for public buildings acquired by installment purchase and purchase contract; in the aggregate amount of \$7,830,414,000, of which: (1)(A) \$306,448,000 shall remain available until expended for construction (including funds for sites and expenses and associated design and construction services) of additional projects at the following locations:

New Construction:

California:

San Ysidro, Land Port of Entry, \$37,742,000.

Illinois:

Rockford, United States Courthouse, \$58,792,000.

Maryland:

Montgomery County, Food and Drug Administration Consolidation, \$57,749,000.

Minnesota:

Warroad, Land Port of Entry, \$43,628,000.

Missouri:

Jefferson City, United States Courthouse, \$66,000,000.

Vermont:

Derby Line, Land Port of Entry, \$33,139,000.

Nonprospectus Construction, \$9,398,000; and

(B) \$225,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act) and shall remain available until expended for construction (including funds for sites and expenses and associated design and construction services) of additional projects at the following locations:

Arizona:

San Luis, Land Port of Entry I, \$7,053,000.

California:

San Ysidro, Land Port of Entry, \$161,437,000.

Maine:

Madawaska, Land Port of Entry, \$17,160,000.

New York:

Alexandria Bay, Land Port of Entry, \$11,676,000.

Texas:

El Paso, Tornillo-Guadalupe, Land Port of Entry, \$4,290,000.

Donna/Rio Bravo International Bridge, Land Port of Entry, \$23,384,000:

Provided, That, notwithstanding any other provision of law, the Administrator of General Services is authorized to proceed with necessary site acquisition, design, and construction for the new courthouse project in Rockford, Illinois, listed in Public Law 109-115 and for which funds have been appropriated under this or any other Acts, with the understanding that the total estimated cost of the project, exclusive of any permitted escalations, shall be \$100,225,000: *Provided further*, That each of the foregoing limits of costs on new construction projects may be exceeded to the extent that savings are affected in other such projects, but not to exceed 10 percent of the amounts included in an approved prospectus, if required, unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That all funds for direct construction projects shall expire on September 30, 2009 and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (2) \$722,161,000 shall remain available until expended for repairs and alterations, which includes associated design and construction services:

Expiration date.

Repairs and Alterations:

District of Columbia:

Eisenhower Executive Office Building, Phase III, \$121,204,000.

Joint Operations Center, \$12,800,000.

Nebraska Avenue Complex, \$27,673,000.

Nevada:

Reno, C. Clifton Young Federal Building and Courthouse, \$12,793,000.

New York:

New York, Thurgood Marshall United States Courthouse, \$170,544,000.

West Virginia:

Martinsburg Internal Revenue Service Enterprise Computing Center, \$35,822,000.

Special Emphasis Programs:

Energy Program, \$15,000,000.

Design Program, \$7,372,000.

Basic Repairs and Alterations, \$318,953,000:

Expiration date.

Provided further, That funds made available in this or any previous Act in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount identified for each project, except each project in this or any previous Act may be increased by an amount not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations: *Provided further*, That the amounts provided in this or any prior Act for “Repairs and Alterations” may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further*, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading “Repairs and Alterations”, may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 2009 and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading “Repairs and Alterations” or used to fund authorized increases in prospectus projects; (3) \$155,781,000 for installment acquisition payments, including payments on purchase contracts which shall remain available until expended; (4) \$4,315,534,000 for rental of space which shall remain available until expended; and (5) \$2,105,490,000 for building operations which shall remain available until expended, of which up to \$500,000 may be used as Federal competitive contributions to entities which coordinate long-term siting of Federal building and employment in the National Capital Region with State and local governments, the commercial sector and other major stakeholders in the region: *Provided further*, That funds available to the General Services Administration shall not be available for expenses of any construction, repair, alteration and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 592(b)(2)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 2008,

excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 592(b)(2)) in excess of the aggregate new obligational authority authorized for Real Property Activities of the Federal Buildings Fund in this Act shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

GENERAL ACTIVITIES

GOVERNMENT-WIDE POLICY

For expenses authorized by law, not otherwise provided for, for Government-wide policy and evaluation activities associated with the management of real and personal property assets and certain administrative services; Government-wide policy support responsibilities relating to acquisition, telecommunications, information technology management, and related technology activities; and services as authorized by 5 U.S.C. 3109; \$52,891,000.

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, for Government-wide activities associated with utilization and donation of surplus personal property; disposal of real property; providing Internet access to Federal information and services; agency-wide policy direction and management, and Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed \$7,500 for official reception and representation expenses, \$85,870,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and service authorized by 5 U.S.C. 3109, \$48,382,000: *Provided*, That not to exceed \$15,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed \$2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ELECTRONIC GOVERNMENT FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in support of interagency projects that enable the Federal Government to expand its ability to conduct activities electronically, through the development and implementation of innovative uses of the Internet and other electronic methods, \$3,000,000, to remain available until expended: *Provided*, That these funds may be transferred to Federal agencies to carry out the purposes of the Fund: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That such transfers may not

Transfer date.
Spending plan.
Project
explanation.

be made until 10 days after a proposed spending plan and explanation for each project to be undertaken has been submitted to the Committees on Appropriations.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

(INCLUDING TRANSFER OF FUNDS)

For carrying out the provisions of the Act of August 25, 1958 (3 U.S.C. 102 note), and Public Law 95-138, \$2,478,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

FEDERAL CITIZEN INFORMATION CENTER FUND

For necessary expenses of the Federal Citizen Information Center, including services authorized by 5 U.S.C. 3109, \$17,328,000, to be deposited into the Federal Citizen Information Center Fund: *Provided*, That the appropriations, revenues, and collections deposited into the Fund shall be available for necessary expenses of Federal Citizen Information Center activities in the aggregate amount not to exceed \$42,000,000. Appropriations, revenues, and collections accruing to this Fund during fiscal year 2008 in excess of such amount shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

ADMINISTRATIVE PROVISIONS—GENERAL SERVICES ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

SEC. 520. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 521. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 522. Funds in the Federal Buildings Fund made available for fiscal year 2008 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements: *Provided*, That any proposed transfers shall be approved in advance by the Committees on Appropriations.

SEC. 523. Except as otherwise provided in this title, no funds made available by this Act shall be used to transmit a fiscal year 2009 request for United States Courthouse construction that: (1) does not meet the design guide standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget; and (2) does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided*, That the fiscal year 2009 request must be accompanied by a standardized courtroom utilization study of each facility to be constructed, replaced, or expanded.

SEC. 524. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency

Study.

that does not pay the rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92-313).

SEC. 525. From funds made available under the heading “Federal Buildings Fund, Limitations on Availability of Revenue”, claims against the Government of less than \$250,000 arising from direct construction projects and acquisition of buildings may be liquidated from savings effected in other construction projects with prior notification to the Committees on Appropriations.

SEC. 526. No funds shall be used by the General Services Administration to reorganize its organizational structure without approval by the House and Senate Committees on Appropriations through an operating plan change.

SEC. 527. In any case in which the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate adopt a resolution granting lease authority pursuant to a prospectus transmitted to Congress by the Administrator of General Services under section 3307 of title 40, United States Code, the Administrator shall ensure that the delineated area of procurement is identical to the delineated area included in the prospectus for all lease agreements, except that, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to each of such committees and the House and Senate Committees on Appropriations prior to exercising any lease authority provided in the resolution.

Contracts.
Statement.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978, and the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note), including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, direct procurement of survey printing, and not to exceed \$2,000 for official reception and representation expenses, \$37,507,000 together with not to exceed \$2,579,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payment to the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund, pursuant to the

Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.), \$3,750,000, to remain available until expended, of which up to \$50,000 shall be used to conduct financial audits pursuant to the Accountability of Tax Dollars Act of 2002 (Public Law 107-289) notwithstanding sections 8 and 9 of Public Law 102-259: *Provided*, That up to 60 percent of such funds may be transferred by the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for the necessary expenses of the Native Nations Institute.

ENVIRONMENTAL DISPUTE RESOLUTION FUND

For payment to the Environmental Dispute Resolution Fund to carry out activities authorized in the Environmental Policy and Conflict Resolution Act of 1998, \$2,000,000, to remain available until expended.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives and Records Administration (including the Information Security Oversight Office) and archived Federal records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents and the activities of the Public Interest Declassification Board, and for the hire of passenger motor vehicles, and for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901 et seq.), including maintenance, repairs, and cleaning, \$315,000,000.

ELECTRONIC RECORDS ARCHIVES

For necessary expenses in connection with the development of the electronic records archives, to include all direct project costs associated with research, analysis, design, development, and program management, \$58,028,000 of which \$38,315,000 shall remain available until September 30, 2009: *Provided*, That none of the multi-year funds may be obligated until the National Archives and Records Administration submits to the Committees on Appropriations, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A-11; (2) complies with the National Archives and Records Administration's enterprise architecture; (3) conforms with the National Archives and Records Administration's enterprise life cycle methodology; (4) is approved by the National Archives and Records Administration and the Office of Management and Budget; (5) has been reviewed by the Government Accountability Office; and (6) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government.

Expenditure
plan.

REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities, and to provide adequate storage for holdings, \$28,605,000, to remain available until expended: *Provided*, That the Archivist

is authorized to construct an addition to the John F. Kennedy Presidential Library and Museum on land, adjacent to the existing Library and Museum property, to be acquired from the Commonwealth of Massachusetts or the University of Massachusetts or some other governmental authority thereof; and of the funds provided, \$8,000,000 shall be used for acquiring the land for the Kennedy Library Addition, the first phase of construction, related services for building the addition to the Library, and other necessary expenses, including renovating the Library as needed in constructing the addition; \$750,000 to complete design work on the renovation of the Franklin D. Roosevelt Presidential Library and Museum; \$7,432,000 to construct an addition to the Richard Nixon Presidential Library and Museum; and \$3,760,000 is for the repair and restoration of the plaza that surrounds the Lyndon Baines Johnson Presidential Library and Museum that is under the joint control and custody of the University of Texas: *Provided further*, That such funds shall remain available until expended for this purpose and may be transferred directly to the University and used, together with University funds, for the repair and restoration of the plaza: *Provided further*, That such funds shall be spent in accordance with the construction plan submitted to the Committees on Appropriations on March 14, 2005: *Provided further*, That the Archivist shall be prohibited from entering into any agreement with the University or any other party that requires additional funding commitments on behalf of the Federal Government for this project.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

GRANTS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, \$9,500,000, to remain available until expended: *Provided*, That of the funds provided in this paragraph, \$2,000,000 shall be transferred to the operating expenses account of the National Archives and Records Administration for operating expenses of the National Historical Publications and Records Commission.

ADMINISTRATIVE PROVISION—NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

The National Archives and Records Administration shall include in its fiscal year 2009 budget justifications a comprehensive capital needs assessment for funding provided under the “Repairs and Restoration” appropriations account: *Provided*, That funds proposed under the “Repairs and Restoration” appropriations account for fiscal year 2009 shall be allocated to projects on a priority basis established under a comprehensive capital needs assessment.

Funding
assessment.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 2008, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions, as authorized by 12 U.S.C. 1795 et seq.,

shall not exceed \$1,500,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 2008 shall not exceed \$329,000.

COMMUNITY DEVELOPMENT REVOLVING LOAN FUND

For the Community Development Revolving Loan Fund program as authorized by 42 U.S.C. 9812, 9822 and 9910, \$975,000 shall be available until September 30, 2009 for technical assistance to low-income designated credit unions.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, and the Ethics Reform Act of 1989, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed \$1,500 for official reception and representation expenses, \$11,750,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed \$2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order No. 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty, \$101,765,000, of which \$5,991,000 shall remain available until expended for the Enterprise Human Resources Integration project; \$1,351,000 shall remain available until expended for the Human Resources Line of Business project; \$340,000 shall remain available until expended for the E-Payroll project; and \$170,000 shall remain available until expended for the E-Training program; and in addition \$123,901,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials, for the retirement and insurance programs, of which \$26,965,000 shall remain available until expended for the cost of automating the retirement recordkeeping systems: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by sections 8348(a)(1)(B), and 9004(f)(2)(A) of title 5, United States Code: *Provided further*, That no part of this appropriation shall be available for salaries and expenses

of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order No. 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order No. 11183 of October 3, 1964, may, during fiscal year 2008, accept donations of money, property, and personal services: *Provided further*, That such donations, including those from prior years, may be used for the development of publicity materials to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, \$1,519,000, and in addition, not to exceed \$17,081,000 for administrative expenses to audit, investigate, and provide other oversight of the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH
BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE
INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided*, That annuities authorized by the Act of May 29, 1944, and the Act of August 19, 1950 (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

33 USC 776.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95-454), the Whistleblower Protection Act of 1989 (Public Law 101-12), Public Law 107-304, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103-353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; \$17,468,000.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed \$3,500 for official reception and representation expenses, \$906,000,000, to remain available until expended; of which not to exceed \$20,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions; and of which not to exceed \$100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (1) such incidental expenses as meals taken in the course of such attendance; (2) any travel and transportation to or from such meetings; and (3) any other related lodging or subsistence: *Provided*, That fees and charges authorized by sections 6(b) of the Securities Exchange Act of 1933 (15 U.S.C. 77f(b)), and 13(e), 14(g) and 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e), 78n(g), and 78ee), shall be credited to this account as offsetting collections: *Provided further*, That not to exceed \$842,738,000 of such offsetting collections shall be available until expended for necessary expenses of this account: *Provided further*, That \$63,262,000 shall be derived from prior year unobligated balances from funds previously appropriated to the Securities and Exchange Commission: *Provided further*, That the total amount appropriated under this heading from the general fund for fiscal year 2008 shall be reduced as such offsetting fees are received so as to result in a final total fiscal year 2008 appropriation from the general fund estimated at not more than \$0.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by 5 U.S.C. 4101–4118 for civilian employees; purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and not to exceed \$750 for official reception and representation expenses; \$22,000,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever the President deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 108–447, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed \$3,500 for official reception and representation expenses, \$344,123,000: *Provided*, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan program activities, including fees authorized by section 5(b) of the Small Business Act: *Provided further*, That, notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to remain available until expended, for carrying out these purposes without further appropriations: *Provided further*, That \$97,120,000 shall be available to fund grants for performance in fiscal year 2008 or fiscal year 2009 as authorized.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$15,000,000.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the Surety Bond Guarantees Revolving Fund, authorized by the Small Business Investment Act of 1958, \$3,000,000, to remain available until expended.

BUSINESS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, \$2,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That subject to section 502 of the Congressional Budget Act of 1974, during

fiscal year 2008 commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958 shall not exceed \$7,500,000,000: *Provided further*, That during fiscal year 2008 commitments for general business loans authorized under section 7(a) of the Small Business Act, shall not exceed \$17,500,000,000: *Provided further*, That during fiscal year 2008 commitments to guarantee loans for debentures under section 303(b) of the Small Business Investment Act of 1958, shall not exceed \$3,000,000,000: *Provided further*, That during fiscal year 2008, guarantees of trust certificates authorized by section 5(g) of the Small Business Act shall not exceed a principal amount of \$12,000,000,000. In addition, for administrative expenses to carry out the direct and guaranteed loan programs, \$135,414,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

SEC. 530. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 610 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

Disaster
assistance.
Alaska.
North Dakota.
Nevada.

SEC. 531. All disaster loans issued in Alaska or North Dakota shall be administered by the Small Business Administration and shall not be sold during fiscal year 2008.

SEC. 532. (a) Funds made available under section 613 of Public Law 109–108 (119 Stat. 2338) for Nevada’s Commission on Economic Development shall be made available to the Nevada Center for Entrepreneurship and Technology (CET).

Tennessee.

(b) Funds made available under section 613 of Public Law 109–108 for the Chattanooga Enterprise Center shall be made available to the University of Tennessee at Chattanooga.

SEC. 533. Public Law 110–28 (121 Stat. 155) is amended in the second paragraph of chapter 4 of title IV by inserting before “\$25,000,000” the phrase “up to”.

SEC. 534. For an additional amount under the heading “Small Business Administration, Salaries and Expenses”, \$69,451,000, to remain available until September 30, 2009, shall be for initiatives related to small business development and entrepreneurship, including programmatic and construction activities: *Provided*, That amounts made available under this section shall be provided in accordance with the terms and conditions as specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, \$117,864,000,

of which \$88,864,000 shall not be available for obligation until October 1, 2008: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in fiscal year 2008. Mail.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, \$45,326,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

TITLE VI

GENERAL PROVISIONS—THIS ACT

SEC. 601. Such sums as may be necessary for fiscal year 2008 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 602. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 603. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 604. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law. Contracts.

SEC. 605. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 606. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 607. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 608. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

SEC. 609. No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a-10c).

SEC. 610. Except as otherwise provided in this Act, none of the funds provided in this Act, provided by previous appropriations Acts to the agencies or entities funded in this Act that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury derived by the collection of fees and available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds or personnel for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose; (5) augments existing programs, projects, or activities in excess of \$5,000,000 or 10 percent, whichever is less; (6) reduces existing programs, projects, or activities by \$5,000,000 or 10 percent, whichever is less; or (7) creates or reorganizes offices, programs, or activities unless prior approval is received from the House and Senate Committees on Appropriations: *Provided*, That prior to any significant reorganization or restructuring of offices, programs, or activities, each agency or entity funded in this Act shall consult with the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That not later than 60 days after the date of enactment of this Act, each agency funded by this Act shall submit a report to the Committees on Appropriations of the Senate and of the House of Representatives to establish the baseline for application of reprogramming and transfer authorities for the current fiscal year: *Provided further*, That the report shall include: (1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level; (2) a delineation in the table for each appropriation both by object class and program, project, and activity as detailed in the budget appendix for the respective appropriation; and (3) an identification of items of special congressional interest: *Provided further*, That the amount appropriated or limited for salaries and expenses for an agency shall be reduced by \$100,000

Deadline.
Reports.

per day for each day after the required date that the report has not been submitted to the Congress.

SEC. 611. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2008 from appropriations made available for salaries and expenses for fiscal year 2008 in this Act, shall remain available through September 30, 2009, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with reprogramming guidelines.

Request.

SEC. 612. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 613. The cost accounting standards promulgated under section 26 of the Office of Federal Procurement Policy Act (Public Law 93-400; 41 U.S.C. 422) shall not apply with respect to a contract under the Federal Employees Health Benefits Program established under chapter 89 of title 5, United States Code.

SEC. 614. For the purpose of resolving litigation and implementing any settlement agreements regarding the nonforeign area cost-of-living allowance program, the Office of Personnel Management may accept and utilize (without regard to any restriction on unanticipated travel expenses imposed in an Appropriations Act) funds made available to the Office of Personnel Management pursuant to court approval.

SEC. 615. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefits program which provides any benefits or coverage for abortions.

Abortion.

SEC. 616. The provision of section 615 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SEC. 617. Notwithstanding any other provision of law, for fiscal years 2008 and 2009, neither the Board of Governors of the Federal Reserve System nor the Secretary of the Treasury may determine, by rule, regulation, order, or otherwise, for the purposes of section 4(K) of the Bank Holding Company Act of 1956, or section 5136A of the Revised Statutes of the United States, that real estate brokerage activity or real estate management activity (which for purposes of this paragraph shall be defined to mean “real estate brokerage” and “property management” respectively, as those terms were understood by the Federal Reserve Board prior to March 11, 2000) is an activity that is financial in nature, is incidental to any financial activity, or is complementary to a financial activity. For purposes of this paragraph, “real estate brokerage activity” shall mean “real estate brokerage”, and “real estate management activity” shall mean “property management” as those terms were understood by the Federal Reserve Board prior to March 11, 2000.

SEC. 618. In order to promote Government access to commercial information technology, the restriction on purchasing nondomestic articles, materials, and supplies set forth in the Buy American Act (41 U.S.C. 10a et seq.), shall not apply to the acquisition by the Federal Government of information technology (as defined in section 11101 of title 40, United States Code), that is a commercial item (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).

20 USC 2009a.

SEC. 619. Notwithstanding section 10(b) of the Harry S Truman Memorial Scholarship Act (20 U.S.C. 2009(b)), hereafter, at the request of the Board of Trustees of the Harry S Truman Scholarship Foundation, it shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated and contributed to the Harry S Truman Memorial Scholarship Trust Fund, as provided in such section. All requests of the Board of Trustees to the Secretary provided for in this section shall be binding on the Secretary.

SEC. 620. Notwithstanding section 1353 of title 31, United States Code, no officer or employee of any regulatory agency or commission funded by this Act may accept on behalf of that agency, nor may such agency or commission accept, payment or reimbursement from a non-Federal entity for travel, subsistence, or related expenses for the purpose of enabling an officer or employee to attend and participate in any meeting or similar function relating to the official duties of the officer or employee when the entity offering payment or reimbursement is a person or entity subject to regulation by such agency or commission, or represents a person or entity subject to regulation by such agency or commission, unless the person or entity is an organization exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986.

SEC. 621. None of the funds made available by this Act may be used by the Federal Communications Commission to implement the Fairness Doctrine, as repealed in General Fairness Doctrine Obligations of Broadcast Licensees (50 Fed. Reg. 35418 (1985)), or any other regulations having the same substance.

SEC. 622. Section 5112 of title 31, United States Code, is amended by adding at the end the following new subsection:

“(r) REDESIGN AND ISSUANCE OF CIRCULATING QUARTER DOLLAR HONORING THE DISTRICT OF COLUMBIA AND EACH OF THE TERRITORIES.—

“(1) REDESIGN IN 2009.—

“(A) IN GENERAL.—Notwithstanding the fourth sentence of subsection (d)(1) and subsection (d)(2) and subject to paragraph (6)(B), quarter dollar coins issued during 2009, shall have designs on the reverse side selected in accordance with this subsection which are emblematic of the District of Columbia and the territories.

“(B) FLEXIBILITY WITH REGARD TO PLACEMENT OF INSCRIPTIONS.—Notwithstanding subsection (d)(1), the Secretary may select a design for quarter dollars issued during 2009 in which—

“(i) the inscription described in the second sentence of subsection (d)(1) appears on the reverse side of any such quarter dollars; and

“(ii) any inscription described in the third sentence of subsection (d)(1) or the designation of the value of the coin appears on the obverse side of any such quarter dollars.

“(2) SINGLE DISTRICT OR TERRITORY DESIGN.—The design on the reverse side of each quarter dollar issued during 2009 shall be emblematic of one of the following: The District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

“(3) SELECTION OF DESIGN.—

“(A) IN GENERAL.—Each of the 6 designs required under this subsection for quarter dollars shall be—

“(i) selected by the Secretary after consultation with—

“(I) the chief executive of the District of Columbia or the territory being honored, or such other officials or group as the chief executive officer of the District of Columbia or the territory may designate for such purpose; and

“(II) the Commission of Fine Arts; and

“(ii) reviewed by the Citizens Coinage Advisory Committee.

“(B) SELECTION AND APPROVAL PROCESS.—Designs for quarter dollars may be submitted in accordance with the design selection and approval process developed by the Secretary in the sole discretion of the Secretary.

“(C) PARTICIPATION.—The Secretary may include participation by District or territorial officials, artists from the District of Columbia or the territory, engravers of the United States Mint, and members of the general public.

“(D) STANDARDS.—Because it is important that the Nation’s coinage and currency bear dignified designs of which the citizens of the United States can be proud, the Secretary shall not select any frivolous or inappropriate design for any quarter dollar minted under this subsection.

“(E) PROHIBITION ON CERTAIN REPRESENTATIONS.—No head and shoulders portrait or bust of any person, living or dead, and no portrait of a living person may be included in the design of any quarter dollar under this subsection.

“(4) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

“(5) ISSUANCE.—

“(A) QUALITY OF COINS.—The Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) in uncirculated and proof qualities as the Secretary determines to be appropriate.

“(B) SILVER COINS.—Notwithstanding subsection (b), the Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) as the Secretary determines to be appropriate, with a content of 90 percent silver and 10 percent copper.

“(C) TIMING AND ORDER OF ISSUANCE.—Coins minted under this subsection honoring the District of Columbia

and each of the territories shall be issued in equal sequential intervals during 2009 in the following order: the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

“(6) OTHER PROVISIONS.—

“(A) APPLICATION IN EVENT OF ADMISSION AS A STATE.—If the District of Columbia or any territory becomes a State before the end of the 10-year period referred to in subsection (1)(1), subsection (1)(7) shall apply, and this subsection shall not apply, with respect to such State.

“(B) APPLICATION IN EVENT OF INDEPENDENCE.—If any territory becomes independent or otherwise ceases to be a territory or possession of the United States before quarter dollars bearing designs which are emblematic of such territory are minted pursuant to this subsection, this subsection shall cease to apply with respect to such territory.

“(7) TERRITORY DEFINED.—For purposes of this subsection, the term ‘territory’ means the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.”.

SEC. 623. (a) IN GENERAL.—Section 5112(n)(2) of title 31, United States Code, is amended—

(1) in subparagraph (C)(i)—

(A) by striking “inscriptions” and inserting “inscription”; and

(B) by striking “and ‘In God We Trust’”; and

(2) by adding at the end the following new subparagraph:

“(F) INSCRIPTION OF ‘IN GOD WE TRUST’.—The design on the obverse or the reverse shall bear the inscription ‘In God We Trust’.”.

(b) CONFORMING AMENDMENT.—Section 5112(r)(2) of title 31, United States Code, is amended—

(1) in subparagraph (C)(i)—

(A) by striking “inscriptions” and inserting “inscription”; and

(B) by striking “and ‘In God We Trust’”; and

(2) by adding at the end the following new subparagraph:

“(E) INSCRIPTION OF ‘IN GOD WE TRUST’.—The design on the obverse or the reverse shall bear the inscription ‘In God We Trust’.”.

(c) EFFECTIVE DATE.—The change required by the amendments made by subsections (a) and (b) shall be put into effect by the Secretary of the Treasury as soon as is practicable after the date of enactment of this Act.

SEC. 624. There is hereby appropriated \$600,000, to remain available until expended, for the Christopher Columbus Fellowship Foundation, established by Section 423 of Public Law 102–281.

TITLE VII

GENERAL PROVISIONS—GOVERNMENT-WIDE

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 701. Hereafter, funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee. 5 USC 5742 note.

SEC. 702. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 2008 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act (21 U.S.C. 802)) by the officers and employees of such department, agency, or instrumentality.

SEC. 703. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at \$12,888 except station wagons for which the maximum shall be \$13,312: *Provided*, That these limits may be exceeded by not to exceed \$3,700 for police-type vehicles, and by not to exceed \$4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further*, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles. 31 USC 1343 note.

SEC. 704. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–5924.

SEC. 705. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of the enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; 5 USC 5101 note.

(5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992 (Public Law 102-404): *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than \$4,000 or imprisoned for not more than 1 year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the Broadcasting Board of Governors, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

Affidavit.

Penalties.

SEC. 706. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 479), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 707. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order No. 13101 (September 14, 1998), including any such programs adopted prior to the effective date of the Executive order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 708. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the

event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 709. Hereafter, no part of any appropriation contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

5 USC note prec.
5501.

SEC. 710. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 711. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a joint resolution duly adopted in accordance with the applicable law of the United States.

SEC. 712. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 2008, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

5 USC 5343 note.

(1) during the period from the date of expiration of the limitation imposed by the comparable section for previous fiscal years until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 2008, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section; and

(2) during the period consisting of the remainder of fiscal year 2008, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 2008 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 2008 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in the previous fiscal year under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 2007, shall be determined under regulations prescribed by the Office of Personnel Management.

Regulations.

Applicability.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 2007, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 2007.

(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 713. During the period in which the head of any department or agency, or any other officer or civilian employee of the Federal Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of \$5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations. For the purposes of this section, the term “office” shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 714. Notwithstanding section 1346 of title 31, United States Code, or section 710 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order No. 12472 (April 3, 1984).

SEC. 715. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

- (1) the Central Intelligence Agency;
- (2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Department of Homeland Security, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of National Intelligence or the Office of the Director of National Intelligence.

SEC. 716. Hereafter, no department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964 (Public Law 88–352, 78 Stat. 241), the Age Discrimination in Employment Act of 1967 (Public Law 90–202, 81 Stat. 602), and the Rehabilitation Act of 1973 (Public Law 93–112, 87 Stat. 355).

5 USC 7201 note.

SEC. 717. No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance or efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 718. (a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or “new age” belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants’ personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 719. No funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: “These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.”: *Provided*, That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.

SEC. 720. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio,

television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 721. None of the funds appropriated by this or any other Act may be used by an agency to provide a Federal employee's home address to any labor organization except when the employee has authorized such disclosure or when such disclosure has been ordered by a court of competent jurisdiction.

SEC. 722. None of the funds made available in this Act or any other Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the Committees on Appropriations.

SEC. 723. No part of any appropriation contained in this or any other Act shall be used directly or indirectly, including by private contractor, for publicity or propaganda purposes within the United States not heretofor authorized by the Congress.

SEC. 724. (a) In this section, the term "agency"—

(1) means an Executive agency, as defined under section 105 of title 5, United States Code;

(2) includes a military department, as defined under section 102 of such title, the Postal Service, and the Postal Regulatory Commission; and

(3) shall not include the Government Accountability Office.

(b) Unless authorized in accordance with law or regulations to use such time for other purposes, an employee of an agency shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under section 6301(2) of title 5, United States Code, has an obligation to expend an honest effort and a reasonable proportion of such employee's time in the performance of official duties.

SEC. 725. Notwithstanding 31 U.S.C. 1346 and section 710 of this Act, funds made available for the current fiscal year by this or any other Act to any department or agency, which is a member of the Federal Accounting Standards Advisory Board (FASAB), shall be available to finance an appropriate share of FASAB administrative costs.

SEC. 726. Notwithstanding 31 U.S.C. 1346 and section 710 of this Act, the head of each Executive department and agency is hereby authorized to transfer to or reimburse "General Services Administration, Government-wide Policy" with the approval of the Director of the Office of Management and Budget, funds made available for the current fiscal year by this or any other Act, including rebates from charge card and other contracts: *Provided*, That these funds shall be administered by the Administrator of General Services to support Government-wide financial, information technology, procurement, and other management innovations, initiatives, and activities, as approved by the Director of the Office of Management and Budget, in consultation with the appropriate interagency groups designated by the Director (including the President's Management Council for overall management improvement initiatives, the Chief Financial Officers Council for financial management initiatives, the Chief Information Officers Council for information technology initiatives, the Chief Human Capital Officers Council for human capital initiatives, and the Chief Acquisition Officers Council for procurement initiatives): *Provided further*, That

the total funds transferred or reimbursed shall not exceed \$10,000,000: *Provided further*, That such transfers or reimbursements may only be made after 15 days following notification of the Committees on Appropriations by the Director of the Office of Management and Budget.

Transfer date.
Notification.

SEC. 727. Notwithstanding any other provision of law, a woman may breastfeed her child at any location in a Federal building or on Federal property, if the woman and her child are otherwise authorized to be present at the location.

SEC. 728. Notwithstanding section 1346 of title 31, United States Code, or section 710 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of specific projects, workshops, studies, and similar efforts to carry out the purposes of the National Science and Technology Council (authorized by Executive Order No. 12881), which benefit multiple Federal departments, agencies, or entities: *Provided*, That the Office of Management and Budget shall provide a report describing the budget of and resources connected with the National Science and Technology Council to the Committees on Appropriations, the House Committee on Science, and the Senate Committee on Commerce, Science, and Transportation 90 days after enactment of this Act.

Reports.
Deadline.

SEC. 729. Any request for proposals, solicitation, grant application, form, notification, press release, or other publications involving the distribution of Federal funds shall indicate the agency providing the funds, the Catalog of Federal Domestic Assistance Number, as applicable, and the amount provided: *Provided*, That this provision shall apply to direct payments, formula funds, and grants received by a State receiving Federal funds.

SEC. 730. Section 403(f) of the Government Management Reform Act of 1994 (31 U.S.C. 501 note; Public Law 103–356) is amended to read as follows:

“(f) TERMINATION OF CERTAIN AUTHORITY.—The authority of the Secretary of Homeland Security to carry out a pilot program under this section shall terminate on October 1, 2008.”.

SEC. 731. (a) PROHIBITION OF FEDERAL AGENCY MONITORING OF INDIVIDUALS’ INTERNET USE.—None of the funds made available in this or any other Act may be used by any Federal agency—

(1) to collect, review, or create any aggregation of data, derived from any means, that includes any personally identifiable information relating to an individual’s access to or use of any Federal Government Internet site of the agency; or

(2) to enter into any agreement with a third party (including another government agency) to collect, review, or obtain any aggregation of data, derived from any means, that includes any personally identifiable information relating to an individual’s access to or use of any nongovernmental Internet site.

(b) EXCEPTIONS.—The limitations established in subsection (a) shall not apply to—

(1) any record of aggregate data that does not identify particular persons;

(2) any voluntary submission of personally identifiable information;

(3) any action taken for law enforcement, regulatory, or supervisory purposes, in accordance with applicable law; or

(4) any action described in subsection (a)(1) that is a system security action taken by the operator of an Internet site and is necessarily incident to providing the Internet site services or to protecting the rights or property of the provider of the Internet site.

(c) DEFINITIONS.—For the purposes of this section:

(1) The term “regulatory” means agency actions to implement, interpret or enforce authorities provided in law.

(2) The term “supervisory” means examinations of the agency’s supervised institutions, including assessing safety and soundness, overall financial condition, management practices and policies and compliance with applicable standards as provided in law.

SEC. 732. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage.

Contracts.
Contraceptives.

(b) Nothing in this section shall apply to a contract with—

(1) any of the following religious plans:

(A) Personal Care’s HMO; and

(B) OSF HealthPlans, Inc.; and

(2) any existing or future plan, if the carrier for the plan objects to such coverage on the basis of religious beliefs.

(c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe or otherwise provide for contraceptives because such activities would be contrary to the individual’s religious beliefs or moral convictions.

(d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.

Abortion.

SEC. 733. The Congress of the United States recognizes the United States Anti-Doping Agency (USADA) as the official anti-doping agency for Olympic, Pan American, and Paralympic sport in the United States.

Sports.
Drugs and drug
abuse.

SEC. 734. Notwithstanding any other provision of law, funds appropriated for official travel by Federal departments and agencies may be used by such departments and agencies, if consistent with Office of Management and Budget Circular A–126 regarding official travel for Government personnel, to participate in the fractional aircraft ownership pilot program.

SEC. 735. Notwithstanding any other provision of law, none of the funds appropriated or made available under this Act or any other appropriations Act may be used to implement or enforce restrictions or limitations on the Coast Guard Congressional Fellowship Program, or to implement the proposed regulations of the Office of Personnel Management to add sections 300.311 through 300.316 to part 300 of title 5 of the Code of Federal Regulations, published in the Federal Register, volume 68, number 174, on September 9, 2003 (relating to the detail of executive branch employees to the legislative branch).

SEC. 736. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations, except that the Federal Law Enforcement Training Center

Reports.
Justification
materials.
44 USC 3601
note.

is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 737. (a) For fiscal year 2008, no funds shall be available for transfers or reimbursements to the E-Government initiatives sponsored by the Office of Management and Budget prior to 15 days following submission of a report to the Committees on Appropriations by the Director of the Office of Management and Budget and receipt of approval to transfer funds by the House and Senate Committees on Appropriations.

(b) Hereafter, any funding request for a new or ongoing E-Government initiative by any agency or agencies managing the development of an initiative shall include in justification materials submitted to the House and Senate Committees on Appropriations the information in subsection (d).

(c) Hereafter, any funding request by any agency or agencies participating in the development of an E-Government initiative and contributing funding for the initiative shall include in justification materials submitted to the House and Senate Committees on Appropriations—

(1) the amount of funding contributed to each initiative by program office, bureau, or activity, as appropriate; and

(2) the relevance of that use to that department or agency and each bureau or office within, which is contributing funds.

(d) The report in (a) and justification materials in (b) shall include at a minimum—

(1) a description of each initiative including but not limited to its objectives, benefits, development status, risks, cost effectiveness (including estimated net costs or savings to the government), and the estimated date of full operational capability;

(2) the total development cost of each initiative by fiscal year including costs to date, the estimated costs to complete its development to full operational capability, and estimated annual operations and maintenance costs; and

(3) the sources and distribution of funding by fiscal year and by agency and bureau for each initiative including agency contributions to date and estimated future contributions by agency.

(e) No funds shall be available for obligation or expenditure for new E-Government initiatives without the explicit approval of the House and Senate Committees on Appropriations.

SEC. 738. Notwithstanding section 1346 of title 31, United States Code, and section 710 of this Act and any other provision of law, the head of each appropriate executive department and agency shall transfer to or reimburse the Federal Aviation Administration, upon the direction of the Director of the Office of Management and Budget, funds made available by this or any other Act for the purposes described below, and shall submit budget requests for such purposes. These funds shall be administered by the Federal Aviation Administration, in consultation with the appropriate inter-agency groups designated by the Director and shall be used to ensure the uninterrupted, continuous operation of the Midway Atoll Airfield by the Federal Aviation Administration pursuant to an operational agreement with the Department of the Interior for the entirety of fiscal year 2008 and any period thereafter that precedes the enactment of the Financial Services and General

Government Appropriations Act, 2009. The Director of the Office of Management and Budget shall mandate the necessary transfers after determining an equitable allocation between the appropriate executive departments and agencies of the responsibility for funding the continuous operation of the Midway Atoll Airfield based on, but not limited to, potential use, interest in maintaining aviation safety, and applicability to governmental operations and agency mission. The total funds transferred or reimbursed shall not exceed \$6,000,000 for any twelve-month period. Such sums shall be sufficient to ensure continued operation of the airfield throughout the period cited above. Funds shall be available for operation of the airfield or airfield-related capital upgrades. The Director of the Office of Management and Budget shall notify the Committees on Appropriations of such transfers or reimbursements within 15 days of this Act. Such transfers or reimbursements shall begin within 30 days of enactment of this Act.

Notification.
Deadlines.

SEC. 739. (a) REQUIREMENT FOR PUBLIC-PRIVATE COMPETITION.—

31 USC 501 note.

(1) Notwithstanding any other provision of law, none of the funds appropriated by this or any other Act shall be available to convert to contractor performance an activity or function of an executive agency that, on or after the date of enactment of this Act, is performed by more than 10 Federal employees unless—

(A) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(B) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the executive agency by an amount that equals or exceeds the lesser of—

(i) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(ii) \$10,000,000; and

(C) the contractor does not receive an advantage for a proposal that would reduce costs for the Federal Government by—

(i) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract;

(ii) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Federal Government for health benefits for civilian employees under chapter 89 of title 5, United States Code; or

(iii) offering to such workers a retirement benefit that in any year costs less than the annual retirement cost factor applicable to Federal employees under chapter 84 of title 5, United States Code.

(2) This paragraph shall not apply to—

(A) the Department of Defense;

(B) section 44920 of title 49, United States Code;

(C) a commercial or industrial type function that—

(i) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

(ii) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act;

(D) depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code; or

(E) activities that are the subject of an ongoing competition that was publicly announced prior to the date of enactment of this Act.

(b) **USE OF PUBLIC-PRIVATE COMPETITION.**—Nothing in Office of Management and Budget Circular A-76 shall prevent the head of an executive agency from conducting a public-private competition to evaluate the benefits of converting work from contract performance to performance by Federal employees in appropriate instances. The Circular shall provide procedures and policies for these competitions that are similar to those applied to competitions that may result in the conversion of work from performance by Federal employees to performance by a contractor.

(c) **BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-76.**—

(1) **ELIGIBILITY TO PROTEST.**—

(A) Section 3551(2) of title 31, United States Code, is amended to read as follows:

“(2) The term ‘interested party’—

“(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

“(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under OMB Circular A-76, includes—

“(i) any official who submitted the agency tender in such competition; and

“(ii) any one person who, for the purpose of representing them in a protest under this subchapter that relates to such competition, has been designated as their agent by a majority of the employees of such Federal agency who are engaged in the performance of such activity or function.”.

(B)(i) Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

“§ 3557. Expedited action in protests for public-private competitions

“For protests in cases of public-private competitions conducted under Office of Management and Budget Circular A-76 regarding

performance of an activity or function of Federal agencies, the Comptroller General shall administer the provisions of this subchapter in a manner best suited for expediting final resolution of such protests and final action in such competitions.”.

(ii) The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 3556 the following new item:

“3557. Expedited action in protests for public-private competitions”.

(2) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

“(5) If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A-76, then an official or person described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.”.

(3) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by paragraph (1)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by paragraph (2)), shall apply to—

(A) protests and civil actions that challenge final selections of sources of performance of an activity or function of a Federal agency that are made pursuant to studies initiated under Office of Management and Budget Circular A-76 on or after January 1, 2004; and

(B) any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A-76, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A-76, on or after the date of the enactment of this Act.

(d) LIMITATION.—(1) None of the funds available in this Act may be used—

(A) by the Office of Management and Budget to direct or require another agency to take an action specified in paragraph (2); or

(B) by an agency to take an action specified in paragraph (2) as a result of direction or requirement from the Office of Management and Budget.

(2) An action specified in this paragraph is the preparation for, undertaking, continuation of, or completion of a public-private competition or direct conversion under Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy.

(e) APPLICABILITY.—This section shall apply with respect to fiscal year 2008 and each succeeding fiscal year.

SEC. 740. (a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2008 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.5 percent, and this adjustment shall apply to civilian employees in the Department of Homeland Security

Pay increase.
Applicability.
Effective date.
5 USC 5303 note.

and shall apply to civilian employees in the Department of Defense who are represented by a labor organization as defined in 5 U.S.C. 7103(a)(4), and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2008. Civilian employees in the Department of Defense who are eligible to be represented by a labor organization as defined in 5 U.S.C. 7103(a)(4), but are not so represented, will receive the adjustment provided for in this section unless the positions are entitled to a pay adjustment under 5 U.S.C. 9902.

(b) Notwithstanding section 712 of this Act, the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2008 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as “Rest of US” pursuant to section 5304 of title 5 for purposes of this paragraph.

(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2008.

SEC. 741. Unless otherwise authorized by existing law, none of the funds provided in this Act or any other Act may be used by an executive branch agency to produce any prepackaged news story intended for broadcast or distribution in the United States, unless the story includes a clear notification within the text or audio of the prepackaged news story that the prepackaged news story was prepared or funded by that executive branch agency.

SEC. 742. (a) None of the funds made available in this Act may be used in contravention of section 552a of title 5, United States Code (popularly known as the Privacy Act) and regulations implementing that section.

(b) Section 522 of division H of the Consolidated Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 3268; 5 U.S.C. 552a note) is amended by striking subsection (d) and inserting the following:

“(d) INSPECTOR GENERAL REVIEW.—The Inspector General of each agency shall periodically conduct a review of the agency’s implementation of this section and shall report the results of its review to the Committees on Appropriations of the House of Representatives and the Senate, the House Committee on Oversight and Government Reform, and the Senate Committee on Homeland Security and Governmental Affairs. The report required by this review may be incorporated into a related report to Congress otherwise required by law including, but not limited to, 44 U.S.C. 3545, the Federal Information Security Management Act of 2002. The Inspector General may contract with an independent, third party organization to conduct the review.”

SEC. 743. Each executive department and agency shall evaluate the creditworthiness of an individual before issuing the individual a government travel charge card. Such evaluations for individually-billed travel charge cards shall include an assessment of the individual’s consumer report from a consumer reporting agency as those

terms are defined in section 603 of the Fair Credit Reporting Act (Public Law 91-508): *Provided*, That section 604(a)(3) of such Act shall be amended by adding to the end the following:

15 USC 1681b.

“(G) executive departments and agencies in connection with the issuance of government-sponsored individually-billed travel charge cards.”:

Provided further, That the department or agency may not issue a government travel charge card to an individual that either lacks a credit history or is found to have an unsatisfactory credit history as a result of this evaluation: *Provided further*, That this restriction shall not preclude issuance of a restricted-use charge, debit, or stored value card made in accordance with agency procedures to: (1) an individual with an unsatisfactory credit history where such card is used to pay travel expenses and the agency determines there is no suitable alternative payment mechanism available before issuing the card; or (2) an individual who lacks a credit history. Each executive department and agency shall establish guidelines and procedures for disciplinary actions to be taken against agency personnel for improper, fraudulent, or abusive use of government charge cards, which shall include appropriate disciplinary actions for use of charge cards for purposes, and at establishments, that are inconsistent with the official business of the Department or agency or with applicable standards of conduct.

SEC. 744. CROSSCUT BUDGET. (a) DEFINITIONS.—For purposes of this section the following definitions apply:

(1) GREAT LAKES.—The terms “Great Lakes” and “Great Lakes State” have the same meanings as such terms have in section 506 of the Water Resources Development Act of 2000 (42 U.S.C. 1962d-22).

(2) GREAT LAKES RESTORATION ACTIVITIES.—The term “Great Lakes restoration activities” means any Federal or State activity primarily or entirely within the Great Lakes watershed that seeks to improve the overall health of the Great Lakes ecosystem.

(b) REPORT.—Not later than 30 days after submission of the budget of the President to Congress, the Director of the Office of Management and Budget, in coordination with the Governor of each Great Lakes State and the Great Lakes Interagency Task Force, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a financial report, certified by the Secretary of each agency that has budget authority for Great Lakes restoration activities, containing—

(1) an interagency budget crosscut report that—

(A) displays the budget proposed, including any planned interagency or intra-agency transfer, for each of the Federal agencies that carries out Great Lakes restoration activities in the upcoming fiscal year, separately reporting the amount of funding to be provided under existing laws pertaining to the Great Lakes ecosystem; and

(B) identifies all expenditures since fiscal year 2004 by the Federal Government and State governments for Great Lakes restoration activities;

(2) a detailed accounting of all funds received and obligated by all Federal agencies and, to the extent available, State

agencies using Federal funds, for Great Lakes restoration activities during the current and previous fiscal years;

(3) a budget for the proposed projects (including a description of the project, authorization level, and project status) to be carried out in the upcoming fiscal year with the Federal portion of funds for activities; and

(4) a listing of all projects to be undertaken in the upcoming fiscal year with the Federal portion of funds for activities.

SEC. 745. (a) IN GENERAL.—None of the funds appropriated or otherwise made available by this or any other Act may be used for any Federal Government contract with any foreign incorporated entity which is treated as an inverted domestic corporation under section 835(b) of the Homeland Security Act of 2002 (6 U.S.C. 395(b)) or any subsidiary of such an entity.

(b) WAIVERS.—

(1) IN GENERAL.—Any Secretary shall waive subsection (a) with respect to any Federal Government contract under the authority of such Secretary if the Secretary determines that the waiver is required in the interest of national security.

(2) REPORT TO CONGRESS.—Any Secretary issuing a waiver under paragraph (1) shall report such issuance to Congress.

(c) EXCEPTION.—This section shall not apply to any Federal Government contract entered into before the date of the enactment of this Act, or to any task order issued pursuant to such contract.

SEC. 746. (a) Each executive department and agency shall establish and maintain on the homepage of its website, an obvious, direct link to the website of its respective Inspector General.

(b) Each Office of Inspector General shall: (1) post on its website any public report or audit or portion of any report or audit issued within one day of its release; (2) provide a service on its website to allow an individual to request automatic receipt of information relating to any public report or audit or portion of that report or audit and which permits electronic transmittal of the information, or notice of the availability of the information without further request; and (3) establish and maintain a direct link on its website for individuals to anonymously report waste, fraud and abuse.

SEC. 747. (a) None of the funds available under this or any other Act may be used to carry out a public-private competition or direct conversion under Office of Management and Budget (OMB) Circular A-76, or any successor regulation, directive or policy, relating to the Human Resources Lines of Business initiative until 60 days after the Director of the Office of Management and Budget submits to the Committees on Appropriations of the House of Representatives and the Senate a report on the use of public-private competitions and direct conversion to contractor performance as part of the Human Resources Lines of Business initiative.

(b) The report required by this section shall address the following:

(1) The role, if any, that public-private competitions under Circular A-76 or direct conversions to contractor performance are expected to play as part of the Human Resources Lines of Business initiative.

(2) The expected impact, if any, of the initiative on employment levels at the Federal agencies involved or across the Federal Government as a whole.

Website.
5 USC app. 6
note.

(3) An estimate of the annual and recurring savings the initiative is expected to generate and a description of the methodology used to derive that estimate.

(4) An estimate of the total transition costs attributable to the initiative.

(5) Guidance for use by agencies in evaluating the benefits of the initiative and in developing alternative strategies should expected benefits fail to materialize.

(c) The Director of the Office of Management and Budget shall provide a copy of the report to the Government Accountability Office at the same time the report is submitted to the Committees on Appropriations of the House of Representatives and the Senate. The Government Accountability Office shall review the report and brief the Committees on its views concerning the report within 45 days after receiving the report from the Director.

Records.
Deadline.

SEC. 748. No later than 180 days after enactment of this Act, the Office of Management and Budget shall establish a pilot program to develop and implement an inventory to track the cost and size (in contractor manpower equivalents) of service contracts, particularly with respect to contracts that have been performed poorly by a contractor because of excessive costs or inferior quality, as determined by a contracting officer within the last five years, involve inherently governmental functions, or were undertaken without competition. The pilot program shall be established in at least three Cabinet-level departments, based on varying levels of annual contracting for services, as reported by the Federal Procurement Data System's Federal Procurement Report for fiscal year 2005, including at least one Cabinet-level department that contracts out annually for \$10,000,000,000 or more in services, at least one Cabinet-level department that contracts out annually for between \$5,000,000,000 and \$9,000,000,000 in services, and at least one Cabinet-level department that contracts out annually for under \$5,000,000,000 in services.

Deadline.
Records.
41 USC 405 note.

SEC. 749. Except as expressly provided otherwise, any reference to “this Act” contained in any title other than title IV or VIII shall not apply to such title IV or VIII.

28 USC 461 note.

TITLE VIII

GENERAL PROVISIONS—DISTRICT OF COLUMBIA

SEC. 801. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 802. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor, or, in the case of the Council of the District of Columbia, funds may be expended with the authorization of the Chairman of the Council.

SEC. 803. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government.

SEC. 804. (a) None of the Federal funds provided in this Act shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

(b) The District of Columbia may use local funds provided in this title to carry out lobbying activities on any matter.

SEC. 805. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditures for an agency through a reprogramming of funds which—

- (1) creates new programs;
- (2) eliminates a program, project, or responsibility center;
- (3) establishes or changes allocations specifically denied, limited or increased under this Act;
- (4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted;
- (5) reestablishes any program or project previously deferred through reprogramming;
- (6) augments any existing program, project, or responsibility center through a reprogramming of funds in excess of \$3,000,000 or 10 percent, whichever is less; or

Notice.
Deadlines.
Reports.

(7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center, unless in the case of Federal funds, the Committees on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the reprogramming and in the case of local funds, the Committees on Appropriations of the House of Representatives and Senate are provided summary reports on April 1, 2008 and October 1, 2008, setting forth detailed information regarding each such local funds reprogramming conducted subject to this subsection.

(b) None of the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds in excess of \$3,000,000 from one appropriation heading to another unless the Committees on Appropriations of the House of Representatives and Senate are provided summary reports on April 1, 2008 and October 1, 2008, setting forth detailed information regarding each reprogramming conducted subject to this subsection, except that in no event may the amount of any funds transferred exceed 4 percent of the local funds in the appropriations.

(c) The District of Columbia Government is authorized to approve and execute reprogramming and transfer requests of local funds under this title through December 1, 2008.

SEC. 806. Consistent with the provisions of section 1301(a) of title 31, United States Code, appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 807. Notwithstanding section 8344(a) of title 5, United States Code, the amendment made by section 2 of the District Government Reemployed Annuitant Offset Elimination Amendment Act of 2004 (D.C. Law 15-207) shall apply with respect to any

individual employed in an appointive or elective position with the District of Columbia government after December 7, 2004.

SEC. 808. No later than 30 days after the end of the first quarter of fiscal year 2008, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate the new fiscal year 2008 revenue estimates as of the end of such quarter. These estimates shall be used in the budget request for fiscal year 2009. The officially revised estimates at midyear shall be used for the midyear report. Deadline.

SEC. 809. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3–171; D.C. Official Code, sec. 1–123).

SEC. 810. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9–114; D.C. Official Code, sec. 32–701 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples. Cohabiting couples.

SEC. 811. (a) Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b)(1) No such Federal, private, or other grant may be obligated, or expended pursuant to subsection (a) until—

(A) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and Reports.

(B) the Council has reviewed and approved the obligation, and expenditure of such grant.

(2) For purposes of paragraph (1)(B), the Council shall be deemed to have reviewed and approved the obligation, and expenditure of a grant if— Notice.
Deadlines.

(A) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under paragraph (1)(A); or

(B) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under paragraph (1)(A).

(c) No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such subsection.

(d) The Chief Financial Officer of the District of Columbia may adjust the budget for Federal, private, and other grants

received by the District government reflected in the amounts appropriated in this title, or approved and received under subsection (b)(2) to reflect a change in the actual amount of the grant.

Reports.
Deadlines.

(e) The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

SEC. 812. (a) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department;

(2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day or is otherwise designated by the Fire Chief;

(3) at the discretion of the Director of the Department of Corrections, an officer or employee of the District of Columbia Department of Corrections who resides in the District of Columbia and is on call 24 hours a day or is otherwise designated by the Director;

(4) the Mayor of the District of Columbia; and

(5) the Chairman of the Council of the District of Columbia.

Deadline.
Records.

(b) The Chief Financial Officer of the District of Columbia shall submit by March 1, 2008, an inventory, as of September 30, 2007, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

Voting rights.

SEC. 813. (a) None of the Federal funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

(b) Nothing in this section bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

Needle
distribution.

SEC. 814. None of the Federal funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 815. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District of Columbia) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted: *Provided*, That the Chief Financial Officer of the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and Senate by April 1, 2008 and October 1, 2008, a summary list showing each report, the due date, and the date submitted to the Committees.

Effective date.

Deadlines.
Records.

SEC. 816. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a "conscience clause" which provides exceptions for religious beliefs and moral convictions.

Contraceptives.

SEC. 817. The Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate annual reports addressing—

Reports.

(1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets;

(2) access to substance and alcohol abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs;

(3) management of parolees and pre-trial violent offenders, including the number of halfway houses escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency for the District of Columbia;

(4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools and the District of Columbia public charter schools;

(5) improvement in basic District services, including rat control and abatement;

(6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and

(7) indicators of child well-being.

SEC. 818. (a) No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees

Deadline.
Budget.

of Congress, the Mayor, and the Council of the District of Columbia a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1-204.42), for all agencies of the District of Columbia government for fiscal year 2008 that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

Applicability.

(b) This section shall apply only to an agency where the Chief Financial Officer of the District of Columbia certifies that a reallocation is required to address unanticipated changes in program requirements.

SEC. 819. (a) None of the funds contained in this Act may be made available to pay—

(1) the fees of an attorney who represents a party in an action or an attorney who defends an action brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in excess of \$4,000 for that action; or

(2) the fees of an attorney or firm whom the Chief Financial Officer of the District of Columbia determines to have a pecuniary interest, either through an attorney, officer, or employee of the firm, in any special education diagnostic services, schools, or other special education service providers.

(b) In this section, the term “action” includes an administrative proceeding and any ensuing or related proceedings before a court of competent jurisdiction.

SEC. 820. The amount appropriated by this title may be increased by no more than \$100,000,000 from funds identified in the comprehensive annual financial report as the District’s fiscal year 2007 unexpended general fund surplus. The District may obligate and expend these amounts only in accordance with the following conditions:

Certification.

(1) The Chief Financial Officer of the District of Columbia shall certify that the use of any such amounts is not anticipated to have a negative impact on the District’s long-term financial, fiscal, and economic vitality.

(2) The District of Columbia may only use these funds for the following expenditures:

(A) One-time expenditures.

(B) Expenditures to avoid deficit spending.

(C) Debt Reduction.

(D) Program needs.

(E) Expenditures to avoid revenue shortfalls.

(3) The amounts shall be obligated and expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

(4) The amounts may not be used to fund the agencies of the District of Columbia government under court ordered receivership.

Notification.
Deadline.

(5) The amounts may not be obligated or expended unless the Mayor notifies the Committees on Appropriations of the House of Representatives and Senate not fewer than 30 days in advance of the obligation or expenditure.

SEC. 821. (a) To account for an unanticipated growth of revenue collections, the amount appropriated as District of Columbia Funds pursuant to this Act may be increased—

(1) by an aggregate amount of not more than 25 percent, in the case of amounts proposed to be allocated as “Other-Type Funds” in the Fiscal Year 2008 Proposed Budget and Financial Plan submitted to Congress by the District of Columbia; and

(2) by an aggregate amount of not more than 6 percent, in the case of any other amounts proposed to be allocated in such Proposed Budget and Financial Plan.

(b) The District of Columbia may obligate and expend any increase in the amount of funds authorized under this section only in accordance with the following conditions:

(1) The Chief Financial Officer of the District of Columbia shall certify—

(A) the increase in revenue; and

(B) that the use of the amounts is not anticipated to have a negative impact on the long-term financial, fiscal, or economic health of the District.

(2) The amounts shall be obligated and expended in accordance with laws enacted by the Council of the District of Columbia in support of each such obligation and expenditure, consistent with the requirements of this Act.

(3) The amounts may not be used to fund any agencies of the District government operating under court-ordered receivership.

(4) The amounts may not be obligated or expended unless the Mayor has notified the Committees on Appropriations of the House of Representatives and Senate not fewer than 30 days in advance of the obligation or expenditure.

SEC. 822. The Chief Financial Officer for the District of Columbia may, for the purpose of cash flow management, conduct short-term borrowing from the emergency reserve fund and from the contingency reserve fund established under section 450A of the District of Columbia Home Rule Act (Public Law 98-198): *Provided*, That the amount borrowed shall not exceed 50 percent of the total amount of funds contained in both the emergency and contingency reserve funds at the time of borrowing: *Provided further*, That the borrowing shall not deplete either fund by more than 50 percent: *Provided further*, That 100 percent of the funds borrowed shall be replenished within 9 months of the time of the borrowing or by the end of the fiscal year, whichever occurs earlier: *Provided further*, That in the event that short-term borrowing has been conducted and the emergency or the contingency funds are later depleted below 50 percent as a result of an emergency or contingency, an amount equal to the amount necessary to restore reserve levels to 50 percent of the total amount of funds contained in both the emergency and contingency reserve fund must be replenished from the amount borrowed within 60 days.

SEC. 823. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 801 et seq.) or any tetrahydrocannabinols derivative.

Certification.

Notification.
Deadline.

Contingency
funds.

Drugs and drug
abuse.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

Abortion.

SEC. 824. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 825. (a) DIRECT APPROPRIATION.—Section 307(a) of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (sec. 2–1607(a), D.C. Official Code) is amended by striking the first 2 sentences and inserting the following: “There are authorized to be appropriated to the Service in each fiscal year such funds as may be necessary to carry out this chapter.”

(b) CONFORMING AMENDMENT.—Section 11233 of the Balanced Budget Act of 1997 (sec. 24–133, D.C. Official Code) is amended by striking subsection (f).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal year 2008 and each succeeding fiscal year.

SEC. 826. Amounts appropriated in this Act as operating funds may be transferred to the District of Columbia’s enterprise and capital funds and such amounts, once transferred shall retain appropriation authority consistent with the provisions of this Act.

Incorporation by reference.

SEC. 827. In fiscal year 2008 and thereafter, amounts deposited in the Student Enrollment Fund shall be available for expenditure upon deposit and shall remain available until expended consistent with the terms detailed in “The Student Funding Formula Assessment, Educational Data Warehouse, and Enrollment Fund Establishment Amendment Act of 2007” (title IV–D of D.C. Law L17–0020) and the entire provisions of that Act are incorporated herein by reference.

SEC. 828. Except as expressly provided otherwise, any reference to “this Act” contained in this title or in title IV shall be treated as referring only to the provisions of this title or of title IV.

This division may be cited as the “Financial Services and General Government Appropriations Act, 2008”.

Department of Homeland Security Appropriations Act, 2008.

DIVISION E—DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2008

TITLE I

DEPARTMENT OF HOMELAND SECURITY

DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

Certification.
Reports.
Records.
Deadline.

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, \$97,353,000: *Provided*, That not to exceed \$40,000 shall be for official reception and representation expenses: *Provided further*, That \$15,000,000 shall not be available for obligation until the Secretary (1) certifies and reports to the Committees on Appropriations of the Senate and the House of Representatives that the

Department has revised Departmental guidance with respect to relations with the Government Accountability Office to specifically provide for: (a) expedited timeframes for providing the Government Accountability Office with access to records within 20 days from the date of request; (b) expedited timeframes for interviews of program officials by the Government Accountability Office after reasonable notice has been furnished to the Department by the Government Accountability Office; and (c) a significant streamlining of the review process for documents and interview requests by liaisons, counsel, and program officials, consistent with the objective that the Government Accountability Office be given timely and complete access to documents and agency officials; and (2) defines in a memorandum to all Department employees the roles and responsibilities of the Department of Homeland Security Inspector General: *Provided further*, That the Secretary shall make the revisions to Departmental guidance with respect to relations with the Government Accountability Office in consultation with the Comptroller General of the United States and issue departmental guidance with respect to relations with the Department of Homeland Security Inspector General in consultation with the Inspector General: *Provided further*, That not more than 75 percent of the funds provided under this heading shall be obligated prior to the submission of the first quarterly report on progress to improve and modernize efforts to remove criminal aliens judged deportable from the United States.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701 through 705 of the Homeland Security Act of 2002 (6 U.S.C. 341 through 345), \$150,238,000, of which not to exceed \$3,000 shall be for official reception and representation expenses: *Provided*, That of the total amount, \$6,000,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), \$31,300,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, \$295,200,000; of which \$81,000,000 shall be available for salaries and expenses; and of which \$214,200,000, to remain available until expended, shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, of which not less than \$36,800,000 shall be available, as requested in the President's Fiscal Year 2008 Budget, for Department of Homeland Security data center development and an additional \$35,500,000 shall be available for further construction of the National Center

Deadline.
Expenditure
plan.

for Critical Information Processing and Storage: *Provided*, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: *Provided further*, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days after the date of enactment of this Act, an expenditure plan for all information technology acquisition projects that: (1) are funded under this heading; or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: *Provided further*, That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project.

ANALYSIS AND OPERATIONS

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for information analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), \$306,000,000, to remain available until September 30, 2009, of which not to exceed \$5,000 shall be for official reception and representation expenses: *Provided*, That of the amounts made available under this heading in Public Law 109-295, \$8,700,000 are rescinded.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

For necessary expenses of the Office of the Federal Coordinator for Gulf Coast Rebuilding, \$2,700,000: *Provided*, That \$1,000,000 shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan for fiscal year 2008.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), \$92,711,000, of which not to exceed \$150,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II

SECURITY, ENFORCEMENT, AND INVESTIGATIONS

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; purchase and lease of up to 4,500 (2,300 for replacement only) police-

type vehicles; and contracting with individuals for personal services abroad; \$6,802,560,000, of which \$3,093,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed \$45,000 shall be for official reception and representation expenses; of which not less than \$226,740,000 shall be for Air and Marine Operations; of which \$13,000,000 shall be used to procure commercially available technology in order to expand and improve the risk-based approach of the Department of Homeland Security to target and inspect cargo containers under the Secure Freight Initiative and the Global Trade Exchange; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed \$150,000 shall be available for payment for rental space in connection with preclearance operations; and of which not to exceed \$1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: *Provided*, That of the amount provided under this heading, \$323,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That for fiscal year 2008, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be \$35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of U.S. Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: *Provided further*, That of the amount made available under this heading, \$202,816,000 shall remain available until September 30, 2009, to support software development, equipment, contract services, and the implementation of inbound lanes and modification to vehicle primary processing lanes at ports of entry; of which \$100,000 is to promote information and education exchange with nations friendly to the United States in order to promote sharing of best practices and technologies relating to homeland security, as authorized by section 879 of Public Law 107–296; and of which \$75,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive a report not later than 120 days after the date of enactment of this Act on the preliminary results of testing of pilots at ports of entry used to develop and implement the plan required by section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note), which includes the following information: (1) infrastructure and staffing required, with associated costs, by port of entry; (2) updated milestones for plan implementation; (3) a detailed explanation of how requirements of such section have been satisfied; (4) confirmation that a vicinity-read radio frequency identification card has been adequately tested

Reports.
Deadline.

to ensure operational success; and (5) a description of steps taken to ensure the integrity of privacy safeguards.

AUTOMATION MODERNIZATION

Deadline.
Reports.

For expenses for U.S. Customs and Border Protection automated systems, \$476,609,000, to remain available until expended, of which not less than \$316,969,000 shall be for the development of the Automated Commercial Environment: *Provided*, That of the total amount made available under this heading, \$216,969,000 may not be obligated for the Automated Commercial Environment program until 30 days after the Committees on Appropriations of the Senate and the House of Representatives receive a report on the results to date and plans for the program from the Department of Homeland Security that includes:

(1) a detailed accounting of the program's progress up to the date of the report in meeting prior commitments made to the Committees relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, and program management capabilities;

(2) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(3) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program, with the status of the Department's efforts to address the recommendations, including milestones for fully addressing them;

(4) a certification by the Chief Procurement Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A–11, part 7, as well as supporting analyses generated by and used in the Department's process;

(5) a certification by the Chief Information Officer of the Department that an independent validation and verification agent has and will continue to actively review the program;

(6) a certification by the Chief Information Officer of the Department that the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were and were not assessed in making the alignment determination, the date of the alignment determination, any known areas of misalignment along with the associated risks and corrective actions to address any such areas;

(7) a certification by the Chief Information Officer of the Department that the program has a risk management process that regularly and proactively identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicates high-risk conditions to U.S. Customs and Border Protection and Department of Homeland Security investment

decision makers, as well as a listing of the program's high risks and the status of efforts to address them;

(8) a certification by the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with any plans for addressing these risks and the status of their implementation; and

(9) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For expenses for customs and border protection fencing, infrastructure, and technology, \$1,225,000,000, to remain available until expended: *Provided*, That of the amount provided under this heading, \$1,053,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That of the amount provided under this heading, \$650,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure, prepared by the Secretary of Homeland Security and submitted within 90 days after the date of enactment of this Act, for a program to establish a security barrier along the borders of the United States of fencing and vehicle barriers, where practicable, and other forms of tactical infrastructure and technology, that includes:

Deadline.
Expenditure
plan.

(1) a detailed accounting of the program's progress to date relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, program management capabilities, identification of the maximum investment (including lifecycle costs) required by the Secure Border Initiative network or any successor contract, and description of the methodology used to obtain these cost figures;

(2) a description of how activities will further the objectives of the Secure Border Initiative, as defined in the Secure Border Initiative multi-year strategic plan, and how the plan allocates funding to the highest priority border security needs;

(3) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(4) an identification of staffing (including full-time equivalents, contractors, and detailees) requirements by activity;

(5) a description of how the plan addresses security needs at the Northern Border and the ports of entry, including infrastructure, technology, design and operations requirements;

(6) a report on costs incurred, the activities completed, and the progress made by the program in terms of obtaining operational control of the entire border of the United States;

(7) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones to fully address them;

(8) a certification by the Chief Procurement Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A-11, part 7;

(9) a certification by the Chief Information Officer of the Department that the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were and were not assessed in making the alignment determination, the date of the alignment determination, and any known areas of misalignment along with the associated risks and corrective actions to address any such areas;

(10) a certification by the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with any plans for addressing these risks, and the status of their implementation;

(11) a certification by the Chief Information Officer of the Department that the program has a risk management process that regularly and proactively identifies, evaluates, mitigates, and monitors risks throughout the system life cycle and communicates high-risk conditions to U.S. Customs and Border Protection and Department of Homeland Security investment decision makers, as well as a listing of all the program's high risks and the status of efforts to address them;

(12) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report;

(13) an analysis by the Secretary for each segment, defined as no more than 15 miles, of fencing or tactical infrastructure, of the selected approach compared to other, alternative means of achieving operational control; such analysis should include cost, level of operational control, possible unintended effects on communities, and other factors critical to the decision making process;

(14) a certification by the Chief Procurement Officer of the Department of Homeland Security that procedures to prevent conflicts of interest between the prime integrator and major subcontractors are established and that the Secure Border Initiative Program Office has adequate staff and resources to effectively manage the Secure Border Initiative program, Secure Border Initiative network contract, and any related contracts, including the exercise of technical oversight, and a certification by the Chief Information Officer of the

Department of Homeland Security that an independent verification and validation agent is currently under contract for the projects funded under this heading; and

(15) is reviewed by the Government Accountability Office:

Provided further, That the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives on program progress to date and specific objectives to be achieved through the award of current and remaining task orders planned for the balance of available appropriations: (1) at least 30 days prior to the award of any task order requiring an obligation of funds in excess of \$100,000,000; and (2) prior to the award of a task order that would cause cumulative obligations of funds to exceed 50 percent of the total amount appropriated: *Provided further*, That of the funds provided under this heading, not more than \$2,000,000 shall be used to reimburse the Defense Acquisition University for the costs of conducting a review of the Secure Border Initiative network contract and determining how and whether the Department is employing the best procurement practices: *Provided further*, That none of the funds under this heading may be obligated for any project or activity for which the Secretary has exercised waiver authority pursuant to section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) until 15 days have elapsed from the date of the publication of the decision in the Federal Register.

Reports.
Deadline.

Deadline.
Federal Register,
publication.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aircraft systems, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, \$570,047,000, to remain available until expended: *Provided*, That of the amount provided under this heading, \$94,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to U.S. Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2008 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, \$348,363,000, to remain available until expended; of which \$39,700,000 shall be for the Advanced Training Center: *Provided*, That of the amount provided under this heading, \$61,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; \$4,687,517,000, of which not to exceed \$7,500,000 shall be available until expended for conducting special operations under section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed \$15,000 shall be for official reception and representation expenses; of which not to exceed \$1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than \$305,000 shall be for promotion of public awareness of the child pornography tipline and anti-child exploitation activities as requested by the President; of which not less than \$5,400,000 shall be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed \$11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided*, That of the amount provided under this heading, \$516,400,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of \$35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further*, That of the total amount provided, \$15,770,000 shall be for activities to enforce laws against forced child labor in fiscal year 2008, of which not to exceed \$6,000,000 shall remain available until expended: *Provided further*, That of the total amount provided, not less than \$2,381,401,000 is for detention and removal operations: *Provided further*, That of the total amount provided, \$200,000,000 shall remain available until September 30, 2009, to improve and modernize efforts to identify aliens convicted of a crime, sentenced to imprisonment, and who may be deportable, and remove them from the United States once they are judged deportable: *Provided further*, That none of the funds made available to improve and modernize efforts to identify and remove aliens convicted of a crime, sentenced to imprisonment, and who may be deportable (in this proviso referred to as criminal aliens), and remove them from the United States once they are judged deportable, shall be obligated until the Committees on Appropriations

Deadline.
Expenditure
plan.

of the Senate and the House of Representatives receive a plan for expenditure, prepared by the Secretary of Homeland Security and submitted within 90 days after the date of enactment of this Act, to modernize the policies and technologies used to identify and remove criminal aliens, that—

(1) presents a strategy for U.S. Immigration and Customs Enforcement to identify every criminal alien, at the prison, jail, or correctional institution in which they are held;

(2) establishes the process U.S. Immigration and Customs Enforcement, in conjunction with the U.S. Department of Justice, will use to make every reasonable effort to remove, upon their release from custody, all criminal aliens judged deportable;

(3) presents a methodology U.S. Immigration and Customs Enforcement will use to identify and prioritize for removal criminal aliens convicted of violent crimes;

(4) defines the activities, milestones, and resources for implementing the strategy and process described in sections (1) and (2); and

(5) includes program measurements for progress in implementing the strategy and process described in sections (1) and (2):

Provided further, That the Secretary of Homeland Security or a designee of the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives, at least quarterly, on progress implementing the expenditure plan required in the preceding proviso, and the funds obligated during that quarter to make that progress: *Provided further*, That the funding and staffing resources necessary to carry out the strategy and process described in sections (1) and (2) under this heading shall be identified in the President's fiscal year 2009 budget submission to Congress.

Reports.
Deadline.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service: *Provided*, That the Secretary of Homeland Security and the Director of the Office of Management and Budget shall certify in writing to the Committees on Appropriations of the Senate and the House of Representatives no later than December 31, 2007, that the operations of the Federal Protective Service will be fully funded in fiscal year 2008 through revenues and collection of security fees, and shall adjust the fees to ensure fee collections are sufficient to ensure the Federal Protective Service maintains, by July 31, 2008, not fewer than 1,200 full-time equivalent staff and 900 full-time equivalent Police Officers, Inspectors, Area Commanders, and Special Agents who, while working, are directly engaged on a daily basis protecting and enforcing laws at Federal buildings (referred to as "in-service field staff").

Certification.
Deadlines.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, \$30,700,000, to remain available until expended: *Provided*, That of the funds made available under this heading,

Expenditure
plan.

\$5,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure prepared by the Secretary of Homeland Security.

CONSTRUCTION

Privatization
plan.

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, \$16,500,000, to remain available until expended: *Provided*, That of the amount provided under this heading, \$10,500,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That none of the funds made available in this Act may be used to solicit or consider any request to privatize facilities currently owned by the United States Government and used to detain illegal aliens until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for carrying out that privatization.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107-71; 115 Stat. 597; 49 U.S.C. 40101 note), \$4,808,691,000, to remain available until September 30, 2009, of which not to exceed \$10,000 shall be for official reception and representation expenses: *Provided*, That of the total amount made available under this heading, not to exceed \$3,768,489,000 shall be for screening operations, of which \$294,000,000 shall be available only for procurement and installation of checked baggage explosive detection systems; and not to exceed \$1,009,977,000 shall be for aviation security direction and enforcement: *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: *Provided further*, That any funds collected and made available from aviation security fees pursuant to section 44940(i) of title 49, United States Code, may, notwithstanding paragraph (4) of such section 44940(i), be expended for the purpose of improving screening at airport screening checkpoints, which may include the purchase and utilization of emerging technology equipment; the refurbishment and replacement of current equipment; the installation of surveillance systems to monitor checkpoint activities; the modification of checkpoint infrastructure to support checkpoint reconfigurations; and the creation of additional checkpoints to screen aviation passengers and airport personnel: *Provided further*, That of the amounts provided under this heading, \$30,000,000 may be transferred to the “Surface Transportation Security”; “Transportation Threat Assessment And Credentialing”; and “Transportation Security Support” appropriations in this Act for the purpose of implementing regulations and activities authorized in Implementing Recommendations of the 9/11 Commission Act

of 2007 (Public Law 110–53): *Provided further*, That the sum appropriated under this heading from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2008, so as to result in a final fiscal year appropriation from the general fund estimated at not more than \$2,598,466,000: *Provided further*, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2009: *Provided further*, That Members of the United States House of Representatives and United States Senate, including the leadership; and the heads of Federal agencies and commissions, including the Secretary, Under Secretaries, and Assistant Secretaries of the Department of Homeland Security; the United States Attorney General and Assistant Attorneys General and the United States attorneys; and senior members of the Executive Office of the President, including the Director of the Office of Management and Budget; shall not be exempt from Federal passenger and baggage screening.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, \$46,613,000, to remain available until September 30, 2009.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Threat Assessment and Credentialing, \$82,590,000, to remain available until September 30, 2009: *Provided*, That if the Assistant Secretary of Homeland Security (Transportation Security Administration) determines that the Secure Flight program does not need to check airline passenger names against the full terrorist watch list, then the Assistant Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives that no significant security risks are raised by screening airline passenger names only against a subset of the full terrorist watch list.

Certification.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), \$523,515,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated under this heading, \$10,000,000 may not be obligated until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives detailed expenditure plans for checkpoint support and explosive detection systems refurbishment, procurement, and installations on an airport-by-airport basis for fiscal year 2008; and a strategic plan required for checkpoint technologies as described in the joint explanatory statement of managers accompanying the fiscal year 2007 conference report (H. Rept. 109–699): *Provided further*, That these plans shall be submitted no later than 60 days after the date of enactment of this Act.

Expenditure
plan.
Strategic plan.
Explosive
detection.

Deadline.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, \$769,500,000.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; minor shore construction projects not exceeding \$1,000,000 in total cost at any location; payments pursuant to section 156 of Public Law 97-377 (42 U.S.C. 402 note; 96 Stat. 1920); and recreation and welfare; \$5,891,347,000, of which \$340,000,000 shall be for defense-related activities; of which \$24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which not to exceed \$20,000 shall be for official reception and representation expenses; and of which \$3,600,000 shall be for costs to plan and design an expansion to the Operations Systems Center subject to the approval of a prospectus: *Provided*, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds made available by this Act shall be for expenses incurred for recreational vessels under section 12114 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further*, That not to exceed 5 percent of this appropriation may be transferred to the “Acquisition, Construction, and Improvements” appropriation for personnel compensation and benefits and related costs to adjust personnel assignment to accelerate management and oversight of new or existing projects without detrimentally affecting the management and oversight of other projects: *Provided further*, That the amount made available for “Personnel, Compensation, and Benefits” in the “Acquisition, Construction, and Improvements” appropriation shall not be increased by more than 10 percent by such transfers: *Provided further*, That the Committees on Appropriations of the Senate and the House of Representatives shall be notified of each transfer within 30 days after it is executed by the Treasury: *Provided further*, That of the amount provided under this heading, \$70,300,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

Notification.
Deadline.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the Coast Guard under chapter 19 of title 14, United States Code, \$13,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program;

personnel and training costs; and equipment and services; \$126,883,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(INCLUDING RESCISSIONS OF FUNDS)

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; \$1,125,083,000, of which \$20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which \$45,000,000 shall be available until September 30, 2012, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which \$173,100,000 shall be available until September 30, 2010, for other equipment; of which \$40,997,000 shall be available until September 30, 2010, for shore facilities and aids to navigation facilities; of which \$82,720,000 shall be available for personnel compensation and benefits and related costs; and of which \$783,266,000 shall be available until September 30, 2012, for the Integrated Deepwater Systems program: *Provided*, That of the funds made available for the Integrated Deepwater Systems program, \$327,416,000 is for aircraft and \$243,400,000 is for surface ships: *Provided further*, That of the amount provided in the preceding proviso for aircraft, \$70,000,000 may not be obligated for the Maritime Patrol Aircraft until the Commandant of the Coast Guard certifies that the mission system pallet Developmental Test and Evaluation of the HC–144A CASA Maritime Patrol Aircraft is complete: *Provided further*, That no funds shall be available for procurements related to the acquisition of additional major assets as part of the Integrated Deepwater Systems program not already under contract until an alternatives analysis has been completed by an independent qualified third party: *Provided further*, That \$300,000,000 of the funds provided for the Integrated Deepwater Systems program may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure directly from the Coast Guard that—

Expenditure
plan.

- (1) defines activities, milestones, yearly costs, and lifecycle costs for each procurement of a major asset, including an independent cost estimate for each;
- (2) identifies lifecycle staffing and training needs of Coast Guard project managers and of procurement and contract staff;
- (3) identifies competition to be conducted in each procurement;
- (4) describes procurement plans that do not rely on a single industry entity or contract;
- (5) includes a certification by the Chief Human Capital Officer of the Department that current human capital capabilities are sufficient to execute the plans discussed in the report;
- (6) contains very limited indefinite delivery/indefinite quantity contracts and explains the need for any indefinite delivery/indefinite quantity contracts;
- (7) identifies individual project balances by fiscal year, including planned carryover into fiscal year 2009 by project;

(8) identifies operational gaps by asset and explains how funds provided in this Act address the shortfalls between current operational capabilities and requirements;

(9) includes a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Coast Guard actions to address the recommendations, including milestones for fully addressing them;

(10) includes a certification by the Chief Procurement Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A-11, part 7;

(11) identifies use of the Defense Contract Auditing Agency;

(12) includes a certification by the head of contracting activity for the Coast Guard and the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with plans for addressing these risks, and the status of their implementation;

(13) identifies the use of independent validation and verification; and

(14) is reviewed by the Government Accountability Office: *Provided further*, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2009 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Deepwater assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Deepwater program; and the earned value management system gold card data for each Deepwater asset: *Provided further*, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every five years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: *Provided further*, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives:

Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31, United States Code, for that fiscal year: *Provided further*, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified: *Provided further*, That of amounts made available under this heading in Public Laws 108-334 and 109-90 for the Offshore Patrol Cutter, \$98,627,476 are rescinded: *Provided further*, That of amounts made available under this heading in Public Law 108-334 for VTOL unmanned aerial vehicles (VUAV), \$162,850 are rescinded: *Provided further*, That of amounts made available under this heading in Public Law 109-90 for unmanned air vehicles (UAVs), \$32,942,138 are rescinded: *Provided further*, That of amounts made available under this heading in Public Law 109-295 for VTOL unmanned aerial vehicles (UAVs), \$716,536 are rescinded: *Provided further*, That of the amount provided under this heading, \$95,800,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), \$16,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; \$25,000,000, to remain available until expended, of which \$500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): *Provided*, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$1,184,720,000, to remain available until expended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 645 vehicles for police-type use for replacement only, and hire of passenger motor vehicles; purchase of motorcycles made in the United States; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of United States Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; \$1,381,771,000, of which \$853,690,000 is for protective functions; of which not to exceed \$25,000 shall be for official reception and representation expenses; of which not to exceed \$100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which \$2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which \$6,000,000 shall be for a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: *Provided*, That up to \$18,000,000 provided for protective travel shall remain available until September 30, 2009: *Provided further*, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED
EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, \$3,725,000, to remain available until expended.

TITLE III

PROTECTION, PREPAREDNESS, RESPONSE, AND RECOVERY

NATIONAL PROTECTION AND PROGRAMS DIRECTORATE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for National Protection and Programs, the National Protection Planning Office, support for operations, information technology, and Risk Management and Analysis, \$47,346,000: *Provided*, That not to exceed \$5,000 shall be for official reception and representation expenses: *Provided further*, That of the total amount provided under this heading, \$5,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an expenditure plan by program, project, and activity.

Expenditure
plan.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), \$654,730,000, of which \$586,960,000 shall remain available until September 30, 2009.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR
TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), \$475,000,000, to remain available until expended: *Provided*, That of the amount provided under this heading, \$275,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That of the total amount made available under this heading, \$125,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that includes—

Expenditure
plan.

(1) a detailed accounting of the program's progress to date relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, and program management capabilities;

(2) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(3) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones for fully addressing them;

(4) a certification by the Chief Procurement Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A-11, part 7;

(5) a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(6) a certification by the Chief Information Officer of the Department that the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were and were not assessed in making the alignment determination, the date of the alignment determination, and any known areas of misalignment along with the associated risks and corrective actions to address any such areas;

(7) a certification by the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with any plans for addressing these risks, and the status of their implementation;

(8) a certification by the Chief Information Officer of the Department that the program has a risk management process that regularly identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicates high-risk conditions to agency and Department of Homeland Security investment decision makers, as well as a listing of all the program's high risks and the status of efforts to address them;

(9) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report;

(10) a complete schedule for the full implementation of a biometric exit program or a certification that such program is not possible within five years;

(11) a detailed accounting of operation and maintenance, contractor services, and program costs associated with the management of identity services; and

(12) is reviewed by the Government Accountability Office.

OFFICE OF HEALTH AFFAIRS

For the necessary expenses of the Office of Health Affairs, \$116,500,000; of which \$24,317,000 is for salaries and expenses; and of which \$92,183,000, to remain available until September 30, 2009, is for biosurveillance, BioWatch, medical readiness planning, chemical response, and other activities: *Provided*, That not to exceed \$3,000 shall be for official reception and representation expenses.

FEDERAL EMERGENCY MANAGEMENT AGENCY

MANAGEMENT AND ADMINISTRATION

For necessary expenses for management and administration of the Federal Emergency Management Agency, \$664,000,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), and the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109–295; 120 Stat. 1394): *Provided*, That not to exceed \$3,000 shall be for official reception and representation expenses: *Provided further*, That the President's budget submitted under section 1105(a) of title 31, United States Code, shall be detailed by the office for the Federal Emergency Management Agency: *Provided further*, That of the total amount made available under this heading, \$32,500,000 shall be for the Urban Search and Rescue Response System, of which not to exceed \$1,600,000 may be made available for administrative costs; and \$6,000,000 shall be for the Office of National Capital Region Coordination: *Provided further*, That for purposes of planning, coordination, execution, and decision-making related to mass evacuation during a disaster, the Governors of the State of West Virginia and the Commonwealth of Pennsylvania, or their designees, shall be incorporated into efforts to integrate the activities of Federal, State, and local governments in the National Capital Region, as defined in section 882 of Public Law 107–296, the Homeland Security Act of 2002.

Federal budget.

West Virginia.
Pennsylvania.

STATE AND LOCAL PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For grants, contracts, cooperative agreements, and other activities, \$3,177,800,000 shall be allocated as follows:

(1) \$950,000,000 shall be for the State Homeland Security Grant Program under section 2004 of the Homeland Security Act of 2002 (6 U.S.C. 605) as amended by Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53): *Provided*, That of the amount provided by this paragraph, \$60,000,000 shall be for Operation Stonegarden and is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That notwithstanding subsection (c)(4) of such section 2004, for fiscal year 2008, the Commonwealth of Puerto Rico shall make available to local and tribal governments amounts provided to the Commonwealth of Puerto Rico under this paragraph in accordance with subsection (c)(1) of such section 2004.

(2) \$820,000,000 shall be for the Urban Area Security Initiative under section 2003 of the Homeland Security Act of 2002 (6 U.S.C. 604) as amended by Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53), of which, notwithstanding subsection (c)(1) of such section,

\$15,000,000 shall be for grants to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such code) determined by the Secretary to be at high-risk of a terrorist attack.

(3) \$35,000,000 shall be for Regional Catastrophic Preparedness Grants.

(4) \$41,000,000 shall be for the Metropolitan Medical Response System under section 635 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 723).

(5) \$15,000,000 shall be for the Citizens Corps Program;

(6) \$400,000,000 shall be for Public Transportation Security Assistance and Railroad Security Assistance under sections 1406 and 1513 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53; 6 U.S.C. 1135 and 1163), of which not less than \$25,000,000 shall be for Amtrak security.

(7) \$400,000,000 shall be for Port Security Grants in accordance with 46 U.S.C. 70107.

(8) \$11,500,000 shall be for Over-the-Road Bus Security Assistance under section 1532 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53; 6 U.S.C. 1182).

(9) \$16,000,000 shall be for Trucking Industry Security Grants.

(10) \$50,000,000 shall be for Buffer Zone Protection Program Grants.

(11) \$50,000,000 shall be for grants under section 204 of the REAL ID Act of 2005 (Public Law 109-13; 49 U.S.C. 30301 note): *Provided*, That the amount provided under this paragraph shall be designated as described in section 5 (in the matter preceding division A of this consolidated Act).

(12) \$25,000,000 shall be for the Commercial Equipment Direct Assistance Program.

(13) \$50,000,000 shall be for the Interoperable Emergency Communications Grant Program under section 1809 of the Homeland Security Act of 2002 (6 U.S.C. 579) as amended by Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53).

(14) \$15,000,000 shall be for grants for construction of Emergency Operations Centers under section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) as amended by Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53).

(15) \$299,300,000 shall be for training, exercises, technical assistance, and other programs:

Provided, That not to exceed 3 percent of the amounts provided under this heading may be transferred to the Federal Emergency Management Agency “Management and Administration” account for program administration: *Provided further*, That for grants under paragraphs (1) through (5), the applications for grants shall be made available to eligible applicants not later than 25 days after the date of enactment of this Act, that eligible applicants shall submit applications not later than 90 days after the grant announcement, and that the Administrator of the Federal Emergency Management Agency shall act within 90 days after receipt of an application: *Provided further*, That for grants under paragraphs (6) through (11), the applications for grants shall be made available

Grants.
Deadlines.

to eligible applicants not later than 30 days after the date of enactment of this Act, that eligible applicants shall submit applications within 45 days after the grant announcement, and that the Federal Emergency Management Agency shall act not later than 60 days after receipt of an application: *Provided further*, That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: *Provided further*, That (a) the Center for Domestic Preparedness may provide training to emergency response providers from the Federal Government, foreign governments, or private entities, if the Center for Domestic Preparedness is reimbursed for the cost of such training, and any reimbursement under this subsection shall be credited to the account from which the expenditure being reimbursed was made and shall be available, without fiscal year limitation, for the purposes for which amounts in the account may be expended, (b) the head of the Center for Domestic Preparedness shall ensure that any training provided under (a) does not interfere with the primary mission of the Center to train State and local emergency response providers: *Provided further*, That the Government Accountability Office shall report to the Committees on Appropriations of the Senate and the House of Representatives regarding the data, assumptions, and methodology that the Department uses to assess risk and allocate Urban Area Security Initiative and State Homeland Security Grants not later than 45 days after the date of enactment of this Act: *Provided further*, That the report shall include the reliability and validity of the data used, the basis for the assumptions used, how the methodology is applied to determine the risk scores for individual locations, an analysis of the usefulness of placing States and cities into tier groups, and the allocation of grants to eligible locations: *Provided further*, That the Department provide the Government Accountability Office with the actual data that the Department used for its risk assessment and grant allocation for at least two locations at the discretion of the Government Accountability Office for the 2007 grant allocation process: *Provided further*, That the Department provide the Government Accountability Office with access to all data needed for its analysis and report, including specifics on all changes for the fiscal year 2008 process, including, but not limited to, all changes in data, assumptions, and weights used in methodology within seven days after the date of enactment of this Act: *Provided further*, That any subsequent changes made regarding the risk methodology after the initial information is provided to the Government Accountability Office shall be provided within seven days after the change is made.

Reports.
Deadline.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), \$750,000,000, of which \$560,000,000 shall be available to carry out section 33 of that Act (15 U.S.C. 2229) and \$190,000,000 shall be available to carry out section 34 of that Act (15 U.S.C. 2229a), to remain available until September 30, 2009: *Provided*, That not to exceed 5 percent of the amount available under this heading shall be available for program administration.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), \$300,000,000: *Provided*, That total administrative costs shall not exceed 3 percent of the total amount appropriated under this heading.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2008, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: *Provided*, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: *Provided further*, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2008, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), \$43,300,000.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), \$1,400,000,000, to remain available until expended: *Provided*, That of the total amount provided, \$16,000,000 shall be transferred to the Department of Homeland Security Office of Inspector General for audits and investigations related to disasters, subject to section 503 of this Act: *Provided further*, That up to \$60,000,000 may be transferred to “Management and Administration”, Federal Emergency Management Agency, of which \$48,000,000 and 250 positions are for management and administration functions and \$12,000,000 is for activities related to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided further*, That of the amount provided in the previous proviso, \$30,000,000 shall not be available for transfer for management and administration functions until the Federal Emergency Management Agency submits an expenditure plan to the Committees on Appropriations of the Senate and the House of Representatives regarding the 250 positions: *Provided further*, That the Federal Emergency Management Agency shall hereafter

submit a monthly “Disaster Relief” report to the Committees on Appropriations of the Senate and the House of Representatives to include—

- (1) status of the Disaster Relief fund including obligations, allocations, and amounts undistributed/unallocated;
- (2) allocations, obligations, and expenditures for Hurricanes Katrina, Rita, and Wilma and all open disasters;
- (3) information on national flood insurance claims;
- (4) obligations, allocations, and expenditures by State for unemployment, crisis counseling, inspections, housing assistance, manufactured housing, public assistance, and individual assistance;
- (5) mission assignment obligations by agency, including:
 - (A) the amounts to other agencies that are in suspense because the Federal Emergency Management Agency has not yet reviewed and approved the documentation supporting the expenditure or for which an agency has been mission assigned but has not submitted necessary documentation for reimbursement;
 - (B) an explanation if the amounts of reported obligations and expenditures do not reflect the status of such obligations and expenditures from a government-wide perspective; and
 - (C) each such agency’s actual obligation and expenditure data;
- (6) the amount of credit card purchases by agency and mission assignment;
- (7) specific reasons for all waivers granted and a description of each waiver;
- (8) a list of all contracts that were awarded on a sole source or limited competition basis, including the dollar amount, the purpose of the contract, and the reason for the lack of competitive award; and
- (9) an estimate of when available appropriations will be exhausted, assuming an average disaster season:

Provided further, That for any request for reimbursement from a Federal agency to the Department to cover expenditures under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or any mission assignment orders issued by the Department for such purposes, the Secretary of Homeland Security shall take appropriate steps to ensure that each agency is periodically reminded of Department policies on—

- (1) the detailed information required in supporting documentation for reimbursements, and
- (2) the necessity for timeliness of agency billings.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For activities under section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), \$875,000, of which \$580,000 is for administrative expenses to carry out the direct loan program and \$295,000 is for the cost of direct loans: *Provided*, That gross obligations for the principal amount of direct loans shall not exceed \$25,000,000: *Provided further*, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), \$220,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: *Provided*, That total administrative costs shall not exceed 3 percent of the total amount appropriated under this heading.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), \$145,000,000, which is available as follows: (1) not to exceed \$45,642,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and (2) no less than \$99,358,000 for flood hazard mitigation, which shall be derived from offsetting collections assessed and collected under section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014), to remain available until September 30, 2009, including up to \$34,000,000 for flood mitigation expenses under section 1366 of that Act (42 U.S.C. 4104c), which shall be available for transfer to the National Flood Mitigation Fund under section 1367 of that Act (42 U.S.C. 4104) until September 30, 2009: *Provided*, That any additional fees collected pursuant to section 1307 of that Act shall be credited as an offsetting collection to this account, to be available for flood hazard mitigation expenses: *Provided further*, That in fiscal year 2008, no funds shall be available from the National Flood Insurance Fund under section 1310 of that Act (42 U.S.C. 4017) in excess of: (1) \$70,000,000 for operating expenses; (2) \$773,772,000 for commissions and taxes of agents; (3) such sums as are necessary for interest on Treasury borrowings; and (4) \$90,000,000 for flood mitigation actions with respect to severe repetitive loss properties under section 1361A of that Act (42 U.S.C. 4102a) and repetitive insurance claims properties under section 1323 of that Act (42 U.S.C. 4030), which shall remain available until expended: *Provided further*, That total administrative costs shall not exceed 4 percent of the total appropriation.

NATIONAL FLOOD MITIGATION FUND

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968, \$34,000,000 (42 U.S.C. 4104c), to remain available until September 30, 2009, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which \$34,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PREDISASTER MITIGATION FUND

For a predisaster mitigation grant program under title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), \$114,000,000, to remain available

until expended: *Provided*, That grants made for predisaster mitigation shall be awarded subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)): *Provided further*, That the total administrative costs associated with such grants shall not exceed 3 percent of the total amount made available under this heading.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.), \$153,000,000, to remain available until expended: *Provided*, That total administrative costs shall not exceed 3.5 percent of the total amount made available under this heading.

TITLE IV

RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, \$80,973,000: *Provided*, That of the amount provided under this heading, \$80,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That of the total, \$20,000,000 is provided to address backlogs of security checks associated with pending applications and petitions and shall not be available for obligation until the Secretary of Homeland Security and the United States Attorney General submit to the Committees on Appropriations of the Senate and the House of Representatives a plan to eliminate the backlog of security checks that establishes information sharing protocols to ensure United States Citizenship and Immigration Services has the information it needs to carry out its mission: *Provided further*, That notwithstanding any other provision of law, funds available to United States Citizenship and Immigration Services may be used to acquire, operate, equip, and dispose of up to five vehicles for areas where the Administrator of General Services does not provide vehicles for lease: *Provided further*, That the Director of United States Citizenship and Immigration Services may authorize employees who are assigned to those areas to use such vehicles between the employees' residences and places of employment.

Security checks.
Plan.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; \$238,076,000, of which up to \$48,111,000 for materials and support costs of Federal

law enforcement basic training shall remain available until September 30, 2009; of which \$300,000 shall remain available until expended for Federal law enforcement agencies participating in training accreditation, to be distributed as determined by the Federal Law Enforcement Training Center for the needs of participating agencies; and of which not to exceed \$12,000 shall be for official reception and representation expenses: *Provided*, That of the amount provided under this heading, \$17,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That section 1202(a) of Public Law 107-206 (42 U.S.C. 3771 note) as amended by Public Law 109-295 (120 Stat. 1374) is further amended by striking “December 31, 2007” and inserting “December 31, 2010”.

ACQUISITIONS, CONSTRUCTION, IMPROVEMENTS, AND RELATED
EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, \$50,590,000, to remain available until expended: *Provided*, That of the amount provided under this heading, \$4,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), \$138,600,000: *Provided*, That not to exceed \$10,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); \$691,735,000, to remain available until expended: *Provided*, That none of the funds made available under this heading shall be obligated for the Analysis, Dissemination, Visualization, Insight, and Semantic Enhancement program or any follow-on or successor program.

DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Domestic Nuclear Detection Office as authorized by the second title XVIII of the Homeland Security Act of 2002 and for management and administration of programs and activities, \$31,500,000: *Provided*, That not to exceed \$3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, AND OPERATIONS

For necessary expenses for radiological and nuclear research, development, testing, evaluation, and operations, \$323,500,000, to remain available until expended.

SYSTEMS ACQUISITION

For expenses for the Domestic Nuclear Detection Office acquisition and deployment of radiological detection systems in accordance with the global nuclear detection architecture, \$129,750,000, to remain available until September 30, 2010: *Provided*, That none of the funds appropriated under this heading shall be obligated for full-scale procurement of Advanced Spectroscopic Portal Monitors until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a report certifying that a significant increase in operational effectiveness will be achieved: *Provided further*, That the Secretary shall submit separate and distinct certifications prior to the procurement of Advanced Spectroscopic Portal Monitors for primary and secondary deployment that address the unique requirements for operational effectiveness of each type of deployment: *Provided further*, That the Secretary of Homeland Security shall consult with the National Academy of Sciences before making such certification: *Provided further*, That none of the funds appropriated under this heading shall be used for high-risk concurrent development and production of mutually dependent software and hardware.

Reports.
Certification.

Certifications.

Consultation.

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: *Provided*, That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act,

Notifications.
Deadlines.

shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program, project, or activity; (2) eliminates a program, project, office, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or the House of Representatives for a different purpose; or (5) contracts out any function or activity for which funding levels were requested for Federal full-time equivalents in the object classification tables contained in the fiscal year 2008 Budget Appendix for the Department of Homeland Security, as specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act), unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of \$5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: *Provided*, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

SEC. 504. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the “Department of Homeland Security Working Capital Fund”, except for the activities and amounts allowed in the President’s fiscal year 2008 budget, excluding sedan service, shuttle service, transit subsidy, mail operations, parking, and competitive sourcing: *Provided*, That any additional activities

and amounts shall be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2008 from appropriations for salaries and expenses for fiscal year 2008 in this Act shall remain available through September 30, 2009, in the account and for the purposes for which the appropriations were provided: *Provided*, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

Approval request.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2008 until the enactment of an Act authorizing intelligence activities for fiscal year 2008.

SEC. 507. The Federal Law Enforcement Training Accreditation Board shall lead the Federal law enforcement training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 508. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of \$1,000,000, or to announce publicly the intention to make such an award, including a contract covered by the Federal Acquisition Regulation, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least three full business days in advance: *Provided*, That no notification shall involve funds that are not available for obligation: *Provided further*, That the notification shall include the amount of the award, the fiscal year in which the funds for the award were appropriated, and the account from which the funds are being drawn: *Provided further*, That the Federal Emergency Management Agency shall brief the Committees on Appropriations of the Senate and the House of Representatives five full business days in advance of announcing publicly the intention of making an award of State Homeland Security grants; Urban Area Security Initiative grants; or Regional Catastrophic Preparedness Grants.

Notification.
Deadline.

SEC. 509. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

Briefing.
Deadline.

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule basic and/or advanced law enforcement training at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that these

training centers are operated at the highest capacity throughout the fiscal year.

SEC. 511. None of the funds appropriated or otherwise made available by this Act may be used for expenses for any construction, repair, alteration, or acquisition project for which a prospectus, if required under chapter 33 of title 40, United States Code, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

Certification.
Reports.

SEC. 513. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow-on or successor passenger prescreening program, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the conditions contained in paragraphs (1) through (10) of section 522(a) of Public Law 108-334 (118 Stat. 1319) have been successfully met.

Deadline.

(b) The report required by subsection (a) shall be submitted within 90 days after the Secretary provides the requisite certification, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten conditions have been successfully met.

Deadline.
Plan.

(c) Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a detailed plan that describes: (1) the dates for achieving key milestones, including the date or timeframes that the Secretary will certify the program under subsection (a); and (2) the methodology to be followed to support the Secretary's certification, as required under subsection (a).

(d) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(e) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(f) None of the funds provided in this or any other Act may be used for data or a database that is obtained from or remains under the control of a non-Federal entity: *Provided*, That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 514. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 515. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A-76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary

or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 516. None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: *Provided*, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

SEC. 517. Section 517(b) of the Department of Homeland Security Appropriations Act, 2007 (18 U.S.C. 3056 note) is amended to read as follows:

“(b) For fiscal year 2008, and each fiscal year thereafter, the Director of the United States Secret Service may enter into an agreement to perform protection of a Federal official other than a person granted protection under section 3056(a) of title 18, United States Code, on a fully reimbursable basis.”.

SEC. 518. (a) The Secretary of Homeland Security shall research, develop, and procure new technologies to inspect and screen air cargo carried on passenger aircraft at the earliest date possible.

(b) Existing checked baggage explosive detection equipment and screeners shall be utilized to screen air cargo carried on passenger aircraft to the greatest extent practicable at each airport until technologies developed under subsection (a) are available.

(c) The Assistant Secretary (Transportation Security Administration) shall work with air carriers and airports to ensure that the screening of cargo carried on passenger aircraft, as defined in section 44901(g)(5) of title 49, United States Code, increases incrementally each quarter.

(d) Not later than 45 days after the end of each quarter, the Assistant Secretary (Transportation Security Administration) shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on air cargo inspection statistics by airport and air carrier detailing the incremental progress being made to meet section 44901(g)(2) of title 49, United States Code.

Deadline.
Reports.

SEC. 519. None of the funds made available in this Act may be used by any person other than the Privacy Officer appointed under section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay, or prohibit the transmission to Congress of any report prepared under paragraph (6) of such section.

SEC. 520. No funding made available to the Department of Homeland Security in this Act shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR), or anyone acting in a similar capacity, who has not received COTR training.

SEC. 521. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration “Aviation Security”, “Administration” and “Transportation Security Support” for fiscal years 2004, 2005, 2006, and 2007 that are recovered or deobligated shall be available only for the procurement or installation of explosives detection systems, for air cargo, baggage, and checkpoint screening

Reports.	systems, subject to notification: <i>Provided</i> , That quarterly reports shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives on any funds that are recovered or deobligated.
Applicability.	SEC. 522. Section 525(d) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295; 120 Stat. 1382) shall apply to fiscal year 2008. SEC. 523. Any funds appropriated to United States Coast Guard, “Acquisition, Construction, and Improvements” for fiscal years 2002, 2003, 2004, 2005, and 2006 for the 110–123 foot patrol boat conversion that are recovered, collected, or otherwise received as the result of negotiation, mediation, or litigation, shall be available until expended for the Replacement Patrol Boat (FRC-B) program.
31 USC 501 note.	SEC. 524. The Department of Homeland Security Working Capital Fund, established pursuant to section 403 of Public Law 103–356 (31 U.S.C. 501 note), shall continue operations during fiscal year 2008.
Certification.	SEC. 525. None of the funds provided in this Act shall be available to commence operations of the National Applications Office or the National Immigration Information Sharing Operation until the Secretary certifies that these programs comply with all existing laws, including all applicable privacy and civil liberties standards, and that certification is reviewed by the Government Accountability Office.
Deadline. Reports.	SEC. 526. Within 45 days after the close of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a monthly budget and staffing report that includes total obligations, on-board versus funded full-time equivalent staffing levels, and the number of contract employees by office.
120 Stat. 1384.	SEC. 527. Section 532(a) of Public Law 109-295 is amended by striking “2007” and inserting “2008”. SEC. 528. None of the funds made available by this Act shall be used in contravention of the Federal buildings performance and reporting requirements of Executive Order No. 13123, part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), or subtitle A of title I of the Energy Policy Act of 2005 (including the amendments made thereby). SEC. 529. The functions of the Federal Law Enforcement Training Center instructor staff shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note). SEC. 530. None of the funds made available in this Act may be used in contravention of section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212). SEC. 531. None of the funds made available by this Act may be used to take an action that would violate Executive Order No. 13149 (65 Fed. Reg. 24607; relating to greening the Government through Federal fleet and transportation efficiency).
Applicability.	SEC. 532. Subsections (a), (b), and (d)(1) of section 6402 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28) shall apply to fiscal year 2008. SEC. 533. None of the funds provided by this or any other Act may be obligated for the development, testing, deployment,

or operation of any system related to the MAX-HR project, or any subsequent but related human resources management project, until any pending litigation concerning such activities is resolved, and any legal claim or appeal by either party has been fully resolved.

SEC. 534. Section 550 of the Department of Homeland Security Appropriations Act, 2007 (6 U.S.C. 121 note) is amended by adding at the end the following:

“(h) This section shall not preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance with respect to chemical facility security that is more stringent than a regulation, requirement, or standard of performance issued under this section, or otherwise impair any right or jurisdiction of any State with respect to chemical facilities within that State, unless there is an actual conflict between this section and the law of that State.”.

SEC. 535. (a) AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) by striking “and” at the end of paragraph (28), by striking the period at the end of the first paragraph (29) and inserting a semicolon, by redesignating the second paragraph (29) as paragraph (30), and by striking the period at the end of paragraph (30) (as so redesignated) and inserting “; and”; and

(B) by adding at the end the following:

“(31) ‘customs and border protection officer’ means an employee in the Department of Homeland Security (A) who holds a position within the GS-1895 job series (determined applying the criteria in effect as of September 1, 2007) or any successor position, and (B) whose duties include activities relating to the arrival and departure of persons, conveyances, and merchandise at ports of entry, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties (as described in subparagraph (B)) in 1 or more positions (as described in subparagraph (A)) for at least 3 years.”.

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1)(A), by striking “or nuclear materials courier,” and inserting “nuclear materials courier, or customs and border protection officer,”; and

(B) in the table contained in subsection (c), by adding at the end the following:

“Customs and border protection officer 7.5

After June 29, 2008.”.

(3) MANDATORY SEPARATION.—The first sentence of section 8335(b)(1) of title 5, United States Code, is amended by striking “or nuclear materials courier” and inserting “nuclear materials courier, or customs and border protection officer”.

(4) IMMEDIATE RETIREMENT.—Section 8336 of title 5, United States Code, is amended—

(A) in subsection (c)(1), by striking “or nuclear materials courier” and inserting “nuclear materials courier, or customs and border protection officer”; and

(B) in subsections (m) and (n), by striking “or as a law enforcement officer,” and inserting “as a law enforcement officer, or as a customs and border protection officer,”.

(b) AMENDMENTS RELATING TO THE FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (34), by striking “and” at the end;

(B) in paragraph (35), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(36) the term ‘customs and border protection officer’ means an employee in the Department of Homeland Security (A) who holds a position within the GS–1895 job series (determined applying the criteria in effect as of September 1, 2007) or any successor position, and (B) whose duties include activities relating to the arrival and departure of persons, conveyances, and merchandise at ports of entry, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties (as described in subparagraph (B)) in 1 or more positions (as described in subparagraph (A)) for at least 3 years.”.

(2) IMMEDIATE RETIREMENT.—Paragraphs (1) and (2) of section 8412(d) of title 5, United States Code, are amended by striking “or nuclear materials courier,” and inserting “nuclear materials courier, or customs and border protection officer,”.

(3) COMPUTATION OF BASIC ANNUITY.—Section 8415(h)(2) of title 5, United States Code, is amended by striking “or air traffic controller.” and inserting “air traffic controller, or customs and border protection officer”.

(4) DEDUCTIONS FROM PAY.—The table contained in section 8422(a)(3) of title 5, United States Code, is amended by adding at the end the following:

“Customs and border protection officer	7.5	After June 29, 2008.”.
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(5) GOVERNMENT CONTRIBUTIONS.—Paragraphs (1)(B)(i) and (3) of section 8423(a) of title 5, United States Code, are amended by inserting “customs and border protection officers,” after “nuclear materials couriers,” each place it appears.

(6) MANDATORY SEPARATION.—Section 8425(b)(1) of title 5, United States Code, is amended—

(A) by striking “or nuclear materials courier who” and inserting “nuclear materials courier, or customs and border protection officer who”; and

(B) by striking “or nuclear materials courier,” and inserting “nuclear materials courier, or customs and border protection officer”.

(c) MAXIMUM AGE FOR ORIGINAL APPOINTMENT.—Section 3307 of title 5, United States Code, is amended by adding at the end the following:

“(g) The Secretary of Homeland Security may determine and fix the maximum age limit for an original appointment to a position as a customs and border protection officer, as defined by section 8401(36).”.

(d) REGULATIONS.—Any regulations necessary to carry out the amendments made by this section shall be prescribed by the Director of the Office of Personnel Management in consultation with the Secretary of Homeland Security.

5 USC 3307 note.

(e) EFFECTIVE DATE; TRANSITION RULES.—

5 USC 3307 note.

(1) EFFECTIVE DATE.—The amendments made by this section shall become effective on the later of June 30, 2008, or the first day of the first pay period beginning at least 6 months after the date of the enactment of this Act.

(2) TRANSITION RULES.—

(A) NONAPPLICABILITY OF MANDATORY SEPARATION PROVISIONS TO CERTAIN INDIVIDUALS.—The amendments made by subsections (a)(3) and (b)(6), respectively, shall not apply to an individual first appointed as a customs and border protection officer before the effective date under paragraph (1).

(B) TREATMENT OF PRIOR CBPO SERVICE.—

(i) GENERAL RULE.—Except as provided in clause (ii), nothing in this section or any amendment made by this section shall be considered to apply with respect to any service performed as a customs and border protection officer before the effective date under paragraph (1).

(ii) EXCEPTION.—Service described in section 8331(31) or 8401(36) of title 5, United States Code (as amended by this section) rendered before the effective date under paragraph (1) may be taken into account to determine if an individual who is serving on or after such effective date then qualifies as a customs and border protection officer by virtue of holding a supervisory or administrative position in the Department of Homeland Security.

(C) MINIMUM ANNUITY AMOUNT.—The annuity of an individual serving as a customs and border protection officer on the effective date under paragraph (1) pursuant to an appointment made before that date shall, to the extent that its computation is based on service rendered as a customs and border protection officer on or after that date, be at least equal to the amount that would be payable—

(i) to the extent that such service is subject to the Civil Service Retirement System, by applying section 8339(d) of title 5, United States Code, with respect to such service; and

(ii) to the extent such service is subject to the Federal Employees' Retirement System, by applying section 8415(d) of title 5, United States Code, with respect to such service.

(D) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (c) shall be considered to apply with respect to any appointment made before the effective date under paragraph (1).

(3) ELECTION.—

Deadline.

(A) **INCUMBENT DEFINED.**—For purposes of this paragraph, the term “incumbent” means an individual who is serving as a customs and border protection officer on the date of the enactment of this Act.

(B) **NOTICE REQUIREMENT.**—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall take measures reasonably designed to ensure that incumbents are notified as to their election rights under this paragraph, and the effect of making or not making a timely election.

(C) **ELECTION AVAILABLE TO INCUMBENTS.**—

(i) **IN GENERAL.**—An incumbent may elect, for all purposes, either—

(I) to be treated in accordance with the amendments made by subsection (a) or (b), as applicable; or

(II) to be treated as if subsections (a) and (b) had never been enacted.

Failure to make a timely election under this paragraph shall be treated in the same way as an election made under subclause (I) on the last day allowable under clause (ii).

(ii) **DEADLINE.**—An election under this paragraph shall not be effective unless it is made at least 14 days before the effective date under paragraph (1).

(4) **DEFINITION.**—For purposes of this subsection, the term “customs and border protection officer” has the meaning given such term by section 8331(31) or 8401(36) of title 5, United States Code (as amended by this section).

(5) **EXCLUSION.**—Nothing in this section or any amendment made by this section shall be considered to afford any election or to otherwise apply with respect to any individual who, as of the day before the date of the enactment of this Act—

(A) holds a position within U.S. Customs and Border Protection; and

(B) is considered a law enforcement officer for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, by virtue of such position.

SEC. 536. In fiscal year 2008, none of the funds made available in this or any other Act may be used to enforce section 4025(1) of Public Law 108-458 unless the Assistant Secretary (Transportation Security Administration) reverses the determination of July 19, 2007, that butane lighters are not a significant threat to civil aviation security.

SEC. 537. None of the funds provided in this Act may be used to alter or reduce operations within the Civil Engineering Program of the Coast Guard nationwide, including the civil engineering units, facilities, design and construction centers, maintenance and logistics command centers, and the Coast Guard Academy, except as specifically authorized by a statute enacted after the date of the enactment of this Act.

SEC. 538. The cumulative amount appropriated in title I of this Act for the “Office of the Secretary and Executive Management” and the “Office of the Under Secretary for Management” shall be reduced by \$5,000,000.

SEC. 539. (a) Except as provided in subsection (b), none of the funds appropriated in this Act to the Office of the Secretary

and Executive Management, the Office of the Under Secretary for Management and the Office of the Chief Financial Officer, may be obligated for a grant or contract awarded by a means other than full and open competition.

(b) This section does not apply to obligation of funds for a contract awarded—

(1) by a means that is required by a Federal statute, including obligation for a purchase made under a mandated preferential program, such as the AbilityOne Program, that is authorized under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c); or

(2) under the Small Business Act (15 U.S.C. 631 et seq.).

(c) The Secretary of Homeland Security may waive the application of this section to the award of a contract in the period of a national emergency determined by the Secretary.

(d) In addition to the requirements established by this section, the Inspector General for the Department of Homeland Security shall review departmental contracts awarded through other than full and open competition to assess departmental compliance with applicable laws and regulations: *Provided*, That the Inspector General shall review selected contracts awarded during the previous fiscal year through other than full and open competition: *Provided further*, That in determining which contracts to review, the Inspector General shall consider the cost and complexity of the goods and services to be provided under the contract, the criticality of the contract to fulfilling Department missions, past performance problems on similar contracts or by the selected vendor, complaints received about the award process or contractor performance, and such other factors as the Inspector General deems relevant: *Provided further*, That the Inspector General shall report the results of the reviews to the Committees on Appropriations of the Senate and the House of Representatives.

Reports.

SEC. 540. Section 44940(a)(2) of title 49, United States Code, is amended by striking the period in the last sentence of subparagraph (A) and the clause (iv) of subparagraph B and adding the following, “except for estimates and additional collections made pursuant to the appropriation for Aviation Security in Public Law 108-334: *Provided*, That such judicial review shall be pursuant to section 46110 of title 49, United States Code: *Provided further*, That such judicial review shall be limited only to additional amounts collected by the Secretary before October 1, 2007.”.

SEC. 541. None of the funds provided by this or previous appropriations Acts shall be used to fund any position designated as a Principal Federal Official for any Robert T. Stafford Disaster Relief and Emergency Assistance Act declared disasters or emergencies.

SEC. 542. Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

“(6) FAILURE TO COLLECT AIRPORT SECURITY BADGES.— Notwithstanding paragraph (1), any employer (other than a governmental entity or airport operator) who employs an employee to whom an airport security badge or other identifier used to obtain access to a secure area of an airport is issued before, on, or after the date of enactment of this paragraph and who does not collect or make reasonable efforts to collect such badge from the employee on the date that the employment of the employee is terminated and does not notify the operator

Notification.
Deadline.
Penalties.

of the airport of such termination within 24 hours of the date of such termination shall be liable to the Government for a civil penalty not to exceed \$10,000.”.

SEC. 543. None of the funds made available in this Act may be used by United States Citizenship and Immigration Services to grant an immigration benefit unless the results of background checks required by law to be completed prior to the grant of the benefit have been received by United States Citizenship and Immigration Services, and the results do not preclude the grant of the benefit.

SEC. 544. None of the funds made available in this Act may be used to destroy or put out to pasture any horse or other equine belonging to the Federal Government that has become unfit for service, unless the trainer or handler is first given the option to take possession of the equine through an adoption program that has safeguards against slaughter and inhumane treatment.

SEC. 545. EXTENSION OF THE IMPLEMENTATION DEADLINE FOR THE WESTERN HEMISPHERE TRAVEL INITIATIVE. Subparagraph (A) of section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note) is amended by striking “This plan shall be implemented not later than 3 months after the Secretary of State and the Secretary of Homeland Security make the certifications required in subsection (B), or June 1, 2009, whichever is earlier.” and inserting “Such plan may not be implemented earlier than the date that is the later of 3 months after the Secretary of State and the Secretary of Homeland Security make the certification required in subparagraph (B) or June 1, 2009.”.

SEC. 546. None of the funds provided in this Act shall be available to carry out section 872 of Public Law 107-296.

Certification.

SEC. 547. None of the funds provided in this Act under the heading “Office of the Chief Information Officer” shall be used for data center development other than for the National Center for Critical Information Processing and Storage until the Chief Information Officer certifies that the National Center for Critical Information Processing and Storage is fully utilized, to the maximum extent feasible, as the Department’s primary data storage center at the highest capacity throughout the fiscal year.

SEC. 548. None of the funds in this Act shall be used to reduce the United States Coast Guard’s Operations Systems Center mission or its government-employed or contract staff levels.

SEC. 549. None of the funds appropriated by this Act may be used to conduct, or to implement the results of, a competition under Office of Management and Budget Circular A-76 for activities performed with respect to the Coast Guard National Vessel Documentation Center.

SEC. 550. (a) Notwithstanding section 503 of this Act, up to \$24,000,000 from prior year balances currently available to the Transportation Security Administration may be transferred to “Transportation Threat Assessment and Credentialing” for the Secure Flight program.

(b) In carrying out the transfer authority under subsection (a), the Transportation Security Administration shall not utilize any prior year balances from the following programs: screener partnership program; explosives detection system purchase; explosives detection system installation; checkpoint support; aviation regulation and other enforcement; air cargo; and air cargo research and

development: *Provided*, That any funds proposed to be transferred under this section shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure for such funds that is submitted by the Secretary of Homeland Security: *Provided further*, That the plan shall be submitted simultaneously to the Government Accountability Office for review consistent with its ongoing assessment of the Secure Flight Program as mandated by section 522(a) of Public Law 108-334 (118 Stat. 1319).

Expenditure
plan.

SEC. 551. RESCISSIONS. (a) The following unobligated balances made available pursuant to section 505 of Public Law 109-295 are rescinded: \$2,003,441 from U.S. Customs and Border Protection “Salaries and Expenses”; \$9,583,611 from Coast Guard “Operating Expenses”; \$672,230 from “United States Citizenship and Immigration Services”; \$2,790,513 from Federal Emergency Management Agency “Management and Administration”; \$127,994 from Federal Emergency Management Agency “Disaster Assistance Direct Loan Program Account”; \$5,136,819 from U.S. Immigration and Customs Enforcement “Salaries and Expenses”; \$333,520 from Federal Law Enforcement Training Center “Salaries and Expenses”; \$4,211,376 from the “Office of the Secretary and Executive Management”; \$443,672 from the “Office of the Under Secretary for Management”; \$380,166 from the “Office of the Chief Financial Officer”; \$493,106 from the “Office of the Chief Information Officer”; \$368,166 from Domestic Nuclear Detection Office “Management and Administration”; \$45,369 from the “Office of Health Affairs”; \$32,299 from the “Office of Inspector General”; \$1,994,454 from National Protection and Programs Directorate “Management and Administration”; and \$216,727 from Science and Technology “Management and Administration”.

(b) From the unobligated balances of funds transferred to the Department of Homeland Security when it was created in 2003, \$59,286,537 are rescinded: *Provided*, That the rescission made under this subsection shall not be executed from the following programs: Coast Guard Retired Pay; U.S. Immigration and Customs Enforcement Violent Crime Reduction Program; Federal Law Enforcement Training Center Instructor Salaries; and Federal Emergency Management Agency National Security Support.

(c) Of the amounts available under the heading “Counterterrorism Fund”, \$8,480,000 are rescinded.

(d) Of the unobligated balances available in the “Department of Homeland Security, Transportation Security Administration Expenses” account, \$4,500,000 are rescinded.

SEC. 552. Notwithstanding any other provision of law, the Secretary of Homeland Security shall, under the Federal Emergency Management Agency Public Assistance Program, provide a single payment for any eligible costs for local educational agencies impacted by Hurricanes Katrina or Rita within 30 days of such request: *Provided*, That the payment for schools in Louisiana shall be submitted to the Louisiana Department of Education, which may expend up to 3 percent of those funds for administrative costs: *Provided further*, That the Federal Emergency Management Agency shall not reduce assistance in accordance with section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for local educational agencies impacted by Hurricanes Katrina or Rita: *Provided further*, That nothing in the previous proviso shall be construed to alter the appeals or review

Deadline.

process: *Provided further*, That section 406(d) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act shall not apply to more than one facility on a school site impacted by Hurricanes Katrina or Rita.

SEC. 553. TECHNICAL CORRECTIONS. (a) IN GENERAL.—

(1) REDESIGNATIONS.—Chapter 27 of title 18, United States Code, is amended by redesignating section 554 added by section 551(a) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295; 120 Stat. 1389) (relating to border tunnels and passages) as section 555.

(2) TABLE OF SECTIONS.—The table of sections for chapter 27 of title 18, United States Code, is amended by striking the item relating to section 554, “Border tunnels and passages”, and inserting the following:

“555. Border tunnels and passages.”.

(b) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by striking “554” and inserting “555”.

(c) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Section 551(d) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295; 120 Stat. 1390) is amended in paragraphs (1) and (2)(A) by striking “554” and inserting “555”.

28 USC 994 note.

SEC. 554. Sections 2241, 2242, 2243, and 2244 of title 18, United States Code, are each amended by striking “the Attorney General” each place that term appears and inserting “the head of any Federal department or agency”.

Deadline.
Websites.
5 USC app. 6
note.

SEC. 555. Not later than 30 days after the date of enactment of this Act—

(1) the Secretary of Homeland Security shall establish and maintain on the homepage of the website of the Department of Homeland Security, a direct link to the website of the Office of Inspector General of the Department of Homeland Security; and

(2) the Inspector General of the Department of Homeland Security shall establish and maintain on the homepage of the website of the Office of Inspector General a direct link for individuals to anonymously report waste, fraud, or abuse.

Contracts.

SEC. 556. The Secretary of Homeland Security shall require that all contracts of the Department of Homeland Security that provide award fees link such fees to successful acquisition outcomes (which outcomes shall be specified in terms of cost, schedule, and performance).

SEC. 557. None of the funds made available to the Office of the Secretary and Executive Management under this Act may be expended for any new hires by the Department of Homeland Security that are not verified through the basic pilot program required under section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

Applicability.

SEC. 558. None of the funds made available in this Act for U.S. Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act: *Provided*, That this section shall apply only to individuals transporting on their person a personal-use quantity of the prescription

drug, not to exceed a 90-day supply: *Provided further*, That the prescription drug may not be—

(1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SEC. 559. None of the funds made available in this Act may be used by the Secretary of Homeland Security or any delegate of the Secretary to issue any rule or regulation which implements the Notice of Proposed Rulemaking related to Petitions for Aliens To Perform Temporary Nonagricultural Services or Labor (H–2B) set out beginning on 70 Fed. Reg. 3984 (January 27, 2005).

SEC. 560. Notwithstanding any other provision of law, Watsonville Community Hospital, or its successor trust, shall not be required to pay the Federal Emergency Management Agency additional funds related to DR–845.

SEC. 561. Notwithstanding any other provision of law, the Secretary of Homeland Security shall provide, under the Federal Emergency Management Agency Public Assistance Program, the relocation costs as estimated by the Federal Emergency Management Agency on May 5, 2006, for the Peebles School in Iberia Parish, Louisiana, which was damaged by Hurricane Rita in 2005.

SEC. 562. Notwithstanding any other provision of law, the Secretary of Homeland Security shall provide, under the Federal Emergency Management Agency Public Assistance Program, the currently uncompensated debris removal costs from Super Typhoon Paka and the firefighting costs associated with the Malojloj hardfill fire in 1998.

SEC. 563. SECURE HANDLING OF AMMONIUM NITRATE.—(a) IN GENERAL.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by adding at the end the following:

“Subtitle J—Secure Handling of Ammonium Nitrate

“SEC. 899A. DEFINITIONS.

6 USC 488.

“In this subtitle:

“(1) AMMONIUM NITRATE.—The term ‘ammonium nitrate’ means—

“(A) solid ammonium nitrate that is chiefly the ammonium salt of nitric acid and contains not less than 33 percent nitrogen by weight; and

“(B) any mixture containing a percentage of ammonium nitrate that is equal to or greater than the percentage determined by the Secretary under section 899B(b).

“(2) AMMONIUM NITRATE FACILITY.—The term ‘ammonium nitrate facility’ means any entity that produces, sells or otherwise transfers ownership of, or provides application services for ammonium nitrate.

“(3) AMMONIUM NITRATE PURCHASER.—The term ‘ammonium nitrate purchaser’ means any person who purchases ammonium nitrate from an ammonium nitrate facility.

6 USC 488a.

“SEC. 899B. REGULATION OF THE SALE AND TRANSFER OF AMMONIUM NITRATE.

“(a) IN GENERAL.—The Secretary shall regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility in accordance with this subtitle to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.

Deadline.

Notice.

Comment period.

“(b) AMMONIUM NITRATE MIXTURES.—Not later than 90 days after the date of the enactment of this subtitle, the Secretary, in consultation with the heads of appropriate Federal departments and agencies (including the Secretary of Agriculture), shall, after notice and an opportunity for comment, establish a threshold percentage for ammonium nitrate in a substance.

“(c) REGISTRATION OF OWNERS OF AMMONIUM NITRATE FACILITIES.—

“(1) REGISTRATION.—The Secretary shall establish a process by which any person that—

“(A) owns an ammonium nitrate facility is required to register with the Department; and

“(B) registers under subparagraph (A) is issued a registration number for purposes of this subtitle.

“(2) REGISTRATION INFORMATION.—Any person applying to register under paragraph (1) shall submit to the Secretary—

“(A) the name, address, and telephone number of each ammonium nitrate facility owned by that person;

“(B) the name of the person designated by that person as the point of contact for each such facility, for purposes of this subtitle; and

“(C) such other information as the Secretary may determine is appropriate.

“(d) REGISTRATION OF AMMONIUM NITRATE PURCHASERS.—

“(1) REGISTRATION.—The Secretary shall establish a process by which any person that—

“(A) intends to be an ammonium nitrate purchaser is required to register with the Department; and

“(B) registers under subparagraph (A) is issued a registration number for purposes of this subtitle.

“(2) REGISTRATION INFORMATION.—Any person applying to register under paragraph (1) as an ammonium nitrate purchaser shall submit to the Secretary—

“(A) the name, address, and telephone number of the applicant; and

“(B) the intended use of ammonium nitrate to be purchased by the applicant.

“(e) RECORDS.—

“(1) MAINTENANCE OF RECORDS.—The owner of an ammonium nitrate facility shall—

“(A) maintain a record of each sale or transfer of ammonium nitrate, during the two-year period beginning on the date of that sale or transfer; and

“(B) include in such record the information described in paragraph (2).

“(2) SPECIFIC INFORMATION REQUIRED.—For each sale or transfer of ammonium nitrate, the owner of an ammonium nitrate facility shall—

“(A) record the name, address, telephone number, and registration number issued under subsection (c) or (d) of

each person that purchases ammonium nitrate, in a manner prescribed by the Secretary;

“(B) if applicable, record the name, address, and telephone number of an agent acting on behalf of the person described in subparagraph (A), at the point of sale;

“(C) record the date and quantity of ammonium nitrate sold or transferred; and

“(D) verify the identity of the persons described in subparagraphs (A) and (B), as applicable, in accordance with a procedure established by the Secretary.

“(3) PROTECTION OF INFORMATION.—In maintaining records in accordance with paragraph (1), the owner of an ammonium nitrate facility shall take reasonable actions to ensure the protection of the information included in such records.

“(f) EXEMPTION FOR EXPLOSIVE PURPOSES.—The Secretary may exempt from this subtitle a person producing, selling, or purchasing ammonium nitrate exclusively for use in the production of an explosive under a license or permit issued under chapter 40 of title 18, United States Code.

“(g) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Agriculture, States, and appropriate private sector entities, to ensure that the access of agricultural producers to ammonium nitrate is not unduly burdened.

“(h) DATA CONFIDENTIALITY.—

“(1) IN GENERAL.—Notwithstanding section 552 of title 5, United States Code, or the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 272), and except as provided in paragraph (2), the Secretary may not disclose to any person any information obtained under this subtitle.

“(2) EXCEPTION.—The Secretary may disclose any information obtained by the Secretary under this subtitle to—

“(A) an officer or employee of the United States, or a person that has entered into a contract with the United States, who has a need to know the information to perform the duties of the officer, employee, or person; or

“(B) to a State agency under section 899D, under appropriate arrangements to ensure the protection of the information.

“(i) REGISTRATION PROCEDURES AND CHECK OF TERRORIST SCREENING DATABASE.—

“(1) REGISTRATION PROCEDURES.—

“(A) GENERALLY.—The Secretary shall establish procedures to efficiently receive applications for registration numbers under this subtitle, conduct the checks required under paragraph (2), and promptly issue or deny a registration number.

“(B) INITIAL SIX-MONTH REGISTRATION PERIOD.—The Secretary shall take steps to maximize the number of registration applications that are submitted and processed during the six-month period described in section 899F(e).

“(2) CHECK OF TERRORIST SCREENING DATABASE.—

“(A) CHECK REQUIRED.—The Secretary shall conduct a check of appropriate identifying information of any person seeking to register with the Department under subsection (c) or (d) against identifying information that appears in the terrorist screening database of the Department.

“(B) AUTHORITY TO DENY REGISTRATION NUMBER.—If the identifying information of a person seeking to register with the Department under subsection (c) or (d) appears in the terrorist screening database of the Department, the Secretary may deny issuance of a registration number under this subtitle.

Deadline.

“(3) EXPEDITED REVIEW OF APPLICATIONS.—

“(A) IN GENERAL.—Following the six-month period described in section 899F(e), the Secretary shall, to the extent practicable, issue or deny registration numbers under this subtitle not later than 72 hours after the time the Secretary receives a complete registration application, unless the Secretary determines, in the interest of national security, that additional time is necessary to review an application.

“(B) NOTICE OF APPLICATION STATUS.—In all cases, the Secretary shall notify a person seeking to register with the Department under subsection (c) or (d) of the status of the application of that person not later than 72 hours after the time the Secretary receives a complete registration application.

“(4) EXPEDITED APPEALS PROCESS.—

“(A) REQUIREMENT.—

“(i) APPEALS PROCESS.—The Secretary shall establish an expedited appeals process for persons denied a registration number under this subtitle.

“(ii) TIME PERIOD FOR RESOLUTION.—The Secretary shall, to the extent practicable, resolve appeals not later than 72 hours after receiving a complete request for appeal unless the Secretary determines, in the interest of national security, that additional time is necessary to resolve an appeal.

“(B) CONSULTATION.—The Secretary, in developing the appeals process under subparagraph (A), shall consult with appropriate stakeholders.

“(C) GUIDANCE.—The Secretary shall provide guidance regarding the procedures and information required for an appeal under subparagraph (A) to any person denied a registration number under this subtitle.

“(5) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—

“(A) IN GENERAL.—Any information constituting grounds for denial of a registration number under this section shall be maintained confidentially by the Secretary and may be used only for making determinations under this section.

“(B) SHARING OF INFORMATION.—Notwithstanding any other provision of this subtitle, the Secretary may share any such information with Federal, State, local, and tribal law enforcement agencies, as appropriate.

“(6) REGISTRATION INFORMATION.—

“(A) AUTHORITY TO REQUIRE INFORMATION.—The Secretary may require a person applying for a registration number under this subtitle to submit such information as may be necessary to carry out the requirements of this section.

“(B) REQUIREMENT TO UPDATE INFORMATION.—The Secretary may require persons issued a registration under this subtitle to update registration information submitted to the Secretary under this subtitle, as appropriate.

“(7) RE-CHECKS AGAINST TERRORIST SCREENING DATABASE.—

“(A) RE-CHECKS.—The Secretary shall, as appropriate, recheck persons provided a registration number pursuant to this subtitle against the terrorist screening database of the Department, and may revoke such registration number if the Secretary determines such person may pose a threat to national security.

“(B) NOTICE OF REVOCATION.—The Secretary shall, as appropriate, provide prior notice to a person whose registration number is revoked under this section and such person shall have an opportunity to appeal, as provided in paragraph (4).

“SEC. 899C. INSPECTION AND AUDITING OF RECORDS.

6 USC 488b.

“The Secretary shall establish a process for the periodic inspection and auditing of the records maintained by owners of ammonium nitrate facilities for the purpose of monitoring compliance with this subtitle or for the purpose of deterring or preventing the misappropriation or use of ammonium nitrate in an act of terrorism.

“SEC. 899D. ADMINISTRATIVE PROVISIONS.

6 USC 488c.

“(a) COOPERATIVE AGREEMENTS.—The Secretary—

“(1) may enter into a cooperative agreement with the Secretary of Agriculture, or the head of any State department of agriculture or its designee involved in agricultural regulation, in consultation with the State agency responsible for homeland security, to carry out the provisions of this subtitle; and

“(2) wherever possible, shall seek to cooperate with State agencies or their designees that oversee ammonium nitrate facility operations when seeking cooperative agreements to implement the registration and enforcement provisions of this subtitle.

“(b) DELEGATION.—

“(1) AUTHORITY.—The Secretary may delegate to a State the authority to assist the Secretary in the administration and enforcement of this subtitle.

“(2) DELEGATION REQUIRED.—At the request of a Governor of a State, the Secretary shall delegate to that State the authority to carry out functions under sections 899B and 899C, if the Secretary determines that the State is capable of satisfactorily carrying out such functions.

“(3) FUNDING.—Subject to the availability of appropriations, if the Secretary delegates functions to a State under this subsection, the Secretary shall provide to that State sufficient funds to carry out the delegated functions.

“(c) PROVISION OF GUIDANCE AND NOTIFICATION MATERIALS TO AMMONIUM NITRATE FACILITIES.—

“(1) GUIDANCE.—The Secretary shall make available to each owner of an ammonium nitrate facility registered under section 899B(c)(1) guidance on—

“(A) the identification of suspicious ammonium nitrate purchases or transfers or attempted purchases or transfers;

“(B) the appropriate course of action to be taken by the ammonium nitrate facility owner with respect to such

a purchase or transfer or attempted purchase or transfer, including—

“(i) exercising the right of the owner of the ammonium nitrate facility to decline sale of ammonium nitrate; and

“(ii) notifying appropriate law enforcement entities; and

“(C) additional subjects determined appropriate to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.

“(2) USE OF MATERIALS AND PROGRAMS.—In providing guidance under this subsection, the Secretary shall, to the extent practicable, leverage any relevant materials and programs.

“(3) NOTIFICATION MATERIALS.—

“(A) IN GENERAL.—The Secretary shall make available materials suitable for posting at locations where ammonium nitrate is sold.

“(B) DESIGN OF MATERIALS.—Materials made available under subparagraph (A) shall be designed to notify prospective ammonium nitrate purchasers of—

“(i) the record-keeping requirements under section 899B; and

“(ii) the penalties for violating such requirements.

6 USC 488d.

“SEC. 899E. THEFT REPORTING REQUIREMENT.

“Any person who is required to comply with section 899B(e) who has knowledge of the theft or unexplained loss of ammonium nitrate shall report such theft or loss to the appropriate Federal law enforcement authorities not later than 1 calendar day of the date on which the person becomes aware of such theft or loss. Upon receipt of such report, the relevant Federal authorities shall inform State, local, and tribal law enforcement entities, as appropriate.

6 USC 488e.

“SEC. 899F. PROHIBITIONS AND PENALTY.

“(a) PROHIBITIONS.—

“(1) TAKING POSSESSION.—No person shall purchase ammonium nitrate from an ammonium nitrate facility unless such person is registered under subsection (c) or (d) of section 899B, or is an agent of a person registered under subsection (c) or (d) of that section.

“(2) TRANSFERRING POSSESSION.—An owner of an ammonium nitrate facility shall not transfer possession of ammonium nitrate from the ammonium nitrate facility to any ammonium nitrate purchaser who is not registered under subsection (c) or (d) of section 899B, or to any agent acting on behalf of an ammonium nitrate purchaser when such purchaser is not registered under subsection (c) or (d) of section 899B.

“(3) OTHER PROHIBITIONS.—No person shall—

“(A) purchase ammonium nitrate without a registration number required under subsection (c) or (d) of section 899B;

“(B) own or operate an ammonium nitrate facility without a registration number required under section 899B(c); or

“(C) fail to comply with any requirement or violate any other prohibition under this subtitle.

“(b) CIVIL PENALTY.—A person that violates this subtitle may be assessed a civil penalty by the Secretary of not more than \$50,000 per violation.

“(c) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Secretary shall consider—

“(1) the nature and circumstances of the violation;

“(2) with respect to the person who commits the violation, any history of prior violations, the ability to pay the penalty, and any effect the penalty is likely to have on the ability of such person to do business; and

“(3) any other matter that the Secretary determines that justice requires.

“(d) NOTICE AND OPPORTUNITY FOR A HEARING.—No civil penalty may be assessed under this subtitle unless the person liable for the penalty has been given notice and an opportunity for a hearing on the violation for which the penalty is to be assessed in the county, parish, or incorporated city of residence of that person.

“(e) DELAY IN APPLICATION OF PROHIBITION.—Paragraphs (1) and (2) of subsection (a) shall apply on and after the date that is 6 months after the date that the Secretary issues a final rule implementing this subtitle.

Regulations.

“SEC. 899G. PROTECTION FROM CIVIL LIABILITY.

6 USC 488f.

“(a) IN GENERAL.—Notwithstanding any other provision of law, an owner of an ammonium nitrate facility that in good faith refuses to sell or transfer ammonium nitrate to any person, or that in good faith discloses to the Department or to appropriate law enforcement authorities an actual or attempted purchase or transfer of ammonium nitrate, based upon a reasonable belief that the person seeking purchase or transfer of ammonium nitrate may use the ammonium nitrate to create an explosive device to be employed in an act of terrorism (as defined in section 3077 of title 18, United States Code), or to use ammonium nitrate for any other unlawful purpose, shall not be liable in any civil action relating to that refusal to sell ammonium nitrate or that disclosure.

“(b) REASONABLE BELIEF.—A reasonable belief that a person may use ammonium nitrate to create an explosive device to be employed in an act of terrorism under subsection (a) may not solely be based on the race, sex, national origin, creed, religion, status as a veteran, or status as a member of the Armed Forces of the United States of that person.

“SEC. 899H. PREEMPTION OF OTHER LAWS.

6 USC 488g.

“(a) OTHER FEDERAL REGULATIONS.—Except as provided in section 899G, nothing in this subtitle affects any regulation issued by any agency other than an agency of the Department.

“(b) STATE LAW.—Subject to section 899G, this subtitle preempts the laws of any State to the extent that such laws are inconsistent with this subtitle, except that this subtitle shall not preempt any State law that provides additional protection against the acquisition of ammonium nitrate by terrorists or the use of ammonium nitrate in explosives in acts of terrorism or for other illicit purposes, as determined by the Secretary.

“SEC. 899I. DEADLINES FOR REGULATIONS.

6 USC 488h.

“The Secretary—

“(1) shall issue a proposed rule implementing this subtitle not later than 6 months after the date of the enactment of this subtitle; and

“(2) issue a final rule implementing this subtitle not later than 1 year after such date of enactment.

6 USC 488i.

“SEC. 899J. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Secretary—

“(1) \$2,000,000 for fiscal year 2008; and

“(2) \$10,750,000 for each of fiscal years 2009 through 2012.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 899 the following:

“Subtitle J—Secure Handling of Ammonium Nitrate

“Sec. 899A. Definitions.

“Sec. 899B. Regulation of the sale and transfer of ammonium nitrate.

“Sec. 899C. Inspection and auditing of records.

“Sec. 899D. Administrative provisions.

“Sec. 899E. Theft reporting requirement.

“Sec. 899F. Prohibitions and penalty.

“Sec. 899G. Protection from civil liability.

“Sec. 899H. Preemption of other laws.

“Sec. 899I. Deadlines for regulations.

“Sec. 899J. Authorization of appropriations.”.

SEC. 564. IMPROVEMENT OF BARRIERS AT BORDER. (a) Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) in subsection (a), by striking “Attorney General, in consultation with the Commissioner of Immigration and Naturalization,” and inserting “Secretary of Homeland Security”; and

(2) in subsection (b)—

(A) in the subsection heading, by striking “IN THE BORDER AREA” and inserting “ALONG THE BORDER”;

(B) in paragraph (1)—

(i) in the heading, by striking “SECURITY FEATURES” and inserting “ADDITIONAL FENCING ALONG SOUTHWEST BORDER”; and

(ii) by striking subparagraphs (A) through (C) and inserting the following:

“(A) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security shall construct reinforced fencing along not less than 700 miles of the southwest border where fencing would be most practical and effective and provide for the installation of additional physical barriers, roads, lighting, cameras, and sensors to gain operational control of the southwest border.

“(B) PRIORITY AREAS.—In carrying out this section, the Secretary of Homeland Security shall—

“(i) identify the 370 miles, or other mileage determined by the Secretary, whose authority to determine other mileage shall expire on December 31, 2008, along the southwest border where fencing would be most practical and effective in deterring smugglers and aliens attempting to gain illegal entry into the United States; and

Expiration date.

“(ii) not later than December 31, 2008, complete construction of reinforced fencing along the miles identified under clause (i). Deadline.

“(C) CONSULTATION.—

“(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall consult with the Secretary of the Interior, the Secretary of Agriculture, States, local governments, Indian tribes, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such fencing is to be constructed.

“(ii) SAVINGS PROVISION.—Nothing in this subparagraph may be construed to—

“(I) create or negate any right of action for a State, local government, or other person or entity affected by this subsection; or

“(II) affect the eminent domain laws of the United States or of any State.

“(D) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in this paragraph shall require the Secretary of Homeland Security to install fencing, physical barriers, roads, lighting, cameras, and sensors in a particular location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.”; and

(C) in paragraph (4), by striking “to carry out this subsection not to exceed \$12,000,000” and inserting “such sums as may be necessary to carry out this subsection”.

(b) No funds appropriated in this Act for U.S. Customs and Border Protection “Border Security Fencing, Infrastructure, and Technology” may be obligated unless the Secretary of Homeland Security has complied with section 102(b)(2)(C)(i) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) as amended by subsection (a)(2).

SEC. 565. INTERNATIONAL REGISTERED TRAVELER PROGRAM. Section 7208(k)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(3)) is amended to read as follows:

“(3) INTERNATIONAL REGISTERED TRAVELER PROGRAM.—

“(A) IN GENERAL.—The Secretary of Homeland Security shall establish an international registered traveler program that incorporates available technologies, such as biometrics and e-passports, and security threat assessments to expedite the screening and processing of international travelers, including United States Citizens and residents, who enter and exit the United States. The program shall be coordinated with the United States Visitor and Immigrant Status Indicator Technology program, other pre-screening initiatives, and the Visa Waiver Program.

“(B) FEES.—The Secretary may impose a fee for the program established under subparagraph (A) and may modify such fee from time to time. The fee may not exceed the aggregate costs associated with the program and shall be credited to the Department of Homeland Security for

	purposes of carrying out the program. Amounts so credited shall remain available until expended.
Deadline.	“(C) RULEMAKING.—Within 365 days after the date of enactment of this paragraph, the Secretary shall initiate a rulemaking to establish the program, criteria for participation, and the fee for the program.
Deadline.	“(D) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall establish a phased-implementation of a biometric-based international registered traveler program in conjunction with the United States Visitor and Immigrant Status Indicator Technology entry and exit system, other prescreening initiatives, and the Visa Waiver Program at United States airports with the highest volume of international travelers.
	“(E) PARTICIPATION.—The Secretary shall ensure that the international registered traveler program includes as many participants as practicable by—
	“(i) establishing a reasonable cost of enrollment;
	“(ii) making program enrollment convenient and easily accessible; and
	“(iii) providing applicants with clear and consistent eligibility guidelines.”.
	SEC. 566. SHARED BORDER MANAGEMENT. (a) STUDY.—The Comptroller General of the United States shall conduct a study on the Department of Homeland Security’s use of shared border management to secure the international borders of the United States.
	(b) REPORT.—The Comptroller General shall submit a report to Congress that describes—
	(1) any negotiations, plans, or designs conducted by officials of the Department of Homeland Security regarding the practice of shared border management; and
	(2) the factors required to be in place for shared border management to be successful.
	SEC. 567. None of the funds made available in this Act may be used for planning, testing, piloting, or developing a national identification card.
	SEC. 568. TRANSPORTATION SECURITY ADMINISTRATION ACQUISITION MANAGEMENT POLICY. (a) IN GENERAL.—Section 114 of title 49, United States Code, is amended by striking subsection (o) and redesignating subsections (p) through (t) as subsections (o) through (s), respectively.
49 USC 114 note.	(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.
Deadline. President. Website. Reports.	SEC. 569. (a) Notwithstanding any other provision of this Act, except as provided in subsection (b), and 30 days after the date that the President determines whether to declare a major disaster because of an event and any appeal is completed, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, the Committees on Appropriations of the Senate and the House of Representatives, and publish on the website of the Federal Emergency Management Agency, a report regarding that decision, which shall summarize

damage assessment information used to determine whether to declare a major disaster.

(b) The Administrator may redact from a report under subsection (a) any data that the Administrator determines would compromise national security.

(c) In this section—

(1) the term “Administrator” means the Administrator of the Federal Emergency Management Agency; and

(2) the term “major disaster” has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

SEC. 570. If the Secretary of Homeland Security establishes a National Transportation Security Center of Excellence to conduct research and education activities, and to develop or provide professional security training, including the training of transportation employees and transportation professionals, the Mineta Transportation Institute at San Jose State University may be included as a member institution of such Center.

SEC. 571. Effective no later than ninety days after the date of enactment of this Act, the Transportation Security Administration shall permit approved members of Registered Traveler programs to satisfy fully the required identity verification procedures at security screening checkpoints by presenting a biometrically-secure Registered Traveler card in lieu of the government-issued photo identification document required of non-participants: *Provided*, That if their identity is not confirmed biometrically, the standard identity and screening procedures will apply: *Provided further*, That if the Assistant Secretary (Transportation Security Administration) determines this is a threat to civil aviation, then the Assistant Secretary (Transportation Security Administration) shall notify the Committees on Appropriations of the Senate and House of Representatives five days in advance of such determination and require Registered Travelers to present government-issued photo identification documents in conjunction with a biometrically-secure Registered Traveler card.

Effective date.
Biometric card.
49 USC 114 note.

Applicability.

Notification.
Deadline.

SEC. 572. Section 831(a) of the Homeland Security Act of 2002 (6 U.S.C. 391(a)) is amended by striking “During the 5-year period following the effective date of this Act” and inserting “Until September 30, 2008”.

SEC. 573. (a) RESCISSION.—Of amounts previously made available from the Federal Emergency Management Agency “Disaster Relief” to the State of Mississippi pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for Hurricane Katrina, \$20,000,000 are rescinded.

(b) APPROPRIATION.—For Federal Emergency Management Agency “State and Local Programs”, there is appropriated an additional \$20,000,000, to remain available until expended, for a grant to the State of Mississippi for an interoperable communications system required in the aftermath of Hurricane Katrina: *Provided*, That this entire amount is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

Border
Infrastructure
and Technology
Modernization
Act of 2007.

TITLE VI

BORDER INFRASTRUCTURE AND TECHNOLOGY
MODERNIZATION

6 USC 1401 note.

SEC. 601. SHORT TITLE.

This title may be cited as the “Border Infrastructure and Technology Modernization Act of 2007”.

6 USC 1401.

SEC. 602. DEFINITIONS.—In this title:

(1) COMMISSIONER.—The term “Commissioner” means the Commissioner of U.S. Customs and Border Protection of the Department of Homeland Security.

(2) MAQUILADORA.—The term “maquiladora” means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term “northern border” means the international border between the United States and Canada.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Department of Homeland Security.

(5) SOUTHERN BORDER.—The term “southern border” means the international border between the United States and Mexico.

Deadline.

6 USC 1402.

SEC. 603. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.—(a) REQUIREMENT TO UPDATE.—Not later than January 31 of every other year, the Commissioner, in consultation with the Administrator of General Services shall—

(1) review—

(A) the Port of Entry Infrastructure Assessment Study prepared by the United States Customs Service, the Immigration and Naturalization Service, and the General Services Administration in accordance with the matter relating to the ports of entry infrastructure assessment set forth in the joint explanatory statement on page 67 of conference report 106–319, accompanying Public Law 106–58; and

(B) the nationwide strategy to prioritize and address the infrastructure needs at the land ports of entry prepared by the Department of Homeland Security and the General Services Administration in accordance with the committee recommendations on page 22 of Senate report 108–86, accompanying Public Law 108–90;

(2) update the assessment of the infrastructure needs of all United States land ports of entry; and

(3) submit an updated assessment of land port of entry infrastructure needs to the Committees on Appropriations of the Senate and the House of Representatives, the Senate Committee on Environment and Public Works, the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Transportation and Infrastructure, and the House Committee on Homeland Security.

(b) CONSULTATION.—In preparing the updated studies required under subsection (a), the Commissioner and the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and affected State and local agencies on the northern and southern borders of the United States.

(c) CONTENT.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 604; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project—

(A) to enhance the ability of U.S. Customs and Border Protection to achieve its mission and to support operations;

(B) to fulfill security requirements; and

(C) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.—The Commissioner, as appropriate, shall—

(1) implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under subsection (c)(3); or

(2) forward the prioritized list of infrastructure and technology improvement projects to the Administrator of General Services for implementation in the order of priority assigned to each project under subsection (c)(3).

(e) DIVERGENCE FROM PRIORITIES.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, including immediate security needs, changes in infrastructure in Mexico or Canada, or similar concerns, compellingly alter the need for a project in the United States.

SEC. 604. NATIONAL LAND BORDER SECURITY PLAN. (a) REQUIREMENT FOR PLAN.—Not later than January 31 of every other year, the Secretary, acting through the Commissioner, shall prepare a National Land Border Security Plan and submit such plan to the Committees on Appropriations of the Senate and the House of Representatives, the Senate Committee on Environment and Public Works, the Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on the Judiciary, the House Committee on Transportation and Infrastructure, the House Committee on Homeland Security, and the House Committee on the Judiciary.

6 USC 1403.
Deadline.

(b) CONSULTATION.—In preparing the plan required under subsection (a), the Commissioner shall consult with other appropriate Federal agencies, State and local law enforcement agencies, and private entities that are involved in international trade across the northern or southern border.

(c) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.—The plan required under subsection (a) shall include a vulnerability, risk, and threat assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.—The Secretary, acting through the Commissioner, may establish one or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required under subsection (a).

(d) COORDINATION WITH THE SECURE BORDER INITIATIVE.—The plan required under subsection (a) shall include a description of activities undertaken during the previous year as part of the Secure Border Initiative and actions planned for the coming year as part of the Secure Border Initiative.

6 USC 1404.

SEC. 605. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM. (a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, shall carry out a technology demonstration program to test and evaluate new port of entry technologies, refine port of entry technologies and operational concepts, and train personnel under realistic conditions.

(b) TECHNOLOGY TESTED.—Under the demonstration program, the Commissioner shall test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Commissioner shall carry out the demonstration program at not less than three sites and not more than five sites.

(2) LOCATION.—Of the sites selected under subsection (c)—

(A) at least one shall be located on the northern border of the United States; and

(B) at least one shall be located on the southern border of the United States.

(3) SELECTION CRITERIA.—To ensure that one of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, one port of entry selected as a demonstration site may—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion onto not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month during the 12 months preceding the date of the enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.—The Secretary, acting through the Commissioner, shall permit personnel from appropriate Federal agencies to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives, the Senate

Committee on Environment and Public Works, the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Transportation and Infrastructure, and the House Committee on Homeland Security a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) CONTENT.—The report shall include an assessment by the Commissioner of the feasibility of incorporating any demonstrated technology for use throughout U.S. Customs and Border Protection.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS. (a) IN GENERAL.—In addition to any funds otherwise available, there are authorized to be appropriated such sums as may be necessary to carry out this title for fiscal years 2009 through 2013.

6 USC 1405.

(b) INTERNATIONAL AGREEMENTS.—Funds authorized to be appropriated under this title may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this title.

This division may be cited as the “Department of Homeland Security Appropriations Act, 2008”.

DIVISION F—DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008.

TITLE I

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For necessary expenses for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), \$867,463,000, to remain available until expended, of which not to exceed \$91,629,000 is available for oil and gas management; and of which \$1,500,000 is for high priority projects, to be carried out by the Youth Conservation Corps; and of which \$2,900,000 shall be available in fiscal year 2008 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation for cost-shared projects supporting conservation of Bureau lands; and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred.

In addition, \$25,500,000 is for the processing of applications for permit to drill and related use authorizations, to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation that shall be derived from \$4,000 per new application for permit to drill that the Bureau shall collect upon submission of each new application, and in addition, \$34,696,000 is for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than \$867,463,000, and \$2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities.

CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, \$6,476,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94-579, including administrative expenses and acquisition of lands or waters, or interests therein, \$9,081,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein, including existing connecting roads on or adjacent to such grant lands; \$110,242,000, to remain available until expended: *Provided*, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEM HEALTH AND RECOVERY FUND

(REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102-381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, implementing and monitoring salvage timber sales and forest ecosystem health and recovery activities, such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber receipts not

paid to the counties under 43 U.S.C. 1181f and 43 U.S.C. 1181f–1 et seq., and Public Law 106–393) derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 percent of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than \$10,000,000, to remain available until expended: *Provided*, That not to exceed \$600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: *Provided*, That, notwithstanding any provision to the contrary of section 305(a) of Public Law 94–579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: *Provided further*, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

43 USC 1735
note.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for fire preparedness, suppression operations, fire science and research, emergency rehabilitation, hazardous fuels reduction, and rural fire assistance by the Department of the Interior, \$820,878,000, to remain available until expended, of which not to exceed \$6,234,000 shall be for the renovation or construction of fire facilities: *Provided*, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further*, That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: *Provided further*, That notwithstanding 42 U.S.C. 1856d, sums received by a bureau or office of the Department of the Interior for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., protection of United States property, may be credited to the appropriation from which funds were expended to provide that protection, and are available without fiscal year limitation: *Provided further*, That using the amounts designated under this title of this Act, the Secretary of the Interior may enter into procurement contracts, grants, or cooperative agreements, for hazardous fuels reduction activities, and for training and monitoring associated with such hazardous fuels reduction activities, on Federal land, or on adjacent non-Federal land for activities that benefit resources on Federal land: *Provided further*, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: *Provided further*, That notwithstanding requirements of the Competition in Contracting Act, the Secretary, for purposes of hazardous fuels reduction activities, may obtain maximum practicable competition among: (1) local private, nonprofit, or cooperative entities; (2) Youth Conservation Corps crews, Public Lands Corps (Public Law 109-154), or related partnerships with State, local, or non-profit youth groups; (3) small or micro-businesses; or (4) other entities that will hire or train locally a significant percentage, defined as 50 percent or more, of the project workforce to complete such contracts: *Provided further*, That in implementing this section, the Secretary shall develop written guidance to field units to ensure accountability and consistent application of the authorities provided herein: *Provided further*, That funds appropriated under this head may be used to reimburse the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act, in connection with wildland fire management activities: *Provided further*, That the Secretary of the Interior may use wildland fire appropriations to enter into non-competitive sole source leases of real property with local governments, at or below fair market value, to construct capitalized improvements for fire facilities on such leased properties, including but not limited to fire guard stations, retardant stations, and other initial attack and fire support facilities, and to make advance payments for any such lease or for construction activity associated with the lease:

Guidance.

Provided further, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate amount not to exceed \$10,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: *Provided further*, That funds provided for wildfire suppression shall be available for support of Federal emergency response actions: *Provided further*, That Public Law 110–116, division B, section 157(b)(2) is amended by inserting after “to other accounts” the phrase “and non-suppression budget activities”.

Ante, p. 1342.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to \$100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on the Secretary’s certificate, not to exceed \$10,000: *Provided*, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

Section 28 of title 30, United States Code, is amended: (1) in section 28 by striking the phrase “shall commence at 12 o’clock meridian on the 1st day of September” and inserting “shall commence at 12:01 ante meridian on the first day of September”; (2) in section 28f(a), by striking the phrase “for years 2004 through 2008”; and (3) in section 28g, by striking the phrase “and before September 30, 2008.”

28 USC 28f, 28g.

Sums not to exceed 1 percent of the total value of procurements received by the Bureau of Land Management from vendors under enterprise information technology-procurements that the Department of the Interior and other Federal Government agencies may use to order information technology hereafter may be deposited into the Management of Lands and Resources account to offset costs incurred in conducting the procurement.

43 USC 1474f.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, as authorized by law, and for scientific and economic studies, maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to such resources by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, \$1,099,772,000, to remain available until September 30, 2009 except as otherwise provided herein: *Provided*, That \$2,500,000

is for high priority projects, which shall be carried out by the Youth Conservation Corps: *Provided further*, That not to exceed \$18,263,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act, as amended, for species that are indigenous to the United States (except for processing petitions, developing and issuing proposed and final regulations, and taking any other steps to implement actions described in subsection (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)), of which not to exceed \$9,926,000 shall be used for any activity regarding the designation of critical habitat, pursuant to subsection (a)(3), excluding litigation support, for species listed pursuant to subsection (a)(1) prior to October 1, 2007: *Provided further*, That of the amount available for law enforcement, up to \$400,000, to remain available until expended, may at the discretion of the Secretary be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on the Secretary's certificate: *Provided further*, That of the amount provided for environmental contaminants, up to \$1,000,000 may remain available until expended for contaminant sample analyses.

CONSTRUCTION

For construction, improvement, acquisition, or removal of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; \$33,688,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, \$35,144,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which, notwithstanding 16 U.S.C. 460l–9, not more than \$1,750,000 shall be for land conservation partnerships authorized by the Highlands Conservation Act of 2004: *Provided*, That none of the funds appropriated for specific land acquisition projects can be used to pay for any administrative overhead, planning or other management costs.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended, \$75,001,000, to remain available until expended, of which \$25,228,000 is to be derived from the Cooperative Endangered Species Conservation Fund, \$5,066,666 of which shall be for the Idaho Salmon and Clearwater River Basins Habitat Account pursuant to the Snake River Water Rights Act of 2004; and of which \$49,773,000 is to be derived from the Land and Water Conservation Fund.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), \$14,202,000.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101-233, as amended, \$42,646,000, to remain available until expended.

NEOTROPICAL MIGRATORY BIRD CONSERVATION

For expenses necessary to carry out the Neotropical Migratory Bird Conservation Act, as amended, (16 U.S.C. 6101 et seq.), \$4,500,000, to remain available until expended.

MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201-4203, 4211-4213, 4221-4225, 4241-4245, and 1538), the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4261-4266), the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301-5306), the Great Ape Conservation Act of 2000 (16 U.S.C. 6301-6305), and the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6601-6606), \$8,000,000, to remain available until expended.

STATE AND TRIBAL WILDLIFE GRANTS

For wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, and federally-recognized Indian tribes under the provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, \$75,000,000, to remain available until expended: *Provided*, That of the amount provided herein, \$6,282,000 is for a competitive grant program for Indian tribes not subject to the remaining provisions of this appropriation: *Provided further*, That \$5,000,000 is for a competitive grant program for States, territories, and other jurisdictions with approved plans, not subject to the remaining provisions of this appropriation: *Provided further*, That the Secretary shall, after deducting said \$11,282,000 and administrative expenses, apportion the amount provided herein in the following manner: (1) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent thereof; and (2) to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof: *Provided further*, That the Secretary shall apportion the remaining amount in the following manner: (1) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and (2) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States:

Provided further, That the amounts apportioned under this paragraph shall be adjusted equitably so that no State shall be apportioned a sum which is less than 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount: *Provided further*, That the Federal share of planning grants shall not exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 50 percent of the total costs of such projects: *Provided further*, That the non-Federal share of such projects may not be derived from Federal grant programs: *Provided further*, That no State, territory, or other jurisdiction shall receive a grant if its comprehensive wildlife conservation plan is disapproved and such funds that would have been distributed to such State, territory, or other jurisdiction shall be distributed equitably to States, territories, and other jurisdictions with approved plans: *Provided further*, That any amount apportioned in 2008 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2009, shall be reapportioned, together with funds appropriated in 2010, in the manner provided herein.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed \$1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management, and investigation of fish and wildlife resources: *Provided*, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: *Provided further*, That, notwithstanding any other provision of law, the Service may use up to \$2,000,000 from funds provided for contracts for employment-related legal services: *Provided further*, That the Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That, notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in the statement of the managers accompanying this Act.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including expenses to carry out programs of the United States Park Police), and for the general administration of the National Park Service, \$2,001,809,000, of which \$9,965,000 is for planning and interagency coordination in support of Everglades restoration and shall remain available until expended; of which \$101,164,000, to remain available until September 30, 2009, is for maintenance, repair or rehabilitation projects for constructed assets, operation of the National Park Service automated facility management software system, and comprehensive facility condition assessments; and of which \$3,000,000 shall be for the Youth Conservation Corps for high priority projects.

CENTENNIAL CHALLENGE

For expenses necessary to carry out provisions of section 814(g) of Public Law 104–333 relating to challenge cost share agreements, \$25,000,000, to remain available until expended for Centennial Challenge signature projects and programs: *Provided*, That not less than 50 percent of the total cost of each project or program is derived from non-Federal sources in the form of donated cash, assets, in-kind services, or a pledge of donation guaranteed by an irrevocable letter of credit.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, \$68,481,000, of which not to exceed \$7,500,000 may be for Preserve America grants to States, Tribes, and local communities for projects that preserve important historic resources through the promotion of heritage tourism: *Provided*, That any individual Preserve America grant shall be matched by non-Federal funds: *Provided further*, That individual projects shall only be eligible for one grant: *Provided further*, That grants shall be approved by the Secretary of the Interior in consultation with the House and Senate Committees on Appropriations, and in consultation with the Advisory Council on Historic Preservation prior to the commitment of grant funds.

Grants.
Approval.
Consultation.

HISTORIC PRESERVATION FUND

(INCLUDING TRANSFERS OF FUNDS)

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333), \$71,500,000, to be derived from the Historic Preservation Fund and to remain available until September 30, 2009; of which \$25,000,000 shall be for Save America's Treasures for preservation of nationally significant sites, structures, and artifacts: *Provided*, That any individual Save America's Treasures grant shall be

matched by non-Federal funds; individual projects shall only be eligible for one grant; and all projects to be funded shall be approved by the Secretary of the Interior in consultation with the House and Senate Committees on Appropriations: *Provided further*, That Save America's Treasures funds allocated for Federal projects, following approval, shall be available by transfer to appropriate accounts of individual agencies.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, \$221,985,000, to remain available until expended: *Provided*, That funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be expended consistent with the requirements of the fifth proviso under this heading in Public Law 108–108: *Provided further*, That funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be available for obligation only if matching funds are appropriated to the Army Corps of Engineers for the same purpose: *Provided further*, That none of the funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be available for obligation if any of the funds appropriated to the Army Corps of Engineers for the purpose of implementing modified water deliveries, including finalizing detailed engineering and design documents for a bridge or series of bridges for the Tamiami Trail component of the project, becomes unavailable for obligation: *Provided further*, That of the funds made available under this heading, not to exceed \$3,800,000 is authorized to be used for the National Park Service's proportionate cost of upgrading the West Yellowstone/Hebgen Basin (Gallatin County, Montana) municipal solid waste disposal system for the processing and disposal of municipal solid waste generated within Yellowstone National Park: *Provided further*, That future fees paid by the National Park Service to the West Yellowstone/Hebgen Basin Solid Waste District will be restricted to operations and maintenance costs of the facility, given the capital contribution made by the National Park Service.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

16 USC 460l–10a
note.

The contract authority provided for fiscal year 2008 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, \$70,070,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which \$25,000,000 is for the State assistance program.

ADMINISTRATIVE PROVISIONS

For fiscal year 2008 and hereafter, if the Secretary of the Interior, or either party to a value determination proceeding conducted under a National Park Service concession contract issued prior to November 13, 1998, considers that the value determination decision issued pursuant to the proceeding misinterprets or misapplies relevant contractual requirements or their underlying legal authority, the Secretary or either party may seek, within 180 days of any such decision, the de novo review of the value determination decision by the United States Court of Federal Claims. This court may make an order affirming, vacating, modifying or correcting the determination decision.

16 USC 5954
note.

In addition to other uses set forth in section 407(d) of Public Law 105–391, franchise fees credited to a sub-account shall be available for expenditure by the Secretary, without further appropriation, for use at any unit within the National Park System to extinguish or reduce liability for Possessory Interest or leasehold surrender interest. Such funds may only be used for this purpose to the extent that the benefiting unit anticipated franchise fee receipts over the term of the contract at that unit exceed the amount of funds used to extinguish or reduce liability. Franchise fees at the benefiting unit shall be credited to the sub-account of the originating unit over a period not to exceed the term of a single contract at the benefiting unit, in the amount of funds so expended to extinguish or reduce liability.

A willing seller from whom the Service acquires title to real property may be considered a “displaced person” for purposes of the Uniform Relocation Assistance and Real Property Acquisition Policy Act and its implementing regulations, whether or not the Service has the authority to acquire such property by eminent domain.

Section 3(f) of the Act of August 21, 1935 (16 U.S.C. 463(f)), related to the National Park System Advisory Board, is amended in the first sentence by striking “2007” and inserting “2009”.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, biology, and the mineral and water resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law; and to publish and disseminate data relative to the foregoing activities; \$1,022,430,000, to remain available until September 30, 2009, of which \$63,845,000 shall be available only for cooperation with States or municipalities for water resources investigations; of which \$40,150,000 shall remain available until expended for satellite operations; and of which \$8,023,000 shall be available until expended for deferred maintenance and capital

43 USC 50.

improvement projects: *Provided*, That none of the funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: *Provided further*, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

ADMINISTRATIVE PROVISIONS

From within the amount appropriated for activities of the United States Geological Survey such sums as are necessary shall be available for reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.: *Provided further*, That the United States Geological Survey may enter into contracts or cooperative agreements directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent services of students or recent graduates, who shall be considered employees for the purpose of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; for energy-related or other authorized marine-related purposes on the Outer Continental Shelf; and for matching grants or cooperative agreements, \$157,202,000, to remain available until September 30, 2009, of which \$82,371,000 shall be available for royalty management activities; and an amount not to exceed \$135,730,000, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for Outer Continental Shelf administrative activities performed by the Minerals Management Service (MMS) over and above the rates in effect on September 30, 1993, and from additional fees for Outer Continental Shelf administrative activities established after September 30, 1993 that the Secretary of the Interior shall collect in fiscal year 2008 and retain and use for

the necessary expenses of this appropriation: *Provided*, That to the extent \$135,730,000 in addition to receipts are not realized from the sources of receipts stated above, the amount needed to reach \$135,730,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993: *Provided further*, That not to exceed \$3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further*, That notwithstanding any other provision of law, \$15,000 under this heading shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of MMS concurred with the claimed refund due, to pay amounts owed to Indian allottees or tribes, or to correct prior unrecoverable erroneous payments: *Provided further*, That for the costs of administration of the Coastal Impact Assistance Program authorized by section 31 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1456a), MMS in fiscal years 2008 through 2010 may retain up to 3 percent of the amounts which are disbursed under section 31(b)(1), such retained amounts to remain available until expended.

OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, \$6,403,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

ADMINISTRATIVE PROVISIONS

The eighth proviso under the heading of “Minerals Management Service” in division E, title I, of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is amended by inserting “and Indian accounts” after “States”, replacing the term “provision” with “provisions”, and inserting “and (d)” after 30 U.S.C. 1721(b).

30 USC 1721
note.

Notwithstanding the provisions of section 35(b) of the Mineral Leasing Act, as amended (30 U.S.C. 191(b)), the Secretary shall deduct 2 percent from the amount payable to each State in fiscal year 2008 and deposit the amount deducted to miscellaneous receipts of the Treasury.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, \$120,237,000, to remain available until September 30, 2009: *Provided*, That the Secretary of the Interior, pursuant to regulations, may use directly or through grants to States, moneys collected in fiscal year 2008 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal

30 USC 1211
note.

personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, \$52,774,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided*, That pursuant to Public Law 97–365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That amounts provided under this heading may be used for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ADMINISTRATIVE PROVISION

With funds available for the Technical Innovation and Professional Services program in this Act, the Secretary may transfer title for computer hardware, software and other technical equipment to State and tribal regulatory and reclamation programs.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, \$2,080,261,000, to remain available until September 30, 2009 except as otherwise provided herein; of which not to exceed \$8,500 may be for official reception and representation expenses; and of which not to exceed \$80,179,000 shall be for welfare assistance payments: *Provided*, That in cases of designated Federal disasters, the Secretary may exceed such cap, from the amounts provided herein, to provide for disaster relief to Indian communities affected by the disaster; notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed \$149,628,000 shall be available for payments for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2008, as authorized by such Act, except that tribes and tribal organizations may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs; of which not to exceed \$487,500,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2008, and shall remain available until September 30, 2009; and of which not to exceed \$60,222,000 shall

remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: *Provided further*, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed \$44,060,000 within and only from such amounts made available for school operations shall be available for administrative cost grants associated with ongoing grants entered into with the Bureau prior to or during fiscal year 2007 for the operation of Bureau-funded schools, and up to \$500,000 within and only from such amounts made available for school operations shall be available for the transitional costs of initial administrative cost grants to grantees that enter into grants for the operation on or after July 1, 2007, of Bureau-operated schools: *Provided further*, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2009, may be transferred during fiscal year 2010 to an Indian forest land assistance account established for the benefit of the holder of the funds within the tribe's trust fund account: *Provided further*, That any such unobligated balances not so transferred shall expire on September 30, 2010.

Expiration date.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87-483, \$206,983,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: *Provided further*, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: *Provided further*, That for fiscal year 2008, in implementing new construction or facilities improvement and repair project grants in excess of \$100,000 that are provided to grant schools under Public Law 100-297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further*, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further*, That in considering applications, the Secretary shall consider whether such grantee would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(b), with respect to organizational and financial management capabilities: *Provided further*, That if the Secretary declines an application, the Secretary

Negotiation.

shall follow the requirements contained in 25 U.S.C. 2504(f): *Provided further*, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2507(e): *Provided further*, That in order to ensure timely completion of replacement school construction projects, the Secretary may assume control of a project and all funds related to the project, if, within eighteen months of the date of enactment of this Act, any grantee receiving funds appropriated in this Act or in any prior Act, has not completed the planning and design phase of the project and commenced construction of the replacement school: *Provided further*, That this Appropriation may be reimbursed from the Office of the Special Trustee for American Indians Appropriation for the appropriate share of construction costs for space expansion needed in agency offices to meet trust reform implementation.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS
PAYMENTS TO INDIANS

For payments and necessary administrative expenses for implementation of Indian land and water claim settlements pursuant to Public Laws 99-264, 100-580, 101-618, 107-331, 108-447, 109-379, and 109-479, and for implementation of other land and water rights settlements, \$34,069,000, to remain available until expended.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed and insured loans, \$6,276,000, of which \$700,000 is for administrative expenses, as authorized by the Indian Financing Act of 1974, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$85,506,098.

ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Notwithstanding 25 U.S.C. 15, the Bureau of Indian Affairs may contract for services in support of the management, operation, and maintenance of the Power Division of the San Carlos Irrigation Project.

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office oversight and Executive Direction and Administrative Services (except executive direction and administrative services funding for Tribal Priority Allocations and regional offices) shall be available for contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination

Act or the Tribal Self-Governance Act of 1994 (Public Law 103–413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code.

Notwithstanding 25 U.S.C. 2007(d), and implementing regulations, the funds reserved from the Indian Student Equalization Program to meet emergencies and unforeseen contingencies affecting education programs appropriated herein and in Public Law 109–54 may be used for costs associated with significant student enrollment increases at Bureau-funded schools during the relevant school year.

Notwithstanding any other provision of law, including section 113 of title I of appendix C of Public Law 106–113, if in fiscal year 2003 or 2004 a grantee received indirect and administrative costs pursuant to a distribution formula based on section 5(f) of Public Law 101–301, the Secretary shall continue to distribute indirect and administrative cost funds to such grantee using the section 5(f) distribution formula.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, \$101,151,000; of which not to exceed \$15,000 may be for official reception and representation expenses; and of which up to \$1,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines.

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

48 USC 1469b.

Close Up
Foundation.

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, \$78,613,000, of which: (1) \$70,137,000 shall remain available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) \$8,476,000 shall be available until September 30, 2009 for salaries and expenses of the Office of Insular Affairs: *Provided*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the Government Accountability Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104–134: *Provided further*, That of the amounts provided for technical assistance, sufficient funds shall be made available for a grant to the Pacific Basin Development Council: *Provided further*, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure with territorial participation and cost sharing to be determined by the Secretary based on the grantee's commitment to timely maintenance of its capital assets: *Provided further*, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For grants and necessary expenses, \$5,362,000, to remain available until expended, as provided for in sections 221(a)(2), 221(b), and 233 of the Compact of Free Association for the Republic of Palau; and section 221(a)(2) of the Compacts of Free Association for the Government of the Republic of the Marshall Islands and the Federated States of Micronesia, as authorized by Public Law 99-658 and Public Law 108-188.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, \$59,250,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, \$44,572,000.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For the operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, \$182,331,000, to remain available until expended, of which not to exceed \$56,384,000 from this or any other Act, shall be available for historical accounting: *Provided*, That funds for trust management improvements and litigation support may, as needed, be transferred to or merged with the Bureau of Indian Affairs, “Operation of Indian Programs” account; the Office of the Solicitor, “Salaries and Expenses” account; and the Office of the Secretary, “Salaries and Expenses” account: *Provided further*, That funds made available through contracts or grants obligated during fiscal year 2008, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: *Provided further*, That, notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of the enactment of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further*, That, notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least 18 months and has a balance of \$15.00 or less: *Provided further*, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the account holder: *Provided further*, That not to exceed \$50,000 is available for the Secretary to make payments to correct administrative errors of either disbursements from or deposits to Individual Indian Money

Statement.
Records.

or Tribal accounts after September 30, 2002: *Provided further*, That erroneous payments that are recovered shall be credited to and remain available in this account for this purpose.

INDIAN LAND CONSOLIDATION

For consolidation of fractional interests in Indian lands and expenses associated with redetermining and redistributing escheated interests in allotted lands, and for necessary expenses to carry out the Indian Land Consolidation Act of 1983, as amended, by direct expenditure or cooperative agreement, \$10,000,000, to remain available until expended, and which may be transferred to the Bureau of Indian Affairs and Office of the Secretary accounts.

DEPARTMENT-WIDE PROGRAMS

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–6907), \$232,528,000, of which not to exceed \$400,000 shall be available for administrative expenses: *Provided*, That no payment shall be made to otherwise eligible units of local government if the computed amount of the payment is less than \$100.

CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), \$9,954,000, to remain available until expended: *Provided*, That hereafter, notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act, shall be credited to this account, to be available until expended without further appropriation: *Provided further*, That hereafter such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

42 USC 9607
note.

NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment and restoration activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), and Public Law 101-337, as amended (16 U.S.C. 19jj et seq.), \$6,300,000, to remain available until expended.

WORKING CAPITAL FUND

For the acquisition of a departmental financial and business management system, \$40,727,000, to remain available until expended: *Provided*, That none of the funds in this Act or previous appropriations Acts may be used to establish reserves in the Working Capital Fund account other than for accrued annual leave and depreciation of equipment without prior approval of the House and Senate Committees on Appropriations.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

(INCLUDING TRANSFERS OF FUNDS)

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of wildland fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for wildland fire operations shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement

Determination.

to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That for wildland fire operations, no funds shall be made available under this authority until the Secretary determines that funds appropriated for “wildland fire operations” shall be exhausted within 30 days: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further*, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed \$500,000; purchase and replacement of motor vehicles, including specially equipped law enforcement vehicles; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 104. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore preleasing, leasing and related activities placed under restriction in the President’s moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 105. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

SEC. 106. Appropriations made in this Act under the headings Bureau of Indian Affairs and Office of Special Trustee for American Indians and any unobligated balances from prior appropriations Acts made under the same headings shall be available for expenditure or transfer for Indian trust management and reform activities, excluding litigation costs. Total funding for historical accounting activities shall not exceed amounts specifically designated in this Act for such purpose.

SEC. 107. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to redistribute any Tribal Priority Allocation funds, including tribal base funds, to alleviate tribal funding inequities by transferring funds to address identified, unmet needs, dual enrollment, overlapping service areas or inaccurate distribution methodologies. No tribe shall receive a reduction in Tribal Priority Allocation funds of more than 10 percent in fiscal year 2008. Under circumstances of dual enrollment, overlapping service areas or inaccurate distribution methodologies, the 10 percent limitation does not apply.

SEC. 108. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104-134, as amended by Public Law 104-208, the Secretary may accept and retain land and other forms of reimbursement: *Provided*, That the Secretary may retain and use any such reimbursement until expended and without further appropriation: (1) for the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) for all activities authorized by 16 U.S.C. 460zz.

SEC. 109. The Secretary of the Interior may hereafter use or contract for the use of helicopters or motor vehicles on the Sheldon and Hart National Wildlife Refuges for the purpose of capturing and transporting horses and burros. The provisions of subsection (a) of the Act of September 8, 1959 (18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.

Procedures.

SEC. 110. None of the funds in this or any other Act can be used to compensate the Special Master and the Special Master-Monitor, and all variations thereto, appointed by the United States District Court for the District of Columbia in the *Cobell v. Kempthorne* litigation at an annual rate that exceeds 200 percent of the highest Senior Executive Service rate of pay for the Washington-Baltimore locality pay area.

SEC. 111. The Secretary of the Interior may use discretionary funds to pay private attorney fees and costs for employees and former employees of the Department of the Interior reasonably incurred in connection with *Cobell v. Kempthorne* to the extent that such fees and costs are not paid by the Department of Justice or by private insurance. In no case shall the Secretary make payments under this section that would result in payment of hourly fees in excess of the highest hourly rate approved by the District Court for the District of Columbia for counsel in *Cobell v. Kempthorne*.

SEC. 112. No funds appropriated for the Department of the Interior by this Act or any other Act shall be used to study or implement any plan to drain Lake Powell or to reduce the water level of the lake below the range of water levels required for the operation of the Glen Canyon Dam.

SEC. 113. The United States Fish and Wildlife Service shall, in carrying out its responsibilities to protect threatened and endangered species of salmon, implement a system of mass marking of salmonid stocks, intended for harvest, that are released from federally-operated or federally-financed hatcheries including but not limited to fish releases of coho, chinook, and steelhead species. Marked fish must have a visible mark that can be readily identified by commercial and recreational fishers.

Salmon.

SEC. 114. Notwithstanding any implementation of the Department of the Interior's trust reorganization or reengineering plans, or the implementation of the "To Be" Model, funds appropriated for fiscal year 2008 shall be available to the tribes within the California Tribal Trust Reform Consortium and to the Salt River Pima-Maricopa Indian Community, the Confederated Salish and Kootenai Tribes of the Flathead Reservation and the Chippewa Cree Tribe of the Rocky Boys Reservation through the same methodology as funds were distributed in fiscal year 2003. This Demonstration Project shall continue to operate separate and apart from the Department of the Interior's trust reform and reorganization

and the Department shall not impose its trust management infrastructure upon or alter the existing trust resource management systems of the above referenced tribes having a self-governance compact and operating in accordance with the Tribal Self-Governance Program set forth in 25 U.S.C. 458aa–458hh: *Provided*, That the California Trust Reform Consortium and any other participating tribe agree to carry out their responsibilities under the same written and implemented fiduciary standards as those being carried by the Secretary of the Interior: *Provided further*, That they demonstrate to the satisfaction of the Secretary that they have the capability to do so: *Provided further*, That the Department shall provide funds to the tribes in an amount equal to that required by 25 U.S.C. 458cc(g)(3), including funds specifically or functionally related to the provision of trust services to the tribes or their members.

SEC. 115. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to acquire lands, waters, or interests therein including the use of all or part of any pier, dock, or landing within the State of New York and the State of New Jersey, for the purpose of operating and maintaining facilities in the support of transportation and accommodation of visitors to Ellis, Governors, and Liberty Islands, and of other program and administrative activities, by donation or with appropriated funds, including franchise fees (and other monetary consideration), or by exchange; and the Secretary is authorized to negotiate and enter into leases, subleases, concession contracts or other agreements for the use of such facilities on such terms and conditions as the Secretary may determine reasonable.

Renewal.

SEC. 116. Notwithstanding any other provision of law, including 42 U.S.C. 4321 et seq., nonrenewable grazing permits authorized in the Jarbidge Field Office, Bureau of Land Management since March 1, 1997 shall be renewed. The Animal Unit Months, authorized in any nonrenewable grazing permit from March 1, 1997 to present shall continue in effect under the renewed permit. Nothing in this section shall be deemed to extend the renewed permit beyond the standard 1-year term. The period of this provision will be until all of the grazing permits in the Jarbidge Field Office are renewed after the completion of the Record of Decision for the Jarbidge Resource Management Plan/Final Environmental Impact Statement.

SEC. 117. OIL AND GAS LEASING INTERNET PILOT PROGRAM. Notwithstanding section 17(b)(1)(A) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(A)), the Secretary of the Interior shall establish an oil and gas leasing Internet pilot program, under which the Secretary may conduct lease sales through methods other than oral bidding. To carry out the pilot program, the Secretary of the Interior may use not more than \$250,000 of funds in the BLM Permit Processing Improvement Fund described in section 35(c)(2)(B) of the Mineral Leasing Act (30 U.S.C. 191(c)(2)(B)).

Washington.

SEC. 118. Notwithstanding any other provision of law, the Secretary of the Interior is directed to sell property within the Protection Island National Wildlife Refuge and the Dungeness National Wildlife Refuge to the Washington State Department of Transportation.

SEC. 119. No funds appropriated or otherwise made available to the Department of the Interior may be used, in relation to any proposal to store water for the purpose of export, for approval

of any right-of-way or similar authorization on the Mojave National Preserve or lands managed by the Needles Field Office of the Bureau of Land Management, or for carrying out any activities associated with such right-of-way or similar approval.

SEC. 120. Section 460ccc–4 of the Red Rock Canyon National Conservation Area Establishment Act authorization (16 U.S.C. 460ccc–4) is amended—

(1) in section (a)(1), by striking “with donated or appropriated funds”;

(2) by striking section (a)(2);

(3) in section (a)(3), by striking “(3)” and replacing with “(2)”; and

(4) in section (a)(4), by striking “(4)” and replacing with “(3)”.

SEC. 121. Title 43 U.S.C. 1473 is amended by inserting at the end of that section before the period the following: “, including, in fiscal year 2008 only, contributions of money and services to conduct work in support of the orderly exploration and development of Outer Continental Shelf resources, including but not limited to, preparation of environmental documents such as impact statements and assessments, studies, and related research”.

SEC. 122. Section 1077(c) of Public Law 109–364 is repealed. 120 Stat. 2406.

SEC. 123. Section 144 of division E of Public Law 108–447, as amended, is amended in paragraph (b)(2) by striking “November 12, 2004” and inserting “May 4, 2005.” 118 Stat. 3072.

SEC. 124. Section 105(f)(1)(B) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)) is amended in clause (ix) by—

(1) striking “Republic” both places it appears and inserting “government, institutions, and people”;

(2) striking “2007” and inserting “2009”; and

(3) striking “was” and inserting “were”.

SEC. 125. The Secretary of the Interior may enter into cooperative agreements with a State or political subdivision (including any agency thereof), or any not-for-profit organization if the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Department of the Interior; and (2) all parties will contribute resources to the accomplishment of these objectives. At the discretion of the Secretary, such agreements shall not be subject to a competitive process.

SEC. 126. The Federal properties commonly referred to as the Barnes Ranch and Agency Lake Ranch (the properties) in Klamath County, Oregon, managed by the Bureau of Reclamation shall be transferred to the Upper Klamath National Wildlife Refuge (Refuge) in accordance with the Memorandum of Understanding between the U.S. Fish and Wildlife Service Klamath Basin National Wildlife Refuge Complex and the Bureau of Reclamation Klamath Basin Area Office and The Nature Conservancy dated March 2, 2007, as expeditiously as possible and no later than December 2008: *Provided*, That these Federal properties and all Federal refuge lands within the adjusted boundary area for the Refuge, as approved by the U.S. Fish and Wildlife Service (Service) in June 2005 under the Land Protection Plan of 2005, shall be made a part of the Refuge and shall be managed by the Service as such: *Provided further*, That each year after the properties become part of the Refuge, those increments of water passively stored on the properties

Land transfer.
Oregon.
Deadline.

Applicability.

shall be applied and credited toward the requirements of any consultation or reconsultation over Klamath Project operations pursuant to section 7 of the Endangered Species Act, consistent with Federal law and State water law.

SEC. 127. CORINTH UNIT OF SHILOH NATIONAL MILITARY PARK BOUNDARY EXPANSION. The Corinth Battlefield Preservation Act of 2000 (16 U.S.C. 430f-6 et seq.) is amended—

(1) in section 3(1) (16 U.S.C. 430f-7(1)), by striking “304/80,007, and dated October 1998” and inserting “304A/80009, and dated April 2007”;

(2) in section 4(b) (16 U.S.C. 430f-8(b)), by striking paragraph (1) and inserting the following:

“(1) approximately 950 acres, as generally depicted on the Map; and”;

(3) in section 5(a) (16 U.S.C. 430f-9(a)), by striking “as depicted on the Map” and inserting “described in section 4(b)”;

(4) by striking section 7 (16 U.S.C. 430f-11); and

(5) by redesignating section 8 (16 U.S.C. 430f-12) as section 7.

16 USC 431 note.

SEC. 128. In section 5(8) of Public Law 107-226, strike “acquire” and all that follows and insert, “acquire the land or interests in land for the memorial by donation, purchase with donated or appropriated funds, exchange or condemnation with donated or appropriated funds; and”.

Alaska.

SEC. 129. CLARIFICATION OF CONCESSIONAIRE HISTORIC RIGHTS. (a) In implementing section 1307 of Public Law 96-487 (96 Stat. 2479), the Secretary shall deem Denali National Park Wilderness Centers, Ltd., a corporation organized and existing under the laws of the State of Alaska, to be a person who, on or before January 1, 1979, was engaged in adequately providing the following scope and level of visitor services within what is currently Denali National Park and Preserve:

(1) Guided interpretive hiking services in the Kantishna area new park additions (i.e. park area added in 1980 to former Mount McKinley National Park), not to exceed 14 guided interpretive hikes per week.

(2) Gold panning outings in the Kantishna area new park additions, not to exceed 3 gold panning outings per week.

(3) Guided interpretive trips, including an average of four vehicle trips per day, not to exceed 28 trips per week, into the Old Park (i.e. former Mount McKinley National Park).

(4) Guided and unguided canoeing on Wonder Lake, including the storage of five canoes on Wonder Lake.

(5) Transportation over the road between the north boundary of the Old Park and Wonder Lake, including Wonder Lake Campground, for an average of 10 trips per day not to exceed 70 trips per week.

(b) For purpose of implementing this section, the term “person” means the person who has a controlling interest in the entity described under subsection (a) or his lineal descendants born prior to January 1, 1979.

SEC. 130. Section 16 of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2913; 114 Stat. 2763A-263)) is amended—

(1) in subsection (c)(3)(B)(iii), by striking “by requiring” and all that follows through “enhancement” and inserting the following: “, the plan shall provide that not less than $\frac{1}{3}$ of

the funds referred to in clause (i) shall be expended for municipal or rural water development and that annual expenditures under that provision shall be reported to the Secretary each year”; and

(2) in the third sentence of subsection (f), by striking “December 31, 2012” and inserting “the date that is 5 years after the date of the final settlement of the tribal claims under section 18”.

SEC. 131. Funds provided in this Act for Federal land acquisition by the National Park Service for Shenandoah Valley Battlefields National Historic District and Ice Age National Scenic Trail may be used for a grant to a State, a local government, or any other land management entity for the acquisition of lands without regard to any restriction on the use of Federal land acquisition funds provided through the Land and Water Conservation Fund Act of 1965 as amended.

SEC. 132. From within amounts provided to the National Park Service Land Acquisition account by this Act, \$2,000,000 shall be made available to the State of Mississippi pursuant to a grant agreement with the National Park Service, in order that the State may acquire land or interests in land on Cat Island, which is located within the Gulf Islands National Seashore. Funds provided to the State of Mississippi through such grant agreement shall not be contingent upon matching funds provided by the State. Any lands or interests acquired with funds under this section shall be owned by the Federal Government and administered as part of the National Seashore.

Mississippi.

SEC. 133. MESA VERDE NATIONAL PARK BOUNDARY CHANGE.
(a) ACQUISITION OF LAND.—

16 USC 111 note.

(1) IN GENERAL.—The Secretary may acquire the land or an interest in the land described in subsection (b) for addition to the Mesa Verde National Park.

(2) MEANS.—An acquisition of land under paragraph (1) may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a)(1) is the approximately 360 acres of land adjacent to the Park, as generally depicted on the map, entitled “Mesa Verde National Park Proposed Boundary Adjustment”, numbered 307/80,180, and dated March 1, 2007.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

(d) BOUNDARY MODIFICATION.—The boundary of the Park shall be revised to reflect the acquisition of the land under subsection (a).

(e) ADMINISTRATION.—The Secretary shall administer any land or interest in land acquired under subsection (a)(1) as part of the Park in accordance with the laws (including regulations) applicable to the Park.

SEC. 134. In implementing section 1307 of Public Law 96–487 (4 Stat. 2479), the Secretary shall deem the present holders of entry permit CP–GLBA005–00 and entry permit CP–GLBA004–00 each to be a person who, on or before January 1, 1979, was engaged in adequately providing visitor services of the type authorized in said permit within Glacier Bay National Park.

SEC. 135. Funds provided under Public Law 109–54 may be granted to the Alice Ferguson Foundation for site planning and design and rehabilitation of the Potomac River Habitat Study Complex and the Wareham Lodge.

TITLE II

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$85,000 per project, \$772,129,000, to remain available until September 30, 2009.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$85,000 per project; and not to exceed \$9,000 for official reception and representation expenses, \$2,364,854,000, to remain available until September 30, 2009, including administrative costs of the brownfields program under the Small Business Liability Relief and Brownfields Revitalization Act of 2002.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$85,000 per project, \$41,750,000, to remain available until September 30, 2009.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by,

the Environmental Protection Agency, \$34,801,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$85,000 per project; \$1,273,871,000, to remain available until expended, consisting of such sums as are available in the Trust Fund on September 30, 2007, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and up to \$1,273,871,000 as a payment from general revenues to the Hazardous Substance Superfund for purposes as authorized by section 517(b) of SARA, as amended: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That of the funds appropriated under this heading, \$11,668,000 shall be paid to the “Office of Inspector General” appropriation to remain available until September 30, 2009, and \$26,126,000 shall be paid to the “Science and Technology” appropriation to remain available until September 30, 2009.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND PROGRAM

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by subtitle I of the Solid Waste Disposal Act, as amended, and for construction, alteration, repair, rehabilitation, and renovation of Environmental Protection Agency facilities, not to exceed \$85,000 per project, \$107,493,000, to remain available until expended, of which \$76,493,000 shall be for carrying out leaking underground storage tank cleanup activities authorized by section 9003(h) of the Solid Waste Disposal Act, as amended; \$31,000,000 shall be for carrying out the other provisions of the Solid Waste Disposal Act specified in section 9508(c) of the Internal Revenue Code, as amended: *Provided*, That the Administrator is authorized to use appropriations made available under this heading to implement section 9013 of the Solid Waste Disposal Act to provide financial assistance to federally-recognized Indian tribes for the development and implementation of programs to manage underground storage tanks.

OIL SPILL RESPONSE

For expenses necessary to carry out the Environmental Protection Agency’s responsibilities under the Oil Pollution Act of 1990, \$17,326,000, to be derived from the Oil Spill Liability trust fund, to remain available until expended.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and

Alaska.
Deadline.

performance partnership grants, \$2,972,595,000, to remain available until expended, of which \$700,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended (the “Act”); of which up to \$75,000,000 shall be available for loans, including interest free loans as authorized by 33 U.S.C. 1383(d)(1)(A), to municipal, inter-municipal, interstate, or State agencies or nonprofit entities for projects that provide treatment for or that minimize sewage or stormwater discharges using one or more approaches which include, but are not limited to, decentralized or distributed stormwater controls, decentralized wastewater treatment, low-impact development practices, conservation easements, stream buffers, or wetlands restoration; \$842,167,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended; \$20,000,000 shall be for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; \$25,000,000 shall be for grants to the State of Alaska to address drinking water and waste infrastructure needs of rural and Alaska Native Villages: *Provided*, That, of these funds: (1) the State of Alaska shall provide a match of 25 percent; (2) no more than 5 percent of the funds may be used for administrative and overhead expenses; and (3) not later than October 1, 2005, the State of Alaska shall make awards consistent with the State-wide priority list established in 2004 for all water, sewer, waste disposal, and similar projects carried out by the State of Alaska that are funded under section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) or the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) which shall allocate not less than 25 percent of the funds provided for projects in regional hub communities; \$135,000,000 shall be for making special project grants for the construction of drinking water, wastewater and storm water infrastructure and for water quality protection in accordance with the terms and conditions specified for such grants in the explanatory statement accompanying this Act, and, for purposes of these grants, each grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency; \$95,000,000 shall be to carry out section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including grants, interagency agreements, and associated program support costs; \$50,000,000 shall be for grants under title VII, subtitle G of the Energy Policy Act of 2005, as amended; \$10,000,000 shall be for grants for cost-effective emission reduction projects in accordance with the terms and conditions of the explanatory statement accompanying this Act; and \$1,095,428,000 shall be for grants, including associated program support costs, to States, federally-recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities, including activities pursuant to the provisions set forth under this heading in Public Law 104-134, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities subject to terms and conditions specified by the Administrator,

of which \$49,495,000 shall be for carrying out section 128 of CERCLA, as amended, \$10,000,000 shall be for Environmental Information Exchange Network grants, including associated program support costs, \$18,500,000 of the funds available for grants under section 106 of the Act shall be for water quality monitoring activities, \$10,000,000 shall be for making competitive targeted watershed grants, and, in addition to funds appropriated under the heading “Leaking Underground Storage Tank Trust Fund Program” to carry out the provisions of the Solid Waste Disposal Act specified in section 9508(c) of the Internal Revenue Code other than section 9003(h) of the Solid Waste Disposal Act, as amended, \$2,500,000 shall be for financial assistance to States under section 2007(f)(2) of the Solid Waste Disposal Act, as amended: *Provided further*, That notwithstanding section 603(d)(7) of the Federal Water Pollution Control Act, the limitation on the amounts in a State water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts included as principal in loans made by such fund in fiscal year 2008 and prior years where such amounts represent costs of administering the fund to the extent that such amounts are or were deemed reasonable by the Administrator, accounted for separately from other assets in the fund, and used for eligible purposes of the fund, including administration: *Provided further*, That for fiscal year 2008, and notwithstanding section 518(f) of the Act, the Administrator is authorized to use the amounts appropriated for any fiscal year under section 319 of that Act to make grants to federally-recognized Indian tribes pursuant to sections 319(h) and 518(e) of that Act: *Provided further*, That for fiscal year 2008, notwithstanding the limitation on amounts in section 518(c) of the Act, up to a total of 1½ percent of the funds appropriated for State Revolving Funds under title VI of that Act may be reserved by the Administrator for grants under section 518(c) of that Act: *Provided further*, That no funds provided by this appropriations Act to address the water, wastewater and other critical infrastructure needs of the colonias in the United States along the United States-Mexico border shall be made available to a county or municipal government unless that government has established an enforceable local ordinance, or other zoning rule, which prevents in that jurisdiction the development or construction of any additional colonia areas, or the development within an existing colonia the construction of any new home, business, or other structure which lacks water, wastewater, or other necessary infrastructure.

ADMINISTRATIVE PROVISIONS, ENVIRONMENTAL PROTECTION AGENCY

(INCLUDING RESCISSION OF FUNDS)

For fiscal year 2008, notwithstanding 31 U.S.C. 6303(1) and 6305(1), the Administrator of the Environmental Protection Agency, in carrying out the Agency’s function to implement directly Federal environmental programs required or authorized by law in the absence of an acceptable tribal program, may award cooperative agreements to federally-recognized Indian Tribes or Intertribal consortia, if authorized by their member Tribes, to assist the Administrator in implementing Federal environmental programs for Indian Tribes required or authorized by law, except that no such cooperative agreements may be awarded from funds designated for State financial assistance agreements.

The Administrator of the Environmental Protection Agency is authorized to collect and obligate pesticide registration service fees in accordance with section 33 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by subsection (f)(2) of the Pesticide Registration Improvement Act of 2003), as amended.

None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

From unobligated balances to carry out projects and activities authorized under section 206(a) of the Federal Water Pollution Control Act, \$5,000,000 are hereby rescinded.

None of the funds made available by this Act may be used in contravention of, or to delay the implementation of, Executive Order No. 12898 of February 11, 1994 (59 Fed. Reg. 7629; relating to Federal actions to address environmental justice in minority populations and low-income populations).

Publication.
Regulations.
Deadlines.
Greenhouse gas
emissions.

Of the funds provided in the Environmental Programs and Management account, not less than \$3,500,000 shall be provided for activities to develop and publish a draft rule not later than 9 months after the date of enactment of this Act, and a final rule not later than 18 months after the date of enactment of this Act, to require mandatory reporting of greenhouse gas emissions above appropriate thresholds in all sectors of the economy of the United States.

TITLE III

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, \$290,457,000, to remain available until expended: *Provided*, That of the funds provided, \$61,329,000 is for the forest inventory and analysis program.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management, including treatments of pests, pathogens, and invasive or noxious plants and for restoring and rehabilitating forests damaged by pests or invasive plants, cooperative forestry, and education and land conservation activities and conducting an international program as authorized, \$266,974,000, to remain available until expended, as authorized by law; of which \$7,500,000 is for the International Program; and of which \$53,146,000 is to be derived from the Land and Water Conservation Fund.

NATIONAL FOREST SYSTEM
(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, \$1,492,868,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l-6a(i)): *Provided*, That unobligated balances under this heading available at the start of fiscal year 2008 shall be displayed by budget line item in the fiscal year 2009 budget justification: *Provided further*, That of the funds provided under this heading for Forest Products, \$4,000,000 shall be allocated to the Alaska Region, in addition to its normal allocation for the purposes of preparing additional timber for sale, to establish a 3-year timber supply and such funds may be transferred to other appropriations accounts as necessary to maximize accomplishment.

CAPITAL IMPROVEMENT AND MAINTENANCE
(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Forest Service, not otherwise provided for, \$456,895,000, to remain available until expended, for construction, capital improvement, maintenance and acquisition of buildings and other facilities, and infrastructure; and for construction, capital improvement, decommissioning, and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205; and in addition \$25,000,000 to be transferred from the timber roads purchaser election fund and merged with this account, to remain available until expended: *Provided*, That \$40,000,000 shall be designated for urgently needed road decommissioning, road and trail repair and maintenance and associated activities, and removal of fish passage barriers, especially in areas where Forest Service roads may be contributing to water quality problems in streams and water bodies which support threatened, endangered or sensitive species or community water sources and for urgently needed road repairs required due to recent storm events: *Provided further*, That up to \$40,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: *Provided further*, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project: *Provided further*, That the decommissioning of unauthorized roads not part of the official transportation system shall be expedited in response to threats to public safety, water quality, or natural resources: *Provided further*, That funds becoming available in fiscal year 2008 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury and shall not be available for transfer or obligation for any other purpose unless the funds are appropriated: *Provided further*, That notwithstanding any other provision of law, the Forest Service shall provide \$1,197,000 appropriated in Public Law 110-

5 within the Capital Improvement and Maintenance appropriation as an advance direct lump sum payment to West Virginia University for the planning and construction of a research greenhouse facility as the Federal share in the construction of the new facility.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, \$42,490,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, \$1,053,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities, and for authorized expenditures from funds deposited by non-Federal parties pursuant to Land Sale and Exchange Acts, pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended. (16 U.S.C. 4601–516–617a, 555a; Public Law 96–586; Public Law 76–589, 76–591; and 78–310).

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), \$56,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

For necessary expenses of the Forest Service to manage Federal lands in Alaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487), \$5,053,000, to remain available until expended.

WILDLAND FIRE MANAGEMENT
(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, hazardous fuels reduction on or adjacent to such lands, and for emergency rehabilitation of burned-over National Forest System lands and water, \$1,974,276,000, to remain available until expended: *Provided*, That such funds including unobligated balances under this heading, are available for repayment of advances from other appropriations accounts previously transferred for such purposes: *Provided further*, That such funds shall be available to reimburse State and other cooperating entities for services provided in response to wildfire and other emergencies or disasters to the extent such reimbursements by the Forest Service for non-fire emergencies are fully repaid by the responsible emergency management agency: *Provided further*, That not less than 50 percent of any unobligated balances remaining (exclusive of amounts for hazardous fuels reduction) at the end of fiscal year 2007 shall be transferred to the fund established pursuant to section 3 of Public Law 71-319 (16 U.S.C. 576 et seq.) if necessary to reimburse the fund for unpaid past advances: *Provided further*, That, notwithstanding any other provision of law, \$8,000,000 of funds appropriated under this appropriation shall be used for Fire Science Research in support of the Joint Fire Science Program: *Provided further*, That all authorities for the use of funds, including the use of contracts, grants, and cooperative agreements, available to execute the Forest and Rangeland Research appropriation, are also available in the utilization of these funds for Fire Science Research: *Provided further*, That funds provided shall be available for emergency rehabilitation and restoration, hazardous fuels reduction activities in the urban-wildland interface, support to Federal emergency response, and wildfire suppression activities of the Forest Service: *Provided further*, That of the funds provided, \$315,000,000 is for hazardous fuels reduction activities, \$11,000,000 is for rehabilitation and restoration, \$23,892,000 is for research activities and to make competitive research grants pursuant to the Forest and Rangeland Renewable Resources Research Act, as amended (16 U.S.C. 1641 et seq.), \$48,727,000 is for State fire assistance, \$8,000,000 is for volunteer fire assistance, \$14,252,000 is for forest health activities on Federal lands and \$10,014,000 is for forest health activities on State and private lands: *Provided further*, That amounts in this paragraph may be transferred to the “State and Private Forestry”, “National Forest System”, and “Forest and Rangeland Research” accounts to fund State fire assistance, volunteer fire assistance, forest health management, forest and rangeland research, the Joint Fire Science Program, vegetation and watershed management, heritage site rehabilitation, and wildlife and fish habitat management and restoration: *Provided further*, That transfers of any amounts in excess of those authorized in this paragraph, shall require approval of the House and Senate Committees on Appropriations in compliance with reprogramming procedures contained in the explanatory statement accompanying this Act: *Provided further*, That up to \$10,000,000 of the funds provided under this heading for hazardous fuels treatments may be transferred to and made a part of the “National Forest System” account at

Approval.

Notification.
Transfer date.

the sole discretion of the Chief of the Forest Service thirty days after notifying the House and the Senate Committees on Appropriations: *Provided further*, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: *Provided further*, That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriation, up to \$15,000,000 may be used on adjacent non-Federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: *Provided further*, That funds made available to implement the Community Forest Restoration Act, Public Law 106-393, title VI, shall be available for use on non-Federal lands in accordance with authorities available to the Forest Service under the State and Private Forestry Appropriation: *Provided further*, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate amount not to exceed \$10,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: *Provided further*, That of the funds provided for hazardous fuels reduction, not to exceed \$7,000,000, may be used to make grants, using any authorities available to the Forest Service under the State and Private Forestry appropriation, for the purpose of creating incentives for increased use of biomass from national forest lands: *Provided further*, That funds designated for wildfire suppression shall be assessed for cost pools on the same basis as such assessments are calculated against other agency programs.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of passenger motor vehicles; acquisition of passenger motor vehicles from excess sources, and hire of such vehicles; purchase, lease, operation, maintenance, and acquisition of aircraft from excess sources to maintain the operable fleet for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed \$100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901-5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions upon notification of the House and Senate Committees on Appropriations and if and only

if all previously appropriated emergency contingent funds under the heading “Wildland Fire Management” have been released by the President and apportioned and all wildfire suppression funds under the heading “Wildland Fire Management” are obligated.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service in this Act or any other Act with respect to any fiscal year shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257), section 442 of Public Law 106-224 (7 U.S.C. 7772), or section 10417(b) of Public Law 107-107 (7 U.S.C. 8316(b)).

16 USC 556i.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the reprogramming procedures contained in the explanatory statement accompanying this Act.

Not more than \$73,285,000 of funds available to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture and not more than \$24,021,000 of funds available to the Forest Service shall be transferred to the Department of Agriculture for Department Reimbursable Programs, commonly referred to as Greenbook charges. Nothing in this paragraph shall prohibit or limit the use of reimbursable agreements requested by the Forest Service in order to obtain services from the Department of Agriculture’s National Information Technology Center.

Funds available to the Forest Service shall be available to conduct a program of up to \$5,000,000 for priority projects within the scope of the approved budget, of which \$2,500,000 shall be carried out by the Youth Conservation Corps and \$2,500,000 shall be carried out under the authority of the Public Lands Corps Healthy Forests Restoration Act of 2005, Public Law 109-154.

Of the funds available to the Forest Service, \$4,000 is available to the Chief of the Forest Service for official reception and representation expenses.

Pursuant to sections 405(b) and 410(b) of Public Law 101-593, of the funds available to the Forest Service, \$3,000,000 may be advanced in a lump sum to the National Forest Foundation to aid conservation partnership projects in support of the Forest Service mission, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: *Provided further*, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: *Provided further*, That authorized investments of Federal funds held by the Foundation may be made only in interest-bearing

obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98-244, \$2,650,000 of the funds available to the Forest Service shall be advanced to the National Fish and Wildlife Foundation in a lump sum to aid cost-share conservation projects, without regard to when expenses are incurred, on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That such funds shall be matched on at least a one-for-one basis by the Foundation or its sub-recipients: *Provided further*, That the Foundation may transfer Federal funds to a Federal or non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities and natural resource-based businesses for sustainable rural development purposes.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to section 14(c)(1) and (2), and section 16(a)(2) of Public Law 99-663.

An eligible individual who is employed in any project funded under title V of the Older American Act of 1965 (42 U.S.C. 3056 et seq.) and administered by the Forest Service shall be considered to be a Federal employee for purposes of chapter 171 of title 28, United States Code.

Any funds appropriated to the Forest Service may be used to meet the non-Federal share requirement in section 502(c) of the Older American Act of 1965 (42 U.S.C. 3056(c)(2)).

Funds available to the Forest Service, not to exceed \$45,000,000, shall be assessed for the purpose of performing facilities maintenance. Such assessments shall occur using a square foot rate charged on the same basis the agency uses to assess programs for payment of rent, utilities, and other support services.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service not to exceed \$500,000 may be used to reimburse the Office of the General Counsel (OGC), Department of Agriculture, for travel and related expenses incurred as a result of OGC assistance or participation requested by the Forest Service at meetings, training sessions, management reviews, land purchase negotiations and similar non-litigation related matters. Future budget justifications for both the Forest Service and the Department of Agriculture should clearly display the sums previously transferred and the requested funding transfers.

None of the funds made available under this Act shall be obligated or expended to abolish any region, to move or close any regional office for National Forest System administration of the Forest Service, Department of Agriculture without the consent of the House and Senate Committees on Appropriations.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health

Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, \$3,018,624,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: *Provided*, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That \$588,515,000 for contract medical care, including \$27,000,000 for the Indian Catastrophic Health Emergency Fund, shall remain available until expended: *Provided further*, That no less than \$35,094,000 is provided for maintaining operations of the urban Indian health program: *Provided further*, That of the funds provided, up to \$32,000,000 shall remain available until expended for implementation of the loan repayment program under section 108 of the Indian Health Care Improvement Act: *Provided further*, That \$14,000,000 is provided for a methamphetamine and suicide prevention and treatment initiative, of which up to \$5,000,000 may be used for mental health, suicide prevention, and behavioral issues associated with methamphetamine use: *Provided further*, That notwithstanding any other provision of law, these funds shall be allocated outside all other distribution methods and formulas at the discretion of the Director of the Indian Health Service and shall remain available until expended: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available until expended: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: *Provided further*, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed \$271,636,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts, or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2008, of which not to exceed \$5,000,000 may be used for contract support costs associated with new or expanded self-determination contracts, grants, self-governance compacts, or annual funding agreements: *Provided further*, That the Bureau of Indian Affairs may collect from the Indian Health Service and tribes and tribal organizations operating health facilities pursuant to Public Law 93-638 such

individually identifiable health information relating to disabled children as may be necessary for the purpose of carrying out its functions under the Individuals with Disabilities Education Act (20 U.S.C. 1400, et seq.): *Provided further*, That funds available for the Indian Health Care Improvement Fund may be used, as needed, to carry out activities typically funded under the Indian Health Facilities account.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, \$380,583,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: *Provided further*, That not to exceed \$500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: *Provided further*, That none of the funds appropriated to the Indian Health Service may be used for sanitation facilities construction for new homes funded with grants by the housing programs of the United States Department of Housing and Urban Development: *Provided further*, That not to exceed \$1,000,000 from this account and the “Indian Health Services” account shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between the Indian Health Service and the General Services Administration: *Provided further*, That not to exceed \$500,000 shall be placed in a Demolition Fund, available until expended, to be used by the Indian Health Service for demolition of Federal buildings.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by 5 U.S.C. 5901-5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made

or which will contribute to improved conduct, supervision, or management of those functions or activities.

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act) and Public Law 93-638, as amended.

Funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

None of the funds made available to the Indian Health Service in this Act shall be used for any assessments or charges by the Department of Health and Human Services unless identified in the budget justification and provided in this Act, or approved by the House and Senate Committees on Appropriations through the reprogramming process.

Notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title V of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title V of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation.

None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

Regulations.
Budget request.

With respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment. The reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account that provided the funding, with such amounts to remain available until expended.

Reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance.

The appropriation structure for the Indian Health Service may not be altered without advance notification to the House and Senate Committees on Appropriations.

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For necessary expenses for the National Institute of Environmental Health Sciences in carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 126(g) of the Superfund Amendments and Reauthorization Act of 1986, \$78,775,000.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

TOXIC SUBSTANCES AND ENVIRONMENTAL PUBLIC HEALTH

For necessary expenses for the Agency for Toxic Substances and Disease Registry (ATSDR) in carrying out activities set forth in sections 104(i), 111(c)(4), and 111(c)(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; section 118(f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended; and section 3019 of the Solid Waste Disposal Act, as amended, \$75,212,000, of which up to \$1,500,000, to remain available until expended, is for Individual Learning Accounts for full-time equivalent employees of the Agency for Toxic Substances and Disease Registry: *Provided*, That notwithstanding any other provision of law, in lieu of performing a health assessment under section 104(i)(6) of CERCLA, the Administrator of ATSDR may conduct other appropriate health studies, evaluations, or activities, including, without limitation, biomedical testing, clinical evaluations, medical monitoring, and referral to accredited health care providers: *Provided further*, That in performing any such health assessment or health study, evaluation, or activity, the Administrator of ATSDR shall not be bound by the deadlines in section 104(i)(6)(A) of CERCLA.

OTHER RELATED AGENCIES

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, and not to exceed \$750 for official reception and representation expenses, \$2,703,000: *Provided*, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council.

Appointment.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, as amended, including hire of passenger vehicles, uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902, and for services authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, \$9,410,000: *Provided*, That the Chemical Safety and Hazard Investigation Board (Board) shall have not more than three career Senior Executive Service positions: *Provided further*, that notwithstanding any other provision of law, the individual appointed to the position of Inspector General of the Environmental Protection Agency (EPA) shall, by virtue of such appointment, also hold the position of Inspector General of the Board: *Provided further*, That notwithstanding any other provision of law, the Inspector General of the Board shall utilize personnel of the Office of Inspector General of EPA in performing the duties of the Inspector General of the Board, and shall not appoint any individuals to positions within the Board.

Government
organization.

5 USC app. 8G
note.

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, \$9,000,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND
ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99-498, as amended (20 U.S.C. 56 part A), \$7,297,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed \$100,000 for services as authorized by 5 U.S.C. 3109; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees, \$571,347,000, of which not to exceed \$19,968,000 for the instrumentation program, collections acquisition, exhibition reinstallation, the National Museum of African American History and Culture, and the repatriation of skeletal remains program shall remain available until expended; and of which \$1,578,000 for fellowships and scholarly awards shall remain available until September 30, 2009; and including such funds as may be necessary to support American overseas research centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

FACILITIES CAPITAL

For necessary expenses of repair, revitalization, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), and for construction, including necessary personnel, \$107,100,000, to remain available until expended, of which not to exceed \$10,000 is for services as authorized by 5 U.S.C. 3109.

LEGACY FUND

For major restoration, renovation, and rehabilitation of existing Smithsonian facilities, \$15,000,000, to remain available until expended: *Provided*, That funds shall only be available after being matched by no less than \$30,000,000 in private donations, which shall not include in-kind contributions: *Provided further*, That none of the funds made available under this heading or any required matching funds shall be used for day-to-day maintenance, general salaries and expenses, or programmatic purposes.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in

advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, \$101,718,000, of which not to exceed \$3,350,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, \$18,017,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, \$20,200,000.

CAPITAL REPAIR AND RESTORATION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, \$23,150,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, \$10,000,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$147,000,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts, including arts education and public outreach activities, through assistance to organizations and individuals pursuant to section 5 of the Act, for program support, and for administering the functions of the Act, to remain available until expended: *Provided*, That funds appropriated herein shall be expended in accordance with sections 309 and 311 of Public Law 108-447.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$132,490,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$14,510,000, to remain available until expended, of which \$9,479,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: *Provided further*, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses: *Provided further*, That the Chairperson of the National Endowment for the Arts may approve grants of up to \$10,000, if in the aggregate this amount does not exceed 5 percent of the sums appropriated for grant-making purposes per year: *Provided further*, That such small grant actions are taken pursuant to the terms of an expressed and direct delegation of authority from the National Council on the Arts to the

Chairperson: *Provided further*, That section 309(1) of division E, Public Law 108–447, is amended by inserting “National Opera Fellowship,” after “National Heritage Fellowship,”. 118 Stat. 3094.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), \$2,092,000: *Provided*, That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account as an offsetting collection, to remain available until expended without further appropriation.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956a), as amended, \$8,500,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), \$5,348,000: *Provided*, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, \$8,265,000: *Provided*, That one-quarter of 1 percent of the funds provided under this heading may be used for official reception and representational expenses associated with hosting international visitors engaged in the planning and physical development of world capitals.

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

HOLOCAUST MEMORIAL MUSEUM

For expenses of the Holocaust Memorial Museum, as authorized by Public Law 106–292 (36 U.S.C. 2301–2310), \$45,496,000, of which \$515,000 for the equipment replacement program shall remain available until September 30, 2010; and \$1,900,000 for the museum’s repair and rehabilitation program and \$1,264,000 for the museum’s exhibition design and production program shall remain available until expended.

PRESIDIO TRUST

PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, \$22,400,000

shall be available to the Presidio Trust, to remain available until expended.

WHITE HOUSE COMMISSION ON THE NATIONAL MOMENT OF
REMEMBRANCE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the White House Commission on the National Moment of Remembrance, \$200,000, which shall be transferred to the Department of Veterans Affairs, “Departmental Administration, General Operating Expenses” account and be administered by the Secretary of Veterans Affairs.

DWIGHT D. EISENHOWER MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses, including the costs of construction design, of the Dwight D. Eisenhower Memorial Commission, \$2,000,000, to remain available until expended.

TITLE IV

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

Contracts. SEC. 401. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

Lobbying. SEC. 402. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

SEC. 403. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 404. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

Budget estimates. SEC. 405. Estimated overhead charges, deductions, reserves or holdbacks from programs, projects, activities and subactivities to support government-wide, departmental, agency or bureau administrative functions or headquarters, regional or central operations shall be presented in annual budget justifications and subject to approval by the Committees on Appropriations. Changes to such estimates shall be presented to the Committees on Appropriations for approval.

SEC. 406. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer provided in, this Act or any other Act.

SEC. 407. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (*Sequoiadendron giganteum*) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2006.

Timber.

SEC. 408. (a) LIMITATION OF FUNDS.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

Patents.
Mines and
mining.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2008, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104-208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 409. Notwithstanding any other provision of law, amounts appropriated to or otherwise designated in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103-138, 103-332, 104-134, 104-208, 105-83, 105-277, 106-113, 106-291, 107-63, 108-7, 108-108, 108-447, 109-54, 109-289, division B and Continuing Appropriations Resolution, 2007 (division B of Public Law 109-289, as amended by Public Law 110-5) for payments for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2007 for such purposes, except that for the Bureau of Indian Affairs,

tribes and tribal organizations may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, self-governance compacts, or annual funding agreements.

16 USC 1604
note.

SEC. 410. Prior to October 1, 2008, the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: *Provided*, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.

Timber.
Alaska.

SEC. 411. No timber sale in Region 10 shall be advertised if the indicated rate is deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar. Program accomplishments shall be based on volume sold. Should Region 10 sell, in the current fiscal year, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar, all of the western redcedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at prevailing domestic prices. Should Region 10 sell, in the current fiscal year, less than the annual average portion of the decadal allowable sale quantity called for in the Tongass Land Management Plan in sales which are not deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar, the volume of western redcedar timber available to domestic processors at prevailing domestic prices in the contiguous 48 United States shall be that volume: (1) which is surplus to the needs of domestic processors in Alaska; and (2) is that percent of the surplus western redcedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. The percentage shall be calculated by Region 10 on a rolling basis as each sale is sold (for purposes of this amendment, a “rolling basis” shall mean that the determination of how much western redcedar is eligible for sale to various markets shall be made at the time each sale is awarded). Western redcedar shall be deemed “surplus to the needs of domestic processors in Alaska” when the timber sale holder has presented to the Forest Service documentation of the inability to sell western redcedar logs from a given sale to domestic Alaska processors at a price equal to or greater than the log selling value stated in the contract. All additional western redcedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yellow cedar may be sold at prevailing export prices at the election of the timber sale holder.

SEC. 412. No funds provided in this Act may be expended to conduct preleasing, leasing and related activities under either the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundaries of a National Monument established pursuant to the Act of June 8, 1906 (16 U.S.C. 431 et seq.) as such boundary existed on January 20, 2001, except where such activities are allowed under the Presidential proclamation establishing such monument.

SEC. 413. In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are engaged in fire suppression: *Provided*, That the Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in firefighting in a foreign country: *Provided further*, That when an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country, and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country: *Provided further*, That neither the sending country nor any legal organization associated with the firefighter shall be subject to any legal action whatsoever pertaining to or arising out of the firefighter's role in fire suppression.

SEC. 414. In awarding a Federal contract with funds made available by this Act, notwithstanding Federal Government procurement and contracting laws, the Secretary of Agriculture and the Secretary of the Interior (the "Secretaries") may, in evaluating bids and proposals, give consideration to local contractors who are from, and who provide employment and training for, dislocated and displaced workers in an economically disadvantaged rural community, including those historically timber-dependent areas that have been affected by reduced timber harvesting on Federal lands and other forest-dependent rural communities isolated from significant alternative employment opportunities: *Provided*, That notwithstanding Federal Government procurement and contracting laws the Secretaries may award contracts, grants or cooperative agreements to local non-profit entities, Youth Conservation Corps or related partnerships with State, local or non-profit youth groups, or small or micro-business or disadvantaged business: *Provided further*, That the contract, grant, or cooperative agreement is for forest hazardous fuels reduction, watershed or water quality monitoring or restoration, wildlife or fish population monitoring, or habitat restoration or management: *Provided further*, That the terms "rural community" and "economically disadvantaged" shall have the same meanings as in section 2374 of Public Law 101-624: *Provided further*, That the Secretaries shall develop guidance to implement this section: *Provided further*, That nothing in this section shall be construed as relieving the Secretaries of any duty

Contracts.

Guidance.

under applicable procurement laws, except as provided in this section.

SEC. 415. (a) LIMITATION ON COMPETITIVE SOURCING STUDIES.—

(1) Of the funds made available by this or any other Act to the Department of the Interior for fiscal year 2008, not more than \$3,450,000 may be used by the Secretary of the Interior to initiate or continue competitive sourcing studies in fiscal year 2008 for programs, projects, and activities for which funds are appropriated by this Act.

(2) None of the funds made available by this or any other Act may be used in fiscal year 2008 for competitive sourcing studies and any related activities involving Forest Service personnel.

(b) COMPETITIVE SOURCING STUDY DEFINED.—In this section, the term “competitive sourcing study” means a study on subjecting work performed by Federal Government employees or private contractors to public-private competition or on converting the Federal Government employees or the work performed by such employees to private contractor performance under the Office of Management and Budget Circular A–76 or any other administrative regulation, directive, or policy.

(c) COMPETITIVE SOURCING EXEMPTION FOR FOREST SERVICE STUDIES CONDUCTED PRIOR TO FISCAL YEAR 2006.—The Forest Service is hereby exempted from implementing the Letter of Obligation and post-competition accountability guidelines where a competitive sourcing study involved 65 or fewer full-time equivalents, the performance decision was made in favor of the agency provider, no net savings was achieved by conducting the study, and the study was completed prior to the date of this Act.

(d) In preparing any reports to the Committees on Appropriations on competitive sourcing activities, agencies funded in this Act shall include all costs attributable to conducting the competitive sourcing competitions and staff work to prepare for competitions or to determine the feasibility of starting competitions, including costs attributable to paying outside consultants and contractors and, in accordance with full cost accounting principles, all costs attributable to developing, implementing, supporting, managing, monitoring, and reporting on competitive sourcing, including personnel, consultant, travel, and training costs associated with program management.

(e) In carrying out any competitive sourcing study involving Department of the Interior employees, the Secretary of the Interior shall—

(1) determine whether any of the employees concerned are also qualified to participate in wildland fire management activities; and

(2) take into consideration the effect that contracting with a private sector source would have on the ability of the Department of the Interior to effectively and efficiently fight and manage wildfires.

SEC. 416. Section 331 of the Department of the Interior and Related Agencies Appropriations Act, 2000, regarding the pilot program to enhance Forest Service administration of rights-of-way (as enacted into law by section 1000(a)(3) of Public Law 106–113; 113 Stat. 1501A–196; 16 U.S.C. 497 note), as amended, is amended—

(1) in subsection (a) by striking “2006” and inserting “2012”; and

(2) in subsection (b) by striking “2006” and inserting “2012”.

SEC. 417. Section 321 of the Department of the Interior and Related Agencies Appropriations Act, 2003, regarding Forest Service cooperative agreements with third parties that are of mutually significant benefit (division F of Public Law 108-7; 117 Stat. 274; 16 U.S.C. 565a-1 note) is amended by striking “September 30, 2007” and inserting “September 30, 2010”.

SEC. 418. (a) Notwithstanding any other provision of law and until October 1, 2009, the Indian Health Service may not disburse funds for the provision of health care services pursuant to Public Law 93-638 (25 U.S.C. 450 et seq.) to any Alaska Native village or Alaska Native village corporation that is located within the area served by an Alaska Native regional health entity.

(b) Nothing in this section shall be construed to prohibit the disbursement of funds to any Alaska Native village or Alaska Native village corporation under any contract or compact entered into prior to May 1, 2006, or to prohibit the renewal of any such agreement.

(c) For the purpose of this section, Eastern Aleutian Tribes, Inc. and the Council of Athabascan Tribal Governments shall be treated as Alaska Native regional health entities to which funds may be disbursed under this section.

SEC. 419. Unless otherwise provided herein, no funds appropriated in this Act for the acquisition of lands or interests in lands may be expended for the filing of declarations of taking or complaints in condemnation without the approval of the House and Senate Committees on Appropriations: *Provided*, That this provision shall not apply to funds appropriated to implement the Everglades National Park Protection and Expansion Act of 1989, or to funds appropriated for Federal assistance to the State of Florida to acquire lands for Everglades restoration purposes.

SEC. 420. Section 337(a) of the Department of the Interior and Related Agencies Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 3012) is amended by striking “September 30, 2006” and inserting “September 30, 2008”.

SEC. 421. Section 339 of division E of the Consolidated Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 3103) is amended—

(1) by striking “2005 through 2007” and inserting “2005 through 2008”; and

(2) by adding at the end the following new sentence: “The categorical exclusion under this section shall not apply with respect to any allotment in a federally designated wilderness area.”.

SEC. 422. A permit fee collected during fiscal year 2007 by the Secretary of Agriculture under the Act of March 4, 1915 (16 U.S.C. 497) for a marina on the Shasta-Trinity National Forest shall be deposited in a special account in the Treasury established for the Secretary of Agriculture, and shall remain available to the Secretary of Agriculture until expended, without further appropriation, for purposes stated in section 808(a)(3)(A-D) of title VIII of division J of Public Law 108-447 (16 U.S.C. 6807), and for direct operating or capital costs associated with the issuance of a marina permit.

Termination
date.
Alaskan Natives.

SEC. 423. The Forest Service shall allocate to the Regions of the Forest Service, \$15,000,000 from the current balance in the “timber roads purchaser election fund”, to remain available until expended, for the following purposes: vegetative treatments in timber stands at high risk of fire due to insect, disease, or drought; road work in support of vegetative treatments to support forest health objectives; and maintaining infrastructure for the processing of woody fiber in Regions where it is critical to sustaining local economies and fulfilling the forest health objectives of the Forest Service.

SEC. 424. (a) LAND SALE AUTHORIZATION.—To offset the acreage acquired by the Federal Government upon the acquisition of the Elkhorn Ranch in Medora, North Dakota, the Secretary of Agriculture (in this section referred to as the “Secretary”) shall sell all right, title, and interest of the United States to between 5,195 or 5,205 acres of National Forest System lands located in Billings County, North Dakota. It is the intent of Congress that there will be no net gain in federally owned land in North Dakota as a result of these land conveyances.

(b) LAND SALES.—The Secretary may prescribe reservations, terms, and conditions of sale under this section, and may configure the descriptions of the land to be sold under this section to enhance the marketability of the land or for management purposes. The Secretary may utilize brokers or other third parties in the sale of land and, from the proceeds of the sale, may pay reasonable commissions or fees for services rendered.

(c) CONSIDERATION.—As consideration for the purchase of land sold under this section, the purchaser shall pay to the Secretary an amount, in cash, equal to the fair market value of the land, as determined by the Secretary by appraisal or competitive sale consistent with Federal law applicable to land sales. The Secretary may reject any offer made under this section if the Secretary determines, in the absolute discretion of the Secretary, that the offer is not adequate or not in the public interest.

(d) INITIAL OFFER.—Under such terms, conditions, and procedures as the Secretary may prescribe, any base property landowner holding a current permit to graze any land authorized for sale under this section shall have a non-assignable first right to buy the land, provided that right must be exercised within 6 months after the date of the offer from the Secretary.

(e) TREATMENT OF PROCEEDS.—Using the proceeds from the sale of land under this section, the Secretary shall cover direct expenses incurred by the Secretary in conducting the sale. Any remaining proceeds shall be deposited into the fund established by the Act of December 4, 1967 (commonly known as the Sisk Act; 16 U.S.C. 484a), and shall be available, until expended, for the acquisition of land for inclusion in the National Forest System.

(f) LAND TRANSFERS.—The lands are to be conveyed from fiscal years 2008 to 2009. In the conveyance of any land authorized by this section, the Secretary shall not be required to conduct additional environmental analysis, including heritage resource analysis, and no sale, offer to sell, or conveyance shall be subject to administrative appeal.

(g) ELKHORN RANCH.—The grazing land lease terms in effect on the date of the enactment of this Act relating to the acquired Elkhorn Ranch in Medora, North Dakota, shall remain in effect until December 31, 2009. After that date, Federal land grazing

North Dakota.

use of the Elkhorn Ranch shall be managed through the grazing agreement between the Medora Grazing Association and the Forest Service. The Animal Unit Months (AUMs) for both Federal and private lands encompassing the Elkhorn Ranch shall become part of the grazing agreement held by Medora Grazing Association to be reallocated to its members in accordance with their rules in effect as of the date of the enactment of this Act.

(h) The multiple uses of the acquired Elkhorn Ranch shall continue.

SEC. 425. In fiscal year 2008 and thereafter, the Forest Service shall not change the eligibility requirements for base property, and livestock ownership as they relate to leasing of base property and shared livestock agreements for grazing permits on the Dakota Prairie Grasslands that were in effect as of July 18, 2005.

SEC. 426. The Arts and Artifacts Indemnity Act (Public Law 94-158) is amended—

(1) in section 3(a) by striking “(B) the exhibition of which is” and inserting in lieu thereof “(B) in the case of international exhibitions,”; and 20 USC 972.

(2) in section 5(b), by inserting before the period “for international exhibitions, and \$5,000,000,000 at any one time for domestic exhibitions”; and 20 USC 974.

(3) in section 5(c), by inserting before the period “for international exhibitions, or \$750,000,000 for domestic exhibitions”.

SEC. 427. In accordance with authorities available in section 428, of Public Law 109-54, the Secretary of Agriculture and the Secretary of the Interior shall execute an agreement that transfers management and oversight of the Great Onyx, Harper’s Ferry, and Oconaluftee Job Corps Centers to the Forest Service. These Job Corps centers shall continue to be administered as described in section 147(c) of Public Law 105-220, Workforce Investment Act of 1998. Administrative transfers.

SEC. 428. The United States Department of Agriculture, Forest Service shall seek to collaborate with stakeholders or parties in Sierra Forest Legacy, et al v. Weingardt, et al, Civil No. C 07-001654 (E.D. Cal.), and Sierra Club, et al v. Bosworth, et al, Civil No. C 05-00397 (N.D. Cal.), regarding harvest operations outside of the Giant Sequoia National Monument in relation to the decisions approving the Revised Ice Timber Sale and Fuels Reduction Project and the Frog Project, and taking into account the terms of the contracts for those projects, and in relation to the Record of Decision for the Kings River Project, and as appropriate in regard to other disputed fuel reduction projects in the area.

SEC. 429. (a) IN GENERAL.—Section 636 of division A of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (5 U.S.C. prec. 5941 note; Public Law 104-208), is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “or”;

(B) in paragraph (2), by striking the period and inserting “; or”; and

(C) by adding at the end the following:

“(3) a temporary fire line manager.”; and

(2) in subsection (c)—

(A) in paragraph (3), by striking “, and” and inserting a semicolon;

(B) in paragraph (4)(B), by striking the period at the end and inserting “; and”; and
 (C) by adding at the end the following:

“(5) notwithstanding the definition of the terms ‘supervisor’ and ‘management official’ under section 7103(a) of title 5, United States Code, the term ‘temporary fire line manager’ means an employee of the Forest Service or the Department of the Interior, whose duties include, as determined by the employing agency—

“(A) temporary supervision or management of personnel engaged in wildland or managed fire activities;

“(B) providing analysis or information that affects a decision by a supervisor or manager about a wildland or managed fire; or

“(C) directing the deployment of equipment for a wildland or managed fire.”.

5 USC note prec.
5941.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 430. GLOBAL CLIMATE CHANGE. (a) The Congress finds that—

(1) greenhouse gases accumulating in the atmosphere are causing average temperatures to rise at a rate outside the range of natural variability and are posing a substantial risk of rising sea-levels, altered patterns of atmospheric and oceanic circulation, and increased frequency and severity of floods, droughts, and wildfires;

(2) there is a growing scientific consensus that human activity is a substantial cause of greenhouse gas accumulation in the atmosphere; and

(3) mandatory steps will be required to slow or stop the growth of greenhouse gas emissions into the atmosphere.

(b) It is the sense of the Congress that there should be enacted a comprehensive and effective national program of mandatory, market-based limits and incentives on emissions of greenhouse gases that slow, stop, and reverse the growth of such emissions at a rate and in a manner that: (1) will not significantly harm the United States economy; and (2) will encourage comparable action by other nations that are major trading partners and key contributors to global emissions.

SEC. 431. None of the funds made available in this Act may be used to purchase light bulbs unless the light bulbs have the “ENERGY STAR” or “Federal Energy Management Program” designation, except in instances where the agency determines that ENERGY STAR or FEMP designated light bulbs are not cost-effective over the life of the light bulbs or are not reasonably available to meet the functional requirements of the agency.

SEC. 432. None of the funds made available under this Act may be used to promulgate or implement the Environmental Protection Agency proposed regulations published in the Federal Register on January 3, 2007 (72 Fed. Reg. 69).

SEC. 433. None of the funds made available by this Act shall be used to prepare or publish final regulations regarding a commercial leasing program for oil shale resources on public lands pursuant to section 369(d) of the Energy Policy Act of 2005 (Public Law 109–58) or to conduct an oil shale lease sale pursuant to subsection 369(e) of such Act.

SEC. 434. Section 401 of the Herger-Feinstein Quincy Library Group Forest Recovery Act, Public Law 105–277, division A, section 101(e) (title IV), 112 Stat. 2681–305, is amended—

16 USC 2104
note.

(1) In section (g) by striking “until” and all that follows and inserting “until September 30, 2012.”;

(2) By striking subsection (i) and inserting the following: “By June 1, 2008, the Forest Service shall initiate a collaborative process with the Plaintiffs in *Sierra Nevada Forest Prot. Campaign v. Rey*, Case No. CIV–S–05–0205 MCE/GGH (E.D. Cal.), appeal docketed sub nom. *Sierra Forest Legacy v. Rey*, No. 07–16892 (9th Cir. Oct. 23, 2007) and the Quincy Library Group to determine whether modifications to the Pilot Project are appropriate for the remainder of the Pilot Project.”; and

(3) By adding at the end the following:

“(m) Sections 104–106 of Public Law 108–148 shall apply to projects authorized by this Act.” Applicability.

SEC. 435. In addition to the amounts otherwise provided to the Environmental Protection Agency in this Act, \$8,000,000, to remain available until expended, is provided to EPA to be transferred to the Department of the Navy for clean-up activities at the Treasure Island Naval Station—Hunters Point Annex.

SEC. 436. In addition to amounts provided to the Environmental Protection Agency in this Act, the Oklahoma Department of Environmental Quality is provided the amount of \$3,000,000 for a grant to the Oklahoma Department of Environmental Quality for ongoing relocation assistance as administered by the Lead Impacted Communities Relocation Assistance Trust and as conducted consistent with the use of prior unexpended funding for relocation assistance, including buy outs of properties, in accordance with section 2301 of Public Law 109–234 (120 Stat. 455–466).

SEC. 437. (a) ACROSS-THE-BOARD RESCISSIONS.—There is hereby rescinded an amount equal to 1.56 percent of the budget authority provided for fiscal year 2008 for any discretionary appropriation in titles I through IV of this Act.

(b) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in subsection (a); and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President’s budget).

(c) INDIAN LAND AND WATER CLAIM SETTLEMENTS.—Under the heading “Bureau of Indian Affairs, Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians”, the across-the-board rescission in this section, and any subsequent across-the-board rescission for fiscal year 2008, shall apply only to the first dollar amount in the paragraph and the distribution of the rescission shall be at the discretion of the Secretary of the Interior who shall submit a report on such distribution and the rationale therefor to the House and Senate Committees on Appropriations. Applicability.
Reports.

(d) OMB REPORT.—Within 30 days after the date of the enactment of this section the Director of the Office of Management and Budget shall submit to the Committees on Appropriations

of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section.

TITLE V

WILDFIRE SUPPRESSION EMERGENCY APPROPRIATIONS

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

Notification. For an additional amount for “Wildland Fire Management”, \$78,000,000, to remain available until expended, for urgent wildland fire suppression activities: *Provided*, That such funds shall only become available if funds previously provided for wildland fire suppression will be exhausted imminently and the Secretary of the Interior notifies the House and Senate Committees on Appropriations in writing of the need for these additional funds: *Provided further*, That such funds are also available for repayment to other appropriations accounts from which funds were transferred for wild-fire suppression: *Provided further*, That the amount provided by this paragraph is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

Notification. For an additional amount for “Wildland Fire Management”, \$222,000,000, to remain available until expended, for urgent wildland fire suppression activities: *Provided*, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and the Secretary of Agriculture notifies the House and Senate Committees on Appropriations in writing of the need for these additional funds: *Provided further*, That such funds are also available for repayment to other appropriation accounts from which funds were transferred for wild-fire suppression: *Provided further*, That the amount provided by this paragraph is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

This division may be cited as the “Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008”.

DIVISION G—DEPARTMENTS OF LABOR, HEALTH AND
HUMAN SERVICES, AND EDUCATION, AND RELATED
AGENCIES APPROPRIATIONS ACT, 2008

Departments of
Labor, Health
and Human
Services, and
Education, and
Related Agencies
Appropriations
Act, 2008.
Department of
Labor
Appropriations
Act, 2008.

TITLE I

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING RESCISSIONS)

For necessary expenses of the Workforce Investment Act of 1998 (“WIA”), the Denali Commission Act of 1998, and the Women in Apprenticeship and Non-Traditional Occupations Act of 1992, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the WIA; \$3,608,349,000, plus reimbursements, is available. Of the amounts provided:

(1) for grants to States for adult employment and training activities, youth activities, and dislocated worker employment and training activities, \$2,994,510,000 as follows:

(A) \$864,199,000 for adult employment and training activities, of which \$152,199,000 shall be available for the period July 1, 2008 to June 30, 2009, and of which \$712,000,000 shall be available for the period October 1, 2008 through June 30, 2009;

(B) \$940,500,000 for youth activities, which shall be available for the period April 1, 2008 through June 30, 2009; and

(C) \$1,189,811,000 for dislocated worker employment and training activities, of which \$341,811,000 shall be available for the period July 1, 2008 through June 30, 2009, and of which \$848,000,000 shall be available for the period October 1, 2008 through June 30, 2009:

Provided, That notwithstanding the transfer limitation under section 133(b)(4) of the WIA, up to 30 percent of such funds may be transferred by a local board if approved by the Governor;

(2) for federally administered programs, \$477,873,000 as follows:

(A) \$282,092,000 for the dislocated workers assistance national reserve, of which \$6,300,000 shall be available on October 1, 2007, of which \$63,792,000 shall be available for the period July 1, 2008 through June 30, 2009, and of which \$212,000,000 shall be available for the period October 1, 2008 through June 30, 2009: *Provided*, That up to \$125,000,000 may be made available for Community-Based Job Training grants from funds reserved under section 132(a)(2)(A) of the WIA and shall be used to carry out such grants under section 171(d) of such Act, except that the 10 percent limitation otherwise applicable to the amount of funds that may be used to carry out section 171(d) shall not be applicable to funds used for Community-Based Job Training grants: *Provided further*, That funds

provided to carry out section 132(a)(2)(A) of the WIA may be used to provide assistance to a State for State-wide or local use in order to address cases where there have been worker dislocations across multiple sectors or across multiple local areas and such workers remain dislocated; coordinate the State workforce development plan with emerging economic development needs; and train such eligible dislocated workers: *Provided further*, That funds provided to carry out section 171(d) of the WIA may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers:

Deadline. *Provided further*, That \$2,600,000 shall be for a non-competitive grant to the National Center on Education and the Economy, which shall be awarded not later than 30 days after the date of enactment of this Act: *Provided further*, That \$1,500,000 shall be for a non-competitive grant to the AFL-CIO Working for America Institute, which shall be awarded not later than 30 days after the date of enactment of this Act: *Provided further*, That \$2,200,000 shall be for a non-competitive grant to the AFL-CIO Appalachian Council, Incorporated, for Job Corps career transition services, which shall be awarded not later than 30 days after the date of enactment of this Act;

Deadline. (B) \$53,696,000 for Native American programs, which shall be available for the period July 1, 2008 through June 30, 2009;

Deadline. (C) \$81,085,000 for migrant and seasonal farmworker programs under section 167 of the WIA, including \$75,610,000 for formula grants (of which not less than 70 percent shall be for employment and training services), \$4,975,000 for migrant and seasonal housing (of which not less than 70 percent shall be for permanent housing), and \$500,000 for other discretionary purposes, which shall be available for the period July 1, 2008 through June 30, 2009: *Provided*, That, notwithstanding any other provision of law or related regulation, the Department shall take no action limiting the number or proportion of eligible participants receiving related assistance services or discouraging grantees from providing such services;

(D) \$1,000,000 for carrying out the Women in Apprenticeship and Nontraditional Occupations Act, which shall be available for the period July 1, 2008 through June 30, 2009; and

(E) \$60,000,000 for YouthBuild activities as described in section 173A of the WIA, which shall be available for the period April 1, 2008 through June 30, 2009;

(3) for national activities, \$135,966,000, which shall be available for the period July 1, 2008 through July 30, 2009 as follows:

(A) \$49,370,000 for Pilots, Demonstrations, and Research, of which \$5,000,000 shall be for grants to address the employment and training needs of young parents (notwithstanding the requirements of section 171(b)(2)(B) or 171(c)(4)(D) of the WIA): *Provided*, That funding provided to carry out projects under section 171 of the WIA that are identified in the explanatory statement described in

section 4 (in the matter preceding division A of this consolidated Act), shall not be subject to the requirements of sections 171(b)(2)(B) and 171(c)(4)(D) of the WIA, the joint funding requirements of sections 171(b)(2)(A) and 171(c)(4)(A) of the WIA, or any time limit requirements of sections 171(b)(2)(C) and 171(c)(4)(B) of the WIA;

(B) \$74,800,000 for ex-offender activities, under the authority of section 171 of the Act, notwithstanding the requirements of section 171(b)(2)(B) or 171(c)(4)(D), of which not less than \$55,000,000 shall be for youthful offender activities: *Provided*, That \$50,000,000 shall be available from program year 2007 and program year 2008 funds for competitive grants to local educational agencies or community-based organizations to develop and implement mentoring strategies that integrate educational and employment interventions designed to prevent youth violence in schools identified as persistently dangerous under section 9532 of the Elementary and Secondary Education Act;

(C) \$4,921,000 for Evaluation under section 172 of the WIA; and

(D) \$6,875,000 for the Denali Commission, which shall be available for the period July 1, 2008 through June 30, 2009.

Of the amounts made available under this heading in Public Law 107-116 to carry out the activities of the National Skills Standards Board, \$44,000 are rescinded.

Of the unexpended balances remaining from funds appropriated to the Department of Labor under this heading for fiscal years 2005 and 2006 to carry out the Youth, Adult and Dislocated Worker formula programs under the Workforce Investment Act, \$250,000,000 are rescinded: *Provided*, That the Secretary of Labor may, upon the request of a State, apply any portion of the State's share of this rescission to funds otherwise available to the State for such programs during program year 2007: *Provided further*, That notwithstanding any provision of such Act, the Secretary may waive such requirements as may be necessary to carry out the instructions relating to this rescission in House Report 110-424.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title V of the Older Americans Act of 1965, \$530,900,000, which shall be available for the period July 1, 2008 through June 30, 2009.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during fiscal year 2008 of trade adjustment benefit payments and allowances under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974, and section 246 of that Act; and for training, allowances for job search and relocation, and related State administrative expenses under part II of subchapter B of chapter 2 of title II of the Trade Act of 1974, \$888,700,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15, 2008.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE
OPERATIONS

For authorized administrative expenses, \$90,517,000, together with not to exceed \$3,233,436,000 which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund (“the Trust Fund”), of which:

(1) \$2,497,770,000 from the Trust Fund is for grants to States for the administration of State unemployment insurance laws as authorized under title III of the Social Security Act, the administration of unemployment insurance for Federal employees and for ex-service members as authorized under sections 8501–8523 of title 5, United States Code, and the administration of trade readjustment allowances and alternative trade adjustment assistance under the Trade Act of 1974, and shall be available for obligation by the States through December 31, 2008, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2010, and funds used for unemployment insurance workloads experienced by the States through September 30, 2008 shall be available for Federal obligation through December 31, 2008.

(2) \$9,900,000 from the Trust Fund is for national activities necessary to support the administration of the Federal-State unemployment insurance system.

(3) \$693,000,000 from the Trust Fund, together with \$22,883,000 from the General Fund of the Treasury, is for grants to States in accordance with section 6 of the Wagner-Peyser Act, and shall be available for Federal obligation for the period July 1, 2008 through June 30, 2009.

(4) \$32,766,000 from the Trust Fund is for national activities of the Employment Service, including administration of the work opportunity tax credit under section 51 of the Internal Revenue Code of 1986, the administration of activities, including foreign labor certifications, under the Immigration and Nationality Act, and the provision of technical assistance and staff training under the Wagner-Peyser Act, including not to exceed \$1,228,000 that may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980.

(5) \$52,985,000 from the General Fund is to provide workforce information, national electronic tools, and one-stop system building under the Wagner-Peyser Act and shall be available for Federal obligation for the period July 1, 2008 through June 30, 2009.

(6) \$14,649,000 from the General Fund is to provide for work incentive grants to the States and shall be available for the period July 1, 2008 through June 30, 2009:

Provided, That to the extent that the Average Weekly Insured Unemployment (“AWIU”) for fiscal year 2008 is projected by the Department of Labor to exceed 2,786,000, an additional \$28,600,000 from the Trust Fund shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) to carry out title III of the Social Security Act: *Provided further*, That funds appropriated in this Act that are allotted to a State to carry out activities under title III of the Social Security Act may be used by such State

to assist other States in carrying out activities under such title III if the other States include areas that have suffered a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided further*, That the Secretary of Labor may use funds appropriated for grants to States under title III of the Social Security Act to make payments on behalf of States for the use of the National Directory of New Hires under section 453(j)(8) of such Act: *Provided further*, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance or immigration programs, may be obligated in contracts, grants, or agreements with non-State entities: *Provided further*, That funds appropriated under this Act for activities authorized under title III of the Social Security Act and the Wagner-Peyser Act may be used by States to fund integrated Unemployment Insurance and Employment Service automation efforts, notwithstanding cost allocation principles prescribed under the Office of Management and Budget Circular A-87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the “Federal unemployment benefits and allowances” account, to remain available until September 30, 2009, \$437,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2008, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, \$88,451,000, together with not to exceed \$86,936,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employee Benefits Security Administration, \$141,790,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 4201 et seq.), within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without

Notification.

regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program, including associated administrative expenses, through September 30, 2008, for such Corporation: *Provided*, That none of the funds available to the Corporation for fiscal year 2008 shall be available for obligations for administrative expenses in excess of \$411,151,000: *Provided further*, That to the extent that the number of new plan participants in plans terminated by the Corporation exceeds 100,000 in fiscal year 2008, an amount not to exceed an additional \$9,200,000 shall be available for obligation for administrative expenses for every 20,000 additional terminated participants: *Provided further*, That an additional \$50,000 shall be made available for obligation for investment management fees for every \$25,000,000 in assets received by the Corporation as a result of new plan terminations, after approval by the Office of Management and Budget and notification of the Committees on Appropriations of the House of Representatives and the Senate.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING RESCISSION)

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$426,351,000, together with \$2,058,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d), and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938 and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act.

Of the unobligated funds collected pursuant to section 286(v) of the Immigration and Nationality Act, \$102,000,000 are rescinded.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by chapter 81 of title 5, United States Code; continuation of benefits as provided for under the heading "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948; and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, \$203,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current

year: *Provided*, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 2007, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2008: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, \$52,280,000 shall be made available to the Secretary as follows:

(1) For enhancement and maintenance of automated data processing systems and telecommunications systems, \$21,855,000.

(2) For automated workload processing operations, including document imaging, centralized mail intake and medical bill processing, \$16,109,000.

(3) For periodic roll management and medical review, \$14,316,000.

(4) The remaining funds shall be paid into the Treasury as miscellaneous receipts:

Provided further, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or the Longshore and Harbor Workers' Compensation Act, provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107-275, \$208,221,000, to remain available until expended.

For making after July 31 of the current fiscal year, benefit payments to individuals under title IV of such Act, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV for the first quarter of fiscal year 2009, \$62,000,000, to remain available until expended.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Program Act, \$104,745,000, to remain available until expended: *Provided*, That the Secretary of Labor is authorized to transfer to any executive agency with authority under the Energy Employees Occupational Illness Compensation Program Act, including within the Department of Labor, such sums as may be necessary in fiscal year 2008 to carry out

Deadline.

those authorities: *Provided further*, That the Secretary may require that any person filing a claim for benefits under the Act provide as part of such claim, such identifying information (including Social Security account number) as may be prescribed: *Provided further*, That not later than 30 days after enactment of this Act, in addition to other sums transferred by the Secretary to the National Institute for Occupational Safety and Health (“NIOSH”) for the administration of the Energy Employees Occupational Illness Compensation Program (“EEOICP”), the Secretary shall transfer \$4,500,000 to NIOSH from the funds appropriated to the Energy Employees Occupational Illness Compensation Fund, for use by or in support of the Advisory Board on Radiation and Worker Health (“the Board”) to carry out its statutory responsibilities under the EEOICP, including obtaining audits, technical assistance and other support from the Board’s audit contractor with regard to radiation dose estimation and reconstruction efforts, site profiles, procedures, and review of Special Exposure Cohort petitions and evaluation reports.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

26 USC 9501
note.

In fiscal year 2008 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954; and interest on advances, as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2008 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): not to exceed \$32,761,000 for transfer to the Employment Standards Administration “Salaries and Expenses”; not to exceed \$24,785,000 for transfer to Departmental Management, “Salaries and Expenses”; not to exceed \$335,000 for transfer to Departmental Management, “Office of Inspector General”; and not to exceed \$356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$494,641,000, including not to exceed \$91,093,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act (the “Act”), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary of Labor under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to \$750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided*, That, notwithstanding 31 U.S.C. 3302, the Secretary is authorized, during the fiscal year ending September 30, 2008, to collect and retain fees for services

provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Act which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Act with respect to any employer of 10 or fewer employees who is included within a category having a Days Away, Restricted, or Transferred (DART) occupational injury and illness rate, at the most precise industrial classification code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of the Act, except—

Farms and farming.

Small businesses.

(1) to provide, as authorized by the Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by the Act with respect to imminent dangers;

(4) to take any action authorized by the Act with respect to health hazards;

(5) to take any action authorized by the Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by the Act; and

(6) to take any action authorized by the Act with respect to complaints of discrimination against employees for exercising rights under the Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That \$10,116,000 shall be available for Susan Harwood training grants, of which \$3,200,000 shall be used for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of October 1, 2007 to September 30, 2008, provided that a grantee has demonstrated satisfactory performance: *Provided further*, That such grants shall be awarded not later than 30 days after the date of enactment of this Act: *Provided further*, That the Secretary shall provide a report to the Committees on Appropriations of the House of Representatives and the Senate with timetables for the development and issuance of occupational safety and health standards on beryllium, silica, cranes and derricks, confined space entry in construction, and hazard communication

Deadline.
Reports.
Deadlines.

global harmonization; such timetables shall include actual or estimated dates for: the publication of an advance notice of proposed rulemaking, the commencement and completion of a Small Business Regulatory Enforcement Fairness Act review (if required), the completion of any peer review (if required), the submission of the draft proposed rule to the Office of Management and Budget for review under Executive Order No. 12866 (if required), the publication of a proposed rule, the conduct of public hearings, the submission of a draft final rule to the Office of Management and Budget for review under Executive Order No. 12866 (if required), and the issuance of a final rule; and such report shall be submitted to the Committees on Appropriations of the House of Representatives and the Senate within 90 days of the enactment of this Act, with updates provided every 90 days thereafter that shall include an explanation of the reasons for any delays in meeting the projected timetables for action.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

30 USC 962.

For necessary expenses for the Mine Safety and Health Administration, \$339,862,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles, including up to \$2,000,000 for mine rescue and recovery activities, \$2,200,000 for an award to the United Mine Workers of America, for classroom and simulated rescue training for mine rescue teams, and \$1,184,000 for an award to the Wheeling Jesuit University, for the National Technology Transfer Center for a coal slurry impoundment project; in addition, not to exceed \$750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Mine Safety and Health Administration may retain up to \$1,000,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary of Labor is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; the Secretary is authorized to recognize the Joseph A. Holmes Safety Association as a principal safety association and, notwithstanding any other provision of law, may provide funds and, with or without reimbursement, personnel, including service of Mine Safety and Health Administration officials as officers in local chapters or in the national organization; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$476,861,000, together with not to exceed \$77,067,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, of which \$5,000,000 may be used to fund the mass layoff statistics program under section 15 of the Wagner-Peyser Act: *Provided*, That the Current Employment Survey shall maintain the content of the survey issued prior to June 2005 with respect to the collection of data for the women worker series. Survey.

OFFICE OF DISABILITY EMPLOYMENT POLICY

SALARIES AND EXPENSES

For necessary expenses for the Office of Disability Employment Policy to provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities, \$27,712,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including the management or operation, through contracts, grants or other arrangements of Departmental activities conducted by or through the Bureau of International Labor Affairs, including bilateral and multilateral technical assistance and other international labor activities, \$296,756,000, of which \$82,516,000 is for the Bureau of International Labor Affairs (including \$5,000,000 to implement model programs to address worker rights issues through technical assistance in countries with which the United States has trade preference programs), and of which \$20,000,000 is for the acquisition of Departmental information technology, architecture, infrastructure, equipment, software and related needs, which will be allocated by the Department's Chief Information Officer in accordance with the Department's capital investment management process to assure a sound investment strategy; together with not to exceed \$308,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

OFFICE OF JOB CORPS

To carry out subtitle C of title I of the Workforce Investment Act of 1998, including Federal administrative expenses, the purchase and hire of passenger motor vehicles, the construction, alteration and repairs of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act; \$1,626,855,000, plus reimbursements, as follows:

- (1) \$1,485,357,000 for Job Corps Operations, of which \$894,357,000 is available for obligation for the period July

1, 2008 through June 30, 2009 and of which \$591,000,000 is available for obligation for the period October 1, 2008 through June 30, 2009.

(2) \$112,920,000 for construction, rehabilitation and acquisition of Job Corps Centers, of which \$12,920,000 is available for the period July 1, 2008 through June 30, 2011 and \$100,000,000 is available for the period October 1, 2008 through June 30, 2011.

(3) \$28,578,000 for necessary expenses of the Office of Job Corps is available for obligation for the period October 1, 2007 through September 30, 2008:

Provided, That the Office of Job Corps shall have contracting authority: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That none of the funds made available in this Act shall be used to reduce Job Corps total student training slots below the current level of 44,491 in program year 2008.

VETERANS EMPLOYMENT AND TRAINING

Not to exceed \$200,631,000 may be derived from the Employment Security Administration Account in the Unemployment Trust Fund to carry out the provisions of sections 4100-4113, 4211-4215, and 4321-4327 of title 38, United States Code, and Public Law 103-353, and which shall be available for obligation by the States through December 31, 2008, of which \$1,984,000 is for the National Veterans' Employment and Training Services Institute. To carry out the Homeless Veterans Reintegration Programs under section 5(a)(1) of the Homeless Veterans Comprehensive Assistance Act of 2001 and the Veterans Workforce Investment Programs under section 168 of the Workforce Investment Act, \$31,522,000, of which \$7,482,000 shall be available for obligation for the period July 1, 2008, through June 30, 2009.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$70,072,000, together with not to exceed \$5,641,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act for the Job Corps shall be used to pay the salary of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level I.

(TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: *Provided*, That the transfer authority granted by this section shall be available only to meet emergency needs and shall

not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: *Provided further*, That the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of any transfer.

Notification.
Deadline.

SEC. 103. In accordance with Executive Order No. 13126, none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, whole or in part, by forced or indentured child labor in industries and host countries already identified by the United States Department of Labor prior to enactment of this Act.

SEC. 104. After September 30, 2007, the Secretary of Labor shall issue a monthly transit subsidy of not less than the full amount (of not less than \$110) that each of its employees of the National Capital Region is eligible to receive.

Transit subsidy.
5 USC 7905 note.

SEC. 105. None of the funds appropriated in this title for grants under section 171 of the Workforce Investment Act of 1998 may be obligated prior to the preparation and submission of a report by the Secretary of Labor to the Committees on Appropriations of the House of Representatives and the Senate detailing the planned uses of such funds.

Reports.

SEC. 106. There is authorized to be appropriated such sums as may be necessary to the Denali Commission through the Department of Labor to conduct job training of the local workforce where Denali Commission projects will be constructed.

SEC. 107. None of the funds made available to the Department of Labor for grants under section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 may be used for any purpose other than training in the occupations and industries for which employers are using H-1B visas to hire foreign workers, and the related activities necessary to support such training: *Provided*, That the preceding limitation shall not apply to multi-year grants awarded prior to June 30, 2007.

SEC. 108. None of the funds available in this Act or available to the Secretary of Labor from other sources for Community-Based Job Training grants and grants authorized under section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 shall be obligated for a grant awarded on a non-competitive basis.

SEC. 109. The Secretary of Labor shall take no action to amend, through regulatory or administration action, the definition established in 20 CFR 667.220 for functions and activities under title I of the Workforce Investment Act of 1998, or to modify, through regulatory or administrative action, the procedure for redesignation of local areas as specified in subtitle B of title I of that Act (including applying the standards specified in section 116(a)(3)(B) of that Act, but notwithstanding the time limits specified in section 116(a)(3)(B) of that Act), until such time as legislation reauthorizing the Act is enacted. Nothing in the preceding sentence shall permit or require the Secretary of Labor to withdraw approval for such redesignation from a State that received the approval not later than October 12, 2005, or to revise action taken or modify the redesignation procedure being used by the Secretary in order to complete such redesignation for a State that initiated the process of such redesignation by submitting any request for such redesignation not later than October 26, 2005.

SEC. 110. None of the funds made available in this or any other Act shall be available to finalize or implement any proposed regulation under the Workforce Investment Act of 1998, Wagner-Peyser Act of 1933, or the Trade Adjustment Assistance Reform Act of 2002 until such time as legislation reauthorizing the Workforce Investment Act of 1998 and the Trade Adjustment Assistance Reform Act of 2002 is enacted.

Deadline.
Reports.

SEC. 111. None of the funds available in this Act may be used to carry out a public-private competition or direct conversion under Office of Management and Budget Circular A-76 or any successor administrative regulation, directive or policy until 60 days after the Government Accountability Office provides a report to the Committees on Appropriations of the House of Representatives and the Senate on the use of competitive sourcing at the Department of Labor.

Deadlines.
Regulations.
30 USC 863 note.

SEC. 112. (a) Not later than June 20, 2008, the Secretary of Labor shall propose regulations pursuant to section 303(y) of the Federal Mine Safety and Health Act of 1977, consistent with the recommendations of the Technical Study Panel established pursuant to section 11 of the Mine Improvement and New Emergency Response (MINER) Act (Public Law 109-236), to require that in any coal mine, regardless of the date on which it was opened, belt haulage entries not be used to ventilate active working places without prior approval from the Assistant Secretary. Further, a mine ventilation plan incorporating the use of air coursed through belt haulage entries to ventilate active working places shall not be approved until the Assistant Secretary has reviewed the elements of the plan related to the use of belt air and determined that the plan at all times affords at least the same measure of protection where belt haulage entries are not used to ventilate working places. The Secretary shall finalize the regulations not later than December 31, 2008.

30 USC 875 note.

(b) Not later than June 15, 2008, the Secretary of Labor shall propose regulations pursuant to section 315 of the Federal Coal Mine Health and Safety Act of 1969, consistent with the recommendations of the National Institute for Occupational Safety and Health pursuant to section 13 of the MINER Act (Public Law 109-236), requiring rescue chambers, or facilities that afford at least the same measure of protection, in underground coal mines. The Secretary shall finalize the regulations not later than December 31, 2008.

SEC. 113. None of the funds appropriated in this Act under the heading "Employment and Training Administration" shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A-133. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs.

SEC. 114. (a) In this section:

(1) The term “covered funds” means funds provided under section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) to a State that submits an application under that section not earlier than May 4, 2007, for a national emergency grant to address the effects of the May 4, 2007, Greensburg, Kansas, tornado.

(2) The term “professional municipal services” means services that are necessary to facilitate the recovery of Greensburg, Kansas, from that tornado, and necessary to plan for or provide basic management and administrative services, which may include—

(A) the overall coordination of disaster recovery and humanitarian efforts, oversight, and enforcement of building code compliance, and coordination of health and safety response units; or

(B) the delivery of humanitarian assistance to individuals affected by that tornado.

(b) Covered funds may be used to provide temporary public sector employment and services authorized under section 173 of such Act to individuals affected by such tornado, including individuals who were unemployed on the date of the tornado, or who are without employment history, in addition to individuals who are eligible for disaster relief employment under section 173(d)(2) of such Act.

(c) Covered funds may be used to provide professional municipal services for a period of not more than 24 months, by hiring or contracting with individuals or organizations (including individuals employed by contractors) that the State involved determines are necessary to provide professional municipal services.

(d) Covered funds expended under this section may be spent on costs incurred not earlier than May 4, 2007.

This title may be cited as the “Department of Labor Appropriations Act, 2008”.

TITLE II

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

Department of
Health and
Human Services
Appropriations
Act, 2008.

For carrying out titles II, III, IV, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and sections 1128E, and 711, and 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, the Native Hawaiian Health Care Act of 1988, the Cardiac Arrest Survival Act of 2000, and section 712 of the American Jobs Creation Act of 2004, \$6,978,099,000, of which \$309,889,000 shall be available for construction and renovation (including equipment) of health care and other facilities and other health-related activities specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act), and of which \$38,538,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under such section: *Provided*, That of the funds made available under this heading,

Abortions.

\$160,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: *Provided further*, That \$40,000,000 of the funding provided for community health centers shall be for base grant adjustments for existing health centers: *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further*, That fees collected for the full disclosure of information under the "Health Care Fraud and Abuse Data Collection Program", authorized by section 1128E(d)(2) of the Social Security Act, shall be sufficient to recover the full costs of operating the program, and shall remain available until expended to carry out that Act: *Provided further*, That no more than \$40,000 is available until expended for carrying out the provisions of 42 U.S.C. 233(o) including associated administrative expenses and relevant evaluations: *Provided further*, That no more than \$44,055,000 is available until expended for carrying out the provisions of Public Law 104-73 and for expenses incurred by the Department of Health and Human Services pertaining to administrative claims made under such law: *Provided further*, That of the funds made available under this heading, \$305,315,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: *Provided further*, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: *Provided further*, That of the funds available under this heading, \$1,854,800,000 shall remain available to the Secretary of Health and Human Services through September 30, 2010, for parts A and B of title XXVI of the Public Health Service Act: *Provided further*, That within the amounts provided for part A of title XXVI of the Public Health Service Act, funds shall be made available to qualifying jurisdictions, within 45 days of enactment, for increasing supplemental grants for fiscal year 2008 to metropolitan areas that received grant funding in fiscal year 2007 under subparts I and II of part A of title XXVI of the Public Health Service Act to ensure that an area's total funding under part A for fiscal year 2007, together with the amount of this additional funding, is not less than 86.6 percent of the amount of such area's total funding under part A for fiscal year 2006: *Provided further*, That, notwithstanding section 2603(c)(1) of the Public Health Service Act, the additional funding to areas under the immediately preceding proviso, which may be used for costs incurred during fiscal year 2007, shall be available to the area for obligation from the date of the award through the end of the grant year for the award: *Provided further*, That \$808,500,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: *Provided further*, That in addition to amounts provided herein, \$25,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out parts A, B, C, and D of title XXVI of the Public Health Service Act to fund section 2691 Special Projects of National Significance:

Provided further, That, notwithstanding section 502(a)(1) and 502(b)(1) of the Social Security Act, not to exceed \$100,937,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act and \$10,586,000 is available for projects described in paragraphs (A) through (F) of section 501(a)(3) of such Act: *Provided further*, That of the funds provided, \$39,283,000 shall be provided to the Denali Commission as a direct lump payment pursuant to Public Law 106-113: *Provided further*, That of the funds provided, \$25,000,000 shall be provided for the Delta Health Initiative as authorized in section 219 of this Act and associated administrative expenses: *Provided further*, That notwithstanding section 747(e)(2) of the PHS Act, not less than \$5,000,000 shall be for general dentistry programs, not less than \$5,000,000 shall be for pediatric dentistry programs and not less than \$24,614,000 shall be for family medicine programs: *Provided further*, That of the funds available under this heading, \$9,000,000 shall be provided for the National Cord Blood Inventory pursuant to the Stem Cell Therapeutic and Research Act of 2005.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, \$2,898,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed \$5,500,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX, XXI, and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, 501, and 514 of the Federal Mine Safety and Health Act of 1977, section 13 of the Mine Improvement and New Emergency Response Act of 2006, sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and for expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological, and chemical threats to civilian populations; including purchase and insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, \$6,156,541,000, of which \$56,000,000 shall remain available until expended for equipment, construction and renovation of facilities; of which \$568,803,000 shall remain available until expended for

the Strategic National Stockpile; of which \$27,215,000 shall be available for public health improvement activities specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act); of which \$121,541,000 for international HIV/AIDS shall remain available until September 30, 2009; and of which \$109,000,000 shall be available until expended to provide screening and treatment for first response emergency services personnel, residents, students, and others related to the September 11, 2001 terrorist attacks on the World Trade Center: *Provided*, That of this amount, \$56,500,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act). In addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That in addition to amounts provided herein, the following amounts shall be available from amounts available under section 241 of the Public Health Service Act: (1) \$12,794,000 to carry out the National Immunization Surveys; (2) \$113,636,000 to carry out the National Center for Health Statistics surveys; (3) \$24,751,000 to carry out information systems standards development and architecture and applications-based research used at local public health levels; (4) \$48,523,000 for Health Marketing; (5) \$31,000,000 to carry out Public Health Research; and (6) \$94,969,000 to carry out research activities within the National Occupational Research Agenda: *Provided further*, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used, in whole or in part, to advocate or promote gun control: *Provided further*, That up to \$31,800,000 shall be made available until expended for Individual Learning Accounts for full-time equivalent employees of the Centers for Disease Control and Prevention: *Provided further*, That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: *Provided further*, That the Committees on Appropriations of the House of Representatives and the Senate are to be notified promptly of any such transfer: *Provided further*, That not to exceed \$18,929,000 may be available for making grants under section 1509 of the Public Health Service Act to not less than 15 States, tribes, or tribal organizations: *Provided further*, That notwithstanding any other provision of law, the Centers for Disease Control and Prevention shall award a single contract or related contracts for development and construction of the next building or facility designated in the Buildings and Facilities Master Plan that collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause “availability of funds” found at 48 CFR 52.232–18: *Provided further*, That of the funds appropriated, \$10,000 is for official reception and representation expenses when specifically approved by the Director of the Centers for Disease Control and Prevention: *Provided further*, That employees of the Centers for Disease Control and Prevention or the Public Health Service, both civilian and Commissioned Officers, detailed to States, municipalities, or other organizations under authority of section 214 of the Public Health Service Act, or in overseas assignments, shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency, Service, or the Department

Gun control.

Notification.

Contracts.

of Health and Human Services during the period of detail or assignment: *Provided further*, That out of funds made available under this heading for domestic HIV/AIDS testing, up to \$30,000,000 shall be for States eligible under section 2625 of the Public Health Service Act as of December 31, 2007 and shall be distributed by May 31, 2008 based on standard criteria relating to a State's epidemiological profile, and of which not more than \$1,000,000 may be made available to any one State, and any amounts that have not been obligated by May 31, 2008 shall be used to make grants authorized by other provisions of the Public Health Service Act to States and local public health departments for HIV prevention activities.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, \$4,890,525,000, of which up to \$8,000,000 may be used for facilities repairs and improvements at the NCI-Frederick Federally Funded Research and Development Center in Frederick, Maryland.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, \$2,974,900,000.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, \$396,632,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, \$1,736,199,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, \$1,571,353,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(INCLUDING TRANSFER OF FUNDS)

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$4,641,746,000: *Provided*, That \$300,000,000 may be made available to International Assistance Programs "Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis", to remain available until expended: *Provided further*, That such sums obligated in fiscal years 2003 through 2007 for extramural facilities construction projects are to remain available until expended for disbursement,

Notification.

with prior notification of such projects to the Committees on Appropriations of the House of Representatives and the Senate.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, \$1,970,228,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, \$1,277,017,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, \$678,978,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, \$653,673,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, \$1,065,881,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, \$517,629,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, \$401,146,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, \$139,920,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, \$444,016,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, \$1,018,493,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, \$1,429,466,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, \$495,434,000.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

For carrying out section 301 and title IV of the Public Health Service Act with respect to biomedical imaging and bioengineering research, \$303,955,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, \$1,169,884,000.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE
MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, \$123,739,000.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

For carrying out section 301 and title IV of the Public Health Service Act with respect to minority health and health disparities research, \$203,117,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities of the John E. Fogarty International Center (described in subpart 2 of part E of title IV of the Public Health Service Act), \$67,741,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, \$326,669,000, of which \$4,000,000 shall be available until expended for improvement of information systems: *Provided*, That in fiscal year 2008, the National Library of Medicine may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health: *Provided further*, That in addition to amounts provided herein, \$8,200,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the purposes of the National Information Center on Health Services Research and Health Care Technology established under section 478A of the Public Health Service Act and related health services.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, \$1,128,819,000, of which up to \$25,000,000 shall be used to carry out section 215 of this Act: *Provided*, That funding shall be available for the purchase of not to exceed 29 passenger motor vehicles for replacement only: *Provided further*, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: *Provided further*, That all funds credited to such Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: *Provided further*, That \$112,872,000 shall be available for continuation of the National Children's Study: *Provided further*, That \$504,420,000 shall be available for the Common Fund established under section 402A(c)(1) of the Public Health Service Act: *Provided further*, That of the funds provided \$10,000 shall be for official reception and representation expenses when specifically approved by the Director of the National Institutes of Health: *Provided further*, That the Office of AIDS Research within the Office of the Director of the National Institutes of Health may spend up to \$4,000,000 to make grants for construction or renovation of facilities as provided for in section 2354(a)(5)(B) of the Public Health Service Act.

BUILDINGS AND FACILITIES

For the study of, construction of, renovation of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, \$121,081,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act ("PHS Act") with respect to substance abuse and mental health services, the Protection and Advocacy for Individuals with Mental Illness Act, and section 301 of the PHS Act with respect to program management, \$3,291,543,000, of which \$19,120,000 shall be available for the projects and in the amounts specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act): *Provided*, That notwithstanding section 520A(f)(2) of the PHS Act, no funds appropriated for carrying out section 520A are available for carrying out section 1971 of the PHS Act: *Provided further*, That in addition to amounts provided herein, the following amounts shall be available under section 241 of the PHS Act: (1) \$79,200,000 to carry out subpart II of part B of title XIX of the PHS Act to fund section 1935(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1935(b) activities shall not exceed 5 percent of the amounts appropriated for subpart II of part B of title XIX; (2) \$21,413,000 to fund section 1920(b) technical assistance, national data, data collection and evaluation activities, and further that the total available

under this Act for section 1920(b) activities shall not exceed 5 percent of the amounts appropriated for subpart I of part B of title XIX; (3) \$17,750,000 to carry out national surveys on drug abuse; and (4) \$4,300,000 to evaluate substance abuse treatment programs: *Provided further*, That section 520E(b)(2) of the Public Health Service Act shall not apply to funds appropriated under this Act for fiscal year 2008.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 937(c) of the Public Health Service Act shall not exceed \$334,564,000.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, \$141,628,056,000, to remain available until expended.

For making, after May 31, 2008, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2008 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act for the first quarter of fiscal year 2009, \$67,292,669,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under section 1844 and 1860D–16 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, \$188,445,000,000.

In addition, for making matching payments under section 1844, and benefit payments under section 1860D–16 of the Social Security Act, not anticipated in budget estimates, such sums as may be necessary.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII

of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed \$3,207,690,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and section 1857(e)(2) of the Social Security Act, funds retained by the Secretary pursuant to section 302 of the Tax Relief and Health Care Act of 2006; and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: *Provided further*, That \$45,000,000, to remain available until September 30, 2009, is for contract costs for the Healthcare Integrated General Ledger Accounting System: *Provided further*, That \$193,000,000, to remain available until September 30, 2009, is for CMS Medicare contracting reform activities: *Provided further*, That funds appropriated under this heading are available for the Healthy Start, Grow Smart program under which the Centers for Medicare and Medicaid Services may, directly or through grants, contracts, or cooperative agreements, produce and distribute informational materials including, but not limited to, pamphlets and brochures on infant and toddler health care to expectant parents enrolled in the Medicaid program and to parents and guardians enrolled in such program with infants and children: *Provided further*, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2008 from Medicare Advantage organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act: *Provided further*, That \$5,007,000 shall be available for the projects and in the amounts specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. chapter 9), \$2,949,713,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2009, \$1,000,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV–A of the Social Security Act before the effective date of the program of Temporary Assistance for Needy Families (TANF) with respect to such State, such sums as may be necessary: *Provided*, That the sum of the amounts available to a State with respect to expenditures under such title IV–A in fiscal year 1997 under this appropriation and under such title IV–A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. chapter 9), for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

LOW-INCOME HOME ENERGY ASSISTANCE

For making payments under section 2604(a)–(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(a)–(d)), \$2,015,206,000.

For making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), \$596,379,000, notwithstanding the designation requirement of section 2602(e) of such Act: *Provided*, That of the amount provided by this paragraph, \$250,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

REFUGEE AND ENTRANT ASSISTANCE

For necessary expenses for refugee and entrant assistance activities and for costs associated with the care and placement of unaccompanied alien children authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, for carrying out section 462 of the Homeland Security Act of 2002, and for carrying out the Torture Victims Relief Act of 1998, \$667,288,000, of which up to \$9,988,000 shall be available to carry out the Trafficking Victims Protection Act of 2000: *Provided*, That funds appropriated under this heading pursuant to section 414(a) of the Immigration and Nationality Act and section 462 of the Homeland Security Act of 2002 for fiscal year 2008 shall be available for the costs of assistance provided and other activities to remain available through September 30, 2010.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out the Child Care and Development Block Grant Act of 1990, \$2,098,746,000 shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: *Provided*, That \$18,777,370 shall be available for child care resource and referral and school-aged child care activities, of which \$982,080 shall be for the Child Care Aware toll-free hotline: *Provided further*, That, in addition to the amounts required to be reserved by the States under section 658G, \$267,785,718 shall be reserved by the States for activities authorized under section 658G, of which \$98,208,000 shall be for activities that improve the quality of infant and toddler care: *Provided further*, That \$9,821,000 shall be for use by the Secretary for child care research, demonstration, and evaluation activities.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, \$1,700,000,000: *Provided*, That notwithstanding subparagraph (B) of section 404(d)(2) of such Act, the applicable

percent specified under such subparagraph for a State to carry out State programs pursuant to title XX of such Act shall be 10 percent.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, sections 310 and 316 of the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (adoption opportunities), sections 330F and 330G of the Public Health Service Act, the Abandoned Infants Assistance Act of 1988, sections 261 and 291 of the Help America Vote Act of 2002, part B(1) of title IV and sections 413, 1110, and 1115 of the Social Security Act; for making payments under the Community Services Block Grant Act, sections 439(i), 473B, and 477(i) of the Social Security Act, and the Assets for Independence Act, and for necessary administrative expenses to carry out such Acts and titles I, IV, V, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. chapter 9), the Low-Income Home Energy Assistance Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and section 505 of the Family Support Act of 1988, \$9,129,990,000, of which \$4,400,000, to remain available until September 30, 2009, shall be for grants to States for adoption incentive payments, as authorized by section 473A of the Social Security Act and may be made for adoptions completed before September 30, 2008: *Provided*, That \$7,000,270,000 shall be for making payments under the Head Start Act, of which \$1,388,800,000 shall become available October 1, 2008, and remain available through September 30, 2009: *Provided further*, That \$705,451,000 shall be for making payments under the Community Services Block Grant Act: *Provided further*, That not less than \$8,000,000 shall be for section 680(3)(B) of the Community Services Block Grant Act: *Provided further*, That in addition to amounts provided herein, \$6,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the provisions of section 1110 of the Social Security Act: *Provided further*, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: *Provided further*, That the Secretary of Health and Human Services shall establish procedures regarding the disposition of intangible property which permits grant funds, or intangible assets acquired with funds authorized under section 680 of the Community Services Block Grant Act to become the sole property of such grantees after a period of not more than 12 years after the end of the grant for purposes and uses consistent with the original grant: *Provided further*, That funds appropriated for section 680(a)(2) of the Community Services Block Grant Act shall be available for financing construction and rehabilitation and loans or investments in private business enterprises owned by community development corporations: *Provided further*, That \$53,625,000 is for a compassion capital fund to provide grants

Procedures.
42 USC 9921
note.

to charitable organizations to emulate model social service programs and to encourage research on the best practices of social service organizations: *Provided further*, That \$17,720,000 shall be for activities authorized by the Help America Vote Act of 2002, of which \$12,370,000 shall be for payments to States to promote access for voters with disabilities, and of which \$5,350,000 shall be for payments to States for protection and advocacy systems for voters with disabilities: *Provided further*, That \$110,836,000 shall be for making competitive grants to provide abstinence education (as defined by section 510(b)(2) of the Social Security Act) to adolescents, and for Federal costs of administering the grant: *Provided further*, That grants under the immediately preceding proviso shall be made only to public and private entities which agree that, with respect to an adolescent to whom the entities provide abstinence education under such grant, the entities will not provide to that adolescent any other education regarding sexual conduct, except that, in the case of an entity expressly required by law to provide health information or services the adolescent shall not be precluded from seeking health information or services from the entity in a different setting than the setting in which abstinence education was provided: *Provided further*, That within amounts provided herein for abstinence education for adolescents, up to \$10,000,000 may be available for a national abstinence education campaign: *Provided further*, That in addition to amounts provided herein for abstinence education for adolescents, \$4,500,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out evaluations (including longitudinal evaluations) of adolescent pregnancy prevention approaches: *Provided further*, That up to \$2,000,000 shall be for improving the Public Assistance Reporting Information System, including grants to States to support data collection for a study of the system's effectiveness: *Provided further*, That \$17,301,000 shall be available for the projects and in the amounts specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

Abstinence
education.

PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 436 of the Social Security Act, \$345,000,000 and section 437, \$64,437,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV-E of the Social Security Act, \$5,067,000,000.

For making payments to States or other non-Federal entities under title IV-E of the Act, for the first quarter of fiscal year 2009, \$1,776,000,000.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under section 474 of title IV-E, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965 and section 398 of the Public Health Service Act, \$1,438,567,000, of which \$5,500,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions: *Provided*, That \$6,431,000 shall be available for the projects and in the amounts specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, the United States-Mexico Border Health Commission Act, and research studies under section 1110 of the Social Security Act, \$355,518,000, together with \$5,792,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund, and \$46,756,000 from the amounts available under section 241 of the Public Health Service Act to carry out national health or human services research and evaluation activities: *Provided*, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, \$13,120,000 shall be for activities specified under section 2003(b)(2), all of which shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX: *Provided further*, That of this amount, \$51,891,000 shall be for minority AIDS prevention and treatment activities; and \$5,892,000 shall be to assist Afghanistan in the development of maternal and child health clinics, consistent with section 103(a)(4)(H) of the Afghanistan Freedom Support Act of 2002; and \$1,000,000 shall be transferred, not later than 30 days after enactment of this Act, to the National Institute of Mental Health to administer the Interagency Autism Coordinating Committee: *Provided further*, That specific information requests from the chairmen and ranking members of the Subcommittees on Labor, Health and Human Services, and Education, and Related Agencies, on scientific research or any other matter, shall be transmitted to the Committees on Appropriations in a prompt, professional manner and within the time frame specified in the request: *Provided further*, That scientific information, including such information provided in congressional testimony, requested by the Committees on Appropriations and prepared by government researchers and scientists shall be transmitted to the Committees on Appropriations, uncensored and without delay: *Provided further*, That funds provided in this Act for embryo adoption activities may be used to provide, to individuals adopting embryos, through grants and other

Deadline.

mechanisms, medical and administrative services deemed necessary for such adoptions: *Provided further*, That such services shall be provided consistent with 42 CFR 59.5(a)(4): *Provided further*, That \$4,138,000 shall be available for the projects and in the amounts specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

OFFICE OF MEDICARE HEARINGS AND APPEALS

For expenses necessary for administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions of title XI of such Act), \$65,000,000, to be transferred in appropriate part from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

For expenses necessary for the Office of the National Coordinator for Health Information Technology, including grants, contracts and cooperative agreements for the development and advancement of an interoperable national health information technology infrastructure, \$42,402,000: *Provided*, That in addition to amounts provided herein, \$18,900,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out health information technology network development.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, including the hire of passenger motor vehicles for investigations, in carrying out the provisions of the Inspector General Act of 1978, \$44,000,000: *Provided*, That of such amount, necessary sums are available for providing protective services to the Secretary and investigating non-payment of child support cases for which non-payment is a Federal offense under 18 U.S.C. 228.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, \$31,628,000, together with not to exceed \$3,281,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. chapter 55), such amounts as may be required during the current fiscal year.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological and chemical threats to civilian populations, and for other public health emergencies, \$666,087,000, of which not to exceed \$21,804,000, to remain available until September 30, 2009, is to pay the costs described in section 319F-2(c)(7)(B) of the Public Health Service Act, and of which \$103,921,000 shall be used to support advanced research and development of medical countermeasures, consistent with section 319L of the Public Health Service Act.

For expenses necessary to prepare for and respond to an influenza pandemic, \$76,139,000.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed \$50,000 for official reception and representation expenses when specifically approved by the Secretary of Health and Human Services.

Government
employees.
Children and
youth.
AIDS.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I.

SEC. 204. None of the funds appropriated in this title for Head Start shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II.

SEC. 205. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the preparation and submission of a report by the Secretary of Health and Human Services to the Committees on Appropriations of the House of Representatives and the Senate detailing the planned uses of such funds.

SEC. 206. Notwithstanding section 241(a) of the Public Health Service Act, such portion as the Secretary of Health and Human Services shall determine, but not more than 2.4 percent, of any amounts appropriated for programs authorized under such Act shall be made available for the evaluation (directly, or by grants or contracts) of the implementation and effectiveness of such programs.

(TRANSFER OF FUNDS)

SEC. 207. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act

may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: *Provided*, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: *Provided further*, That the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of any transfer.

Notification.
Deadline.

(TRANSFER OF FUNDS)

SEC. 208. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes and centers from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: *Provided*, That the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of any transfer.

Notification.
Deadline.

(TRANSFER OF FUNDS)

SEC. 209. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of the National Institutes of Health and the Director of the Office of AIDS Research, shall be made available to the “Office of AIDS Research” account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 210. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 211. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 212. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare Advantage program if the Secretary of Health and Human Services denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: *Provided*, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity’s enrollees): *Provided further*, That nothing in this section shall be construed to change the Medicare program’s coverage for such services and a Medicare Advantage organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

Certification.
Deadline.
Tobacco and
tobacco products.

SEC. 213. (a) Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) if such State certifies to the Secretary of Health and Human Services by May 1, 2008, that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) The State is to maintain State expenditures in fiscal year 2008 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2007, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2007 State expenditures and all fiscal year 2008 obligations for tobacco prevention and compliance activities by program activity by July 31, 2008.

(d) The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2008.

(e) None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 of the Public Health Service Act from a territory that receives less than \$1,000,000.

Reports.
Deadline.

SEC. 214. In order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2008:

(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary of HHS") may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)). The Secretary of HHS shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and other applicable statutes administered by the Department of State.

(2) The Secretary of HHS is authorized to provide such funds by advance or reimbursement to the Secretary of State as may be necessary to pay the costs of acquisition, lease, alteration, renovation, and management of facilities outside of the United States for the use of the Department of Health and Human Services. The Department of State shall cooperate fully with the Secretary of HHS to ensure that the Department of Health and Human Services has secure, safe, functional facilities that comply with applicable regulation governing location, setback, and other facilities requirements and serve the purposes established by this Act. The Secretary of HHS is

authorized, in consultation with the Secretary of State, through grant or cooperative agreement, to make available to public or nonprofit private institutions or agencies in participating foreign countries, funds to acquire, lease, alter, or renovate facilities in those countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad.

SEC. 215. (a) **AUTHORITY.**—Notwithstanding any other provision of law, the Director of the National Institutes of Health (in this section referred to as the “Director of NIH”) may use funds available under section 402(b)(7) or 402(b)(12) of the Public Health Service Act to enter into transactions (other than contracts, cooperative agreements, or grants) to carry out research identified pursuant to such section 402(b)(7) (pertaining to the Common Fund) or research and activities described in such section 402(b)(12).

(b) **PEER REVIEW.**—In entering into transactions under subsection (a), the Director of the NIH may utilize such peer review procedures (including consultation with appropriate scientific experts) as the Director determines to be appropriate to obtain assessments of scientific and technical merit. Such procedures shall apply to such transactions in lieu of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494 of the Public Health Service Act.

Applicability.

SEC. 216. Funds which are available for Individual Learning Accounts for employees of the Centers for Disease Control and Prevention (“CDC”) and the Agency for Toxic Substances and Disease Registry (“ATSDR”) may be transferred to “Disease Control, Research, and Training”, to be available only for Individual Learning Accounts: *Provided*, That such funds may be used for any individual full-time equivalent employee while such employee is employed either by CDC or ATSDR.

SEC. 217. Notwithstanding any other provisions of law, funds made available in this Act may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408.

42 USC 2940
note.

SEC. 218. The Director of the National Institutes of Health shall require that all investigators funded by the NIH submit or have submitted for them to the National Library of Medicine’s PubMed Central an electronic version of their final, peer-reviewed manuscripts upon acceptance for publication, to be made publicly available no later than 12 months after the official date of publication: *Provided*, That the NIH shall implement the public access policy in a manner consistent with copyright law.

Public
information.
Deadline.

SEC. 219. (a) The Secretary of Health and Human Services is authorized to award a grant to the Delta Health Alliance, a nonprofit alliance of academic institutions in the Mississippi Delta region that has as its primary purposes addressing longstanding, unmet health needs and catalyzing economic development in the Mississippi Delta.

Grants.
Delta Health
Alliance.

(b) To be eligible to receive a grant under subsection (a), the Delta Health Alliance shall solicit and fund proposals from local governments, hospitals, health care clinics, academic institutions, and rural public health-related entities and organizations for research development, educational programs, health care services,

job training, and planning, construction, and equipment of public health-related facilities in the Mississippi Delta region.

(c) With respect to the use of grant funds under this section for construction or major alteration of property, the Federal interest in the property involved shall last for a period of 1 year following the completion of the project or until such time that the Federal Government is compensated for its proportionate interest in the property if the property use changes or the property is transferred or sold, whichever time period is less. At the conclusion of such period, the Notice of Federal Interest in such property shall be removed.

(d) There are authorized to be appropriated such sums as may be necessary to carry out this section in fiscal year 2008 and in each of the five succeeding fiscal years.

SEC. 220. Not to exceed \$35,000,000 of funds appropriated by this Act to the institutes and centers of the National Institutes of Health may be used for alteration, repair, or improvement of facilities, as necessary for the proper and efficient conduct of the activities authorized herein, at not to exceed \$2,500,000 per project.

(TRANSFER OF FUNDS)

SEC. 221. Of the amounts made available in this Act for the National Institutes of Health, 1 percent of the amount made available for National Research Service Awards (NRSA) shall be made available to the Administrator of the Health Resources and Services Administration to make NRSA awards for research in primary medical care to individuals affiliated with entities who have received grants or contracts under section 747 of the Public Health Service Act, and 1 percent of the amount made available for NRSA shall be made available to the Director of the Agency for Healthcare Research and Quality to make NRSA awards for health service research.

SEC. 222. None of the funds made available in this Act may be used—

(1) for the Ombudsman Program of the Centers for Disease Control and Prevention; and

(2) by the Centers for Disease Control and Prevention to provide additional rotating pastel lights, zero-gravity chairs, or dry-heat saunas for its fitness center.

42 USC 3514a.

SEC. 223. There is hereby established in the Treasury of the United States a fund to be known as the “Nonrecurring expenses fund” (the Fund): *Provided*, That unobligated balances of expired discretionary funds appropriated for this or any succeeding fiscal year from the General Fund of the Treasury to the Department of Health and Human Services by this or any other Act may be transferred (not later than the end of the fifth fiscal year after the last fiscal year for which such funds are available for the purposes for which appropriated) into the Fund: *Provided further*, That amounts deposited in the Fund shall be available until expended, and in addition to such other funds as may be available for such purposes, for capital acquisition necessary for the operation of the Department, including facilities infrastructure and information technology infrastructure, subject to approval by the Office of Management and Budget: *Provided further*, That amounts in the Fund may be obligated only after the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of the planned use of funds.

Notification.
Deadline.

(RESCISSION OF FUNDS)

SEC. 224. Of the funds available within the Health Professions Student Loan program authorized in subpart II, Federally-Supported Student Loan Funds, of title VII of the Public Health Service Act, \$15,000,000 are rescinded.

SEC. 225. (a) CONTINUATION OF AVAILABILITY OF PERMITTED NUMBER OF MEDICAL RESIDENCY POSITIONS UNDER THE MEDICARE PROGRAM.—Section 1886(h)(4)(H) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(H)) is amended by adding at the end the following:

“(v) SPECIAL PROVIDER AGREEMENT.—If an entity enters into a provider agreement pursuant to section 1866(a) to provide hospital services on the same physical site previously used by Medicare Provider No. 05-0578—

“(I) the limitation on the number of total full time equivalent residents under subparagraph (F) and clauses (v) and (vi)(I) of subsection (d)(5)(B) applicable to such provider shall be equal to the limitation applicable under such provisions to Provider No. 05-0578 for its cost reporting period ending on June 30, 2006; and

“(II) the provisions of subparagraph (G) and subsection (d)(5)(B)(vi)(II) shall not be applicable to such provider for the first three cost reporting years in which such provider trains residents under any approved medical residency training program.”.

(b) TECHNICAL CORRECTION OF SECTION 422 OF MMA.—

(1) IN GENERAL.—Section 1886(h)(7) of the Social Security Act (42 U.S.C. 1395ww(h)(7)) is amended—

(A) by redesignating subparagraph (D) as subparagraph (E); and

(B) by inserting after subparagraph (C) the following new subparagraph:

“(D) ADJUSTMENT BASED ON SETTLED COST REPORT.—Applicability.
In the case of a hospital with a dual accredited osteopathic and allopathic family practice program for which—

“(i) the otherwise applicable resident limit was reduced under subparagraph (A)(i)(I); and

“(ii) such reduction was based on a reference resident level that was determined using a cost report and where a revised or corrected notice of program reimbursement was issued for such cost report between September 1, 2006 and September 15, 2006, whether as a result of an appeal or otherwise, and the reference resident level under such settled cost report is higher than the level used for the reduction under subparagraph (A)(i)(I);

the Secretary shall apply subparagraph (A)(i)(I) using the higher resident reference level and make any necessary adjustments to such reduction. Any such necessary adjustments shall be effective for portions of cost reporting periods occurring on or after July 1, 2005.”.

(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendments made by paragraph (1) shall take effect as if included

42 USC 1395ww
note.

in the enactment of section 422 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

(c) OFFSETTING COSTS.—

(1) IN GENERAL.—The amount of funds available to the Physician Assistance and Quality Initiative Fund for expenditures—

(A) under the first sentence of section 1848(l)(2)(A) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)(A)) is reduced by \$500,000; and

(B) under the first amount in the second sentence of such section is reduced by \$24,500,000.

(2) CONFORMING AMENDMENTS.—Section 1848(l)(2)(A) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)(A)) is amended—

(A) in the first sentence, by inserting after “\$1,350,000,000” the following: “, as reduced by section 524 and section 225(c)(1)(A) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008 (division G of the Consolidated Appropriations Act, 2008)”; and

(B) in the second sentence, by inserting after “\$325,000,000” the following: “, as reduced by section 225(c)(1)(B) of such Act,”.

This title may be cited as the “Department of Health and Human Services Appropriations Act, 2008”.

Department of
Education
Appropriations
Act, 2008.

TITLE III

DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965 (“ESEA”) and section 418A of the Higher Education Act of 1965, \$15,755,083,000, of which \$7,639,035,000 shall become available on July 1, 2008, and shall remain available through September 30, 2009, and of which \$7,934,756,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009, for academic year 2008–2009: *Provided*, That \$6,835,271,000 shall be for basic grants under section 1124: *Provided further*, That up to \$4,000,000 of these funds shall be available to the Secretary of Education on October 1, 2007, to obtain annually updated local educational-agency-level census poverty data from the Bureau of the Census: *Provided further*, That \$1,365,031,000 shall be for concentration grants under section 1124A: *Provided further*, That \$2,967,949,000 shall be for targeted grants under section 1125: *Provided further*, That \$2,967,949,000 shall be for education finance incentive grants under section 1125A: *Provided further*, That \$9,330,000 shall be to carry out sections 1501 and 1503: *Provided further*, That \$1,634,000 shall be available for a comprehensive school reform clearinghouse.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, \$1,262,778,000, of which \$1,125,192,000 shall be for basic support payments under section

8003(b), \$49,466,000 shall be for payments for children with disabilities under section 8003(d), \$17,820,000 shall be for construction under section 8007(b) and shall remain available through September 30, 2009, \$65,350,000 shall be for Federal property payments under section 8002, and \$4,950,000, to remain available until expended, shall be for facilities maintenance under section 8008: *Provided*, That for purposes of computing the amount of a payment for an eligible local educational agency under section 8003(a) for school year 2007–2008, children enrolled in a school of such agency that would otherwise be eligible for payment under section 8003(a)(1)(B) of such Act, but due to the deployment of both parents or legal guardians, or a parent or legal guardian having sole custody of such children, or due to the death of a military parent or legal guardian while on active duty (so long as such children reside on Federal property as described in section 8003(a)(1)(B)), are no longer eligible under such section, shall be considered as eligible students under such section, provided such students remain in average daily attendance at a school in the same local educational agency they attended prior to their change in eligibility status.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by title II, part B of title IV, subparts 6 and 9 of part D of title V, parts A and B of title VI, and parts B and C of title VII of the Elementary and Secondary Education Act of 1965 (“ESEA”); the McKinney-Vento Homeless Assistance Act; section 203 of the Educational Technical Assistance Act of 2002; the Compact of Free Association Amendments Act of 2003; and the Civil Rights Act of 1964, \$5,383,119,000, of which \$3,763,355,000 shall become available on July 1, 2008, and remain available through September 30, 2009, and of which \$1,435,000,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009, for academic year 2008–2009: *Provided*, That funds made available to carry out part B of title VII of the ESEA may be used for construction, renovation and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body: *Provided further*, That from the funds referred to in the preceding proviso, not less than \$1,250,000 shall be for a grant to the Department of Education of the State of Hawaii for the activities described in such proviso, and \$1,250,000 shall be for a grant to the University of Hawaii School of Law for a Center of Excellence in Native Hawaiian law: *Provided further*, That funds made available to carry out part C of title VII of the ESEA may be used for construction: *Provided further*, That up to 100 percent of the funds available to a State educational agency under part D of title II of the ESEA may be used for subgrants described in section 2412(a)(2)(B) of such Act: *Provided further*, That \$58,129,000 shall be available to carry out section 203 of the Educational Technical Assistance Act of 2002: *Provided further*, That \$33,707,000 shall be available to carry out part D of title V of the ESEA: *Provided further*, That no funds appropriated under this heading may be used to carry out section 5494 under the ESEA: *Provided further*, That \$18,001,000 shall be available

to carry out the Supplemental Education Grants program for the Federated States of Micronesia and the Republic of the Marshall Islands: *Provided further*, That up to 5 percent of these amounts may be reserved by the Federated States of Micronesia and the Republic of the Marshall Islands to administer the Supplemental Education Grants programs and to obtain technical assistance, oversight and consultancy services in the administration of these grants and to reimburse the United States Departments of Labor, Health and Human Services, and Education for such services: *Provided further*, That \$2,400,000 of the funds available for the Foreign Language Assistance Program shall be available for 5-year grants to local educational agencies that would work in partnership with one or more institutions of higher education to establish or expand articulated programs of study in languages critical to United States national security that will enable successful students to advance from elementary school through college to achieve a superior level of proficiency in those languages.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title VII, part A of the Elementary and Secondary Education Act of 1965, \$121,690,000.

INNOVATION AND IMPROVEMENT

For carrying out activities authorized by part G of title I, subpart 5 of part A and parts C and D of title II, parts B, C, and D of title V, and section 1504 of the Elementary and Secondary Education Act of 1965 (“ESEA”), \$1,003,040,000: *Provided*, That \$9,821,000 shall be provided to the National Board for Professional Teaching Standards to carry out section 2151(c) of the ESEA: *Provided further*, That from funds for subpart 4, part C of title II, up to 3 percent shall be available to the Secretary for technical assistance and dissemination of information: *Provided further*, That \$357,059,000 shall be available to carry out part D of title V of the ESEA: *Provided further*, That \$100,573,000 of the funds for subpart 1, part D of title V of the ESEA shall be available for the projects and in the amounts specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act): *Provided further*, That \$99,000,000 of the funds for subpart 1 shall be for competitive grants to local educational agencies, including charter schools that are local educational agencies, or States, or partnerships of: (1) a local educational agency, a State, or both; and (2) at least one non-profit organization to develop and implement performance-based teacher and principal compensation systems in high-need schools: *Provided further*, That such performance-based compensation systems must consider gains in student academic achievement as well as classroom evaluations conducted multiple times during each school year among other factors and provide educators with incentives to take on additional responsibilities and leadership roles: *Provided further*, That up to 5 percent of such funds for competitive grants shall be available for technical assistance, training, peer review of applications, program outreach and evaluation activities: *Provided further*, That of the funds available for part B of title V, the Secretary shall use up to \$24,783,000 to carry out activities under section 5205(b) and under subpart 2, and shall use not less than

\$190,000,000 to carry out other activities authorized under subpart 1.

SAFE SCHOOLS AND CITIZENSHIP EDUCATION

For carrying out activities authorized by subpart 3 of part C of title II, part A of title IV, and subparts 2, 3, and 10 of part D of title V of the Elementary and Secondary Education Act of 1965 (“ESEA”), \$705,733,000, of which \$300,000,000 shall become available on July 1, 2008, and remain available through September 30, 2009: *Provided*, That \$300,000,000 shall be available for subpart 1 of part A of title IV and \$222,519,000 shall be available for subpart 2 of part A of title IV, of which not less than \$1,500,000, to remain available until expended, shall be for the Project School Emergency Response to Violence (“Project SERV”) program to provide education-related services to local educational agencies and to institutions of higher education in which the learning environment has been disrupted due to a violent or traumatic crisis: *Provided further*, That Project SERV funds appropriated in previous fiscal years may be used to provide services to local educational agencies and to institutions of higher education in which the learning environment has been disrupted due to a violent or traumatic crisis: *Provided further*, That \$150,729,000 shall be available to carry out part D of title V of the ESEA: *Provided further*, That of the funds available to carry out subpart 3 of part C of title II, up to \$12,072,000 may be used to carry out section 2345 and \$2,950,000 shall be used by the Center for Civic Education to implement a comprehensive program to improve public knowledge, understanding, and support of the Congress and the State legislatures.

ENGLISH LANGUAGE ACQUISITION

For carrying out part A of title III of the Elementary and Secondary Education Act of 1965, \$712,848,000, which shall become available on July 1, 2008, and shall remain available through September 30, 2009, except that 6.5 percent of such amount shall be available on October 1, 2007, and shall remain available through September 30, 2009, to carry out activities under section 3111(c)(1)(C).

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act (“IDEA”) and the Special Olympics Sport and Empowerment Act of 2004, \$12,181,473,000, of which \$5,084,406,000 shall become available on July 1, 2008, and shall remain available through September 30, 2009, and of which \$6,856,444,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009, for academic year 2008–2009: *Provided*, That \$13,000,000 shall be for Recording for the Blind and Dyslexic, Inc., to support activities under section 674(c)(1)(D) of the IDEA: *Provided further*, That \$1,500,000 shall be for the recipient of funds provided by Public Law 105–78 under section 687(b)(2)(G) of the IDEA (as in effect prior to the enactment of the Individuals with Disabilities Education Improvement Act of 2004) to provide information on diagnosis, intervention, and teaching strategies for children with disabilities: *Provided further*, That the amount for

section 611(b)(2) of the IDEA shall be equal to the lesser of the amount available for that activity during fiscal year 2007, increased by the amount of inflation as specified in section 619(d)(2)(B) of the IDEA, or the percentage increase in the funds appropriated under section 611(i) of the IDEA: *Provided further*, That nothing in section 674(e) of the IDEA shall be construed to establish a private right of action against the National Instructional Materials Access Center for failure to perform the duties of such center or otherwise authorize a private right of action related to the performance of such center: *Provided further*, That \$7,500,000 shall be available to support the 2009 Special Olympics World Winter Games.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998, and the Helen Keller National Center Act, \$3,283,929,000, of which \$1,000,000 shall be awarded to the American Academy of Orthotists and Prosthetists for activities that further the purposes of the grant received by the Academy for the period beginning October 1, 2003, including activities to meet the demand for orthotic and prosthetic provider services and improve patient care: *Provided*, That \$3,155,000 of the funds for section 303 of the Rehabilitation Act of 1973 shall be available for the projects and in the amounts specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, \$22,000,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986, \$60,757,000, of which \$1,705,000 shall be for construction and shall remain available until expended: *Provided*, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207 of such Act.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986, \$115,400,000: *Provided*, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

CAREER, TECHNICAL, AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Career and Technical Education Act of 2006, the Adult Education and Family Literacy Act, subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965 (“ESEA”) and title VIII–D of the Higher Education Amendments

of 1998, \$1,976,166,000, of which \$4,077,000 shall become available on October 1, 2007 and remain available until September 30, 2009, of which \$1,181,089,000 shall become available on July 1, 2008, and shall remain available through September 30, 2009, and of which \$791,000,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009: *Provided*, That of the amount provided for Adult Education State Grants, \$67,896,000 shall be made available for integrated English literacy and civics education services to immigrants and other limited English proficient populations: *Provided further*, That of the amount reserved for integrated English literacy and civics education, notwithstanding section 211 of the Adult Education and Family Literacy Act, 65 percent shall be allocated to States based on a State's absolute need as determined by calculating each State's share of a 10-year average of the United States Citizenship and Immigration Services data for immigrants admitted for legal permanent residence for the 10 most recent years, and 35 percent allocated to States that experienced growth as measured by the average of the 3 most recent years for which United States Citizenship and Immigration Services data for immigrants admitted for legal permanent residence are available, except that no State shall be allocated an amount less than \$60,000: *Provided further*, That of the amounts made available for the Adult Education and Family Literacy Act, \$7,000,000 shall be for national leadership activities under section 243 and \$6,583,000 shall be for the National Institute for Literacy under section 242: *Provided further*, That \$81,532,000 shall be available to support the activities authorized under subpart 4 of part D of title V of the ESEA, of which up to 5 percent shall become available October 1, 2007, and shall remain available through September 30, 2009, for evaluation, technical assistance, school networks, peer review of applications, and program outreach activities, and of which not less than 95 percent shall become available on July 1, 2008, and remain available through September 30, 2009, for grants to local educational agencies: *Provided further*, That funds made available to local educational agencies under this subpart shall be used only for activities related to establishing smaller learning communities within large high schools or small high schools that provide alternatives for students enrolled in large high schools.

STUDENT FINANCIAL ASSISTANCE

(INCLUDING RESCISSION)

For carrying out subparts 1, 3, and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, \$16,114,317,000, which shall remain available through September 30, 2009.

The maximum Pell Grant for which a student shall be eligible during award year 2008–2009 shall be \$4,241.

Of the unobligated funds available under section 401A(e)(1)(C) of the Higher Education Act of 1965, \$525,000,000 are rescinded.

20 USC 1070a
note.

STUDENT AID ADMINISTRATION

For Federal administrative expenses to carry out part D of title I, and subparts 1, 3, and 4 of part A, and parts B, C, D,

and E of title IV of the Higher Education Act of 1965, \$708,216,000, which shall remain available until expended.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles II, III, IV, V, VI, and VII of the Higher Education Act of 1965 (“HEA”), section 1543 of the Higher Education Amendments of 1992, the Mutual Educational and Cultural Exchange Act of 1961, title VIII of the Higher Education Amendments of 1998, part I of subtitle A of title VI of the America COMPETES Act, and section 117 of the Carl D. Perkins Career and Technical Education Act of 2006, \$2,057,801,000: *Provided*, That \$9,699,000, to remain available through September 30, 2009, shall be available to fund fellowships for academic year 2009–2010 under subpart 1 of part A of title VII of the HEA, under the terms and conditions of such subpart 1: *Provided further*, That \$620,000 is for data collection and evaluation activities for programs under the HEA, including such activities needed to comply with the Government Performance and Results Act of 1993: *Provided further*, That notwithstanding any other provision of law, funds made available in this Act to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be used to support visits and study in foreign countries by individuals who are participating in advanced foreign language training and international studies in areas that are vital to United States national security and who plan to apply their language skills and knowledge of these countries in the fields of government, the professions, or international development: *Provided further*, That of the funds referred to in the preceding proviso up to 1 percent may be used for program evaluation, national outreach, and information dissemination activities: *Provided further*, That the funds provided for title II of the HEA shall be allocated notwithstanding section 210 of such Act: *Provided further*, That \$100,668,000 of the funds for part B of title VII of the Higher Education Act of 1965 shall be available for the projects and in the amounts specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

HOWARD UNIVERSITY

For partial support of Howard University, \$237,392,000, of which not less than \$3,526,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses to carry out activities related to existing facility loans pursuant to section 121 of the Higher Education Act of 1965, \$481,000.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING PROGRAM ACCOUNT

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into

pursuant to part D of title III of the Higher Education Act of 1965, \$188,000.

INSTITUTE OF EDUCATION SCIENCES

For carrying out activities authorized by the Education Sciences Reform Act of 2002, the National Assessment of Educational Progress Authorization Act, section 208 of the Educational Technical Assistance Act of 2002, and section 664 of the Individuals with Disabilities Education Act, \$555,815,000, of which \$293,155,000 shall be available until September 30, 2009: *Provided*, That of the amount available to carry out section 208 of the Educational Technical Assistance Act, up to \$5,000,000 may be used for State data coordinators and for awards to entities, including entities other than States, to improve data coordination.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, \$418,587,000, of which \$2,100,000, to remain available until expended, shall be for building alterations and related expenses for the move of Department staff to the Mary E. Switzer building in Washington, DC.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$91,205,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$51,753,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

Racial
desegregation.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade

restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated in this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: *Provided further*, That the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of any transfer.

Notification.
Deadline.

SEC. 305. None of the funds made available in this Act may be used to promulgate, implement, or enforce any revision to the regulations in effect under section 496 of the Higher Education Act of 1965 on June 1, 2007, until legislation specifically requiring such revision is enacted.

Deadlines.
20 USC 3490.
Procedures.

SEC. 306. (a) MAINTENANCE OF INTEGRITY AND ETHICAL VALUES WITHIN DEPARTMENT OF EDUCATION.—Within 60 days after the enactment of this Act, the Secretary of Education shall implement procedures—

(1) to assess whether a covered individual or entity has a potential financial interest in, or impaired objectivity towards, a product or service purchased with, or guaranteed or insured by, funds administered by the Department of Education or a contracted entity of the Department; and

(2) to disclose the existence of any such potential financial interest or impaired objectivity.

(b) REVIEW BY INSPECTOR GENERAL.—

(1) Within 60 days after the implementation of the procedures described in subsection (a), the Inspector General of the Department of Education shall report to the Committees on Appropriations of the House of Representatives and the Senate on the adequacy of such procedures.

(2) Within 1 year, the Inspector General shall conduct at least 1 review to ensure that such procedures are properly implemented and are effective to uncover and disclose the existence of potential financial interests or impaired objectivity described in subsection (a).

Reports.

(3) The Inspector General shall report to such Committees any recommendations for modifications to such procedures that the Inspector General determines are necessary to uncover and disclose the existence of such potential financial interests or impaired objectivity.

(c) DEFINITION.—For purposes of this section, the term “covered individual or entity” means—

(1) an officer or professional employee of the Department of Education;

(2) a contractor or subcontractor of the Department, or an individual hired by the contracted entity;

(3) a member of a peer review panel of the Department;
or

(4) a consultant or advisor to the Department.

SEC. 307. (a) Notwithstanding section 8013(9)(B) of the Elementary and Secondary Education Act of 1965, North Chicago Community Unit School District 187, North Shore District 112, and Township High School District 113 in Lake County, Illinois, and Glenview Public School District 34 and Glenbrook High School District 225 in Cook County, Illinois, shall be considered local educational agencies as such term is used in and for purposes of title VIII of such Act for fiscal years 2008 and 2009.

(b) Notwithstanding any other provision of law, federally connected children (as determined under section 8003(a) of the Elementary and Secondary Education Act of 1965) who are in attendance in the North Shore District 112, Township High School District 113, Glenview Public School District 34, and Glenbrook High School District 225 described in subsection (a), shall be considered to be in attendance in the North Chicago Community Unit School District 187 described in subsection (a) for purposes of computing the amount that the North Chicago Community Unit School District 187 is eligible to receive under subsection (b) or (d) of such section for fiscal years 2008 and 2009 if—

(1) such school districts have entered into an agreement for such students to be so considered and for the equitable apportionment among all such school districts of any amount received by the North Chicago Community Unit School District 187 under such section; and

(2) any amount apportioned among all such school districts pursuant to paragraph (1) is used by such school districts only for the direct provision of educational services.

SEC. 308. Prior to January 1, 2008, the Secretary of Education may not terminate any voluntary flexible agreement under section 428A of the Higher Education Act of 1965 that existed on October 1, 2007. With respect to an entity with which the Secretary of Education had a voluntary flexible agreement under section 428A of the Higher Education Act of 1965 on October 1, 2007 that is not cost neutral, if the Secretary terminates such agreement on or after January 1, 2008, the Secretary of Education shall, not later than March 31, 2008, negotiate to enter, and enter, into a new voluntary flexible agreement with such entity so that the agreement is cost neutral, unless such entity does not want to enter into such agreement.

SEC. 309. Notwithstanding section 102(a)(4)(A) of the Higher Education Act of 1965, the Secretary of Education shall not take into account a bankruptcy petition filed in the United States Bankruptcy Court for the Northern District of New York on February 21, 2001, in determining whether a nonprofit educational institution that is a subsidiary of an entity that filed such petition meets the definition of an “institution of higher education” under section 102 of that Act.

(RESCISSION OF FUNDS)

SEC. 310. Of the unobligated balances available under the Federal Direct Student Loan Program Administration authorized by section 458 of the Higher Education Act and the Higher Education Reconciliation Act of 2005, \$25,000,000 are rescinded.

SEC. 311. The Secretary of Education shall—

(1) deem each local educational agency that received a fiscal year 2007 basic support payment for heavily impacted local educational agencies under section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) as eligible to receive a fiscal year 2008 basic support payment for heavily impacted local educational agencies under such section; and

(2) make a payment to such local educational agency under such section for fiscal year 2008.

This title may be cited as the “Department of Education Appropriations Act, 2008”.

TITLE IV

RELATED AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For expenses necessary of the Committee for Purchase From People Who Are Blind or Severely Disabled established by Public Law 92–28, \$4,994,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service to carry out the Domestic Volunteer Service Act of 1973 (“1973 Act”) and the National and Community Service Act of 1990 (“1990 Act”), \$796,662,000, of which \$313,054,000 is to carry out the 1973 Act and \$483,608,000 is to carry out the 1990 Act: *Provided*, That \$24,205,000 of the amount provided under this heading shall remain available until September 30, 2009 to carry out subtitle E of the 1990 Act: *Provided further*, That up to 1 percent of program grant funds may be used to defray the costs of conducting grant application reviews, including the use of outside peer reviewers and electronic management of the grants cycle: *Provided further*, That none of the funds made available under this heading for activities authorized by section 122 and part E of title II of the 1973 Act shall be used to provide stipends or other monetary incentives to program participants or volunteer leaders whose incomes exceed the income guidelines in subsections 211(e) and 213(b) of the 1973 Act: *Provided further*, That notwithstanding subtitle H of title I of the 1990 Act, none of the funds provided for quality and innovation activities shall be used to support salaries and related expenses (including travel) attributable to Corporation for National and Community Service employees: *Provided further*, That, for fiscal year 2008 and thereafter, in addition to amounts otherwise provided to the National Service Trust under this heading, at no later than the end of the fifth fiscal year after the fiscal year for which funds are appropriated or otherwise made available, unobligated balances of appropriations available for grants under the National Service Trust Program

under subtitle C of title I of the 1990 Act during such fiscal year may be transferred to the National Service Trust after notice is transmitted to Congress, if such funds are initially obligated before the expiration of their period of availability as provided in this Act: *Provided further*, That of the amounts provided under this heading: (1) not less than \$124,718,000, to remain available until expended, to be transferred to the National Service Trust for educational awards authorized under subtitle D of title I of the 1990 Act: *Provided further*, That in addition to these funds, the Corporation may transfer funds from the amount provided for AmeriCorps grants under the National Service Trust Program, to the National Service Trust authorized under subtitle D of title I of the 1990 Act, upon determination that such transfer is necessary to support the activities of national service participants and after notice is transmitted to the Congress; (2) not more than \$55,000,000 of funding provided for grants under the National Service Trust program authorized under subtitle C of title I of the 1990 Act may be used to administer, reimburse, or support any national service program authorized under section 129(d)(2) of such Act; (3) \$12,000,000 shall be to provide assistance to State commissions on national and community service, under section 126(a) of the 1990 Act and notwithstanding section 501(a)(4) of the 1990 Act; and (4) not less than \$5,000,000 shall be for the acquisition, renovation, equipping and startup costs for a campus located in Vinton, Iowa and a campus in Vicksburg, Mississippi to carry out subtitle E of title I of the 1990 Act.

SALARIES AND EXPENSES

For necessary expenses of administration as provided under section 501(a)(4) of the National and Community Service Act of 1990 and under section 504(a) of the Domestic Volunteer Service Act of 1973, including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, the employment of experts and consultants authorized under 5 U.S.C. 3109, and not to exceed \$2,500 for official reception and representation expenses, \$68,964,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, \$5,932,000.

ADMINISTRATIVE PROVISIONS

SEC. 401. Notwithstanding any other provision of law, the term “qualified student loan” with respect to national service education awards shall mean any loan determined by an institution of higher education to be necessary to cover a student’s cost of attendance at such institution and made, insured, or guaranteed directly to a student by a State agency, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

SEC. 402. Notwithstanding any other provision of law, funds made available under section 129(d)(5)(B) of the National and Community Service Act of 1990 to assist entities in placing applicants who are individuals with disabilities may be provided to any entity that receives a grant under section 121 of the Act.

Notice.

SEC. 403. The Corporation for National and Community Service shall make any significant changes to program requirements, service delivery or policy only through public notice and comment rulemaking. For fiscal year 2008, during any grant selection process, an officer or employee of the Corporation shall not knowingly disclose any covered grant selection information regarding such selection, directly or indirectly, to any person other than an officer or employee of the Corporation that is authorized by the Corporation to receive such information.

SEC. 404. Professional Corps programs described in section 122(a)(8) of the National and Community Service Act of 1990 may apply to the Corporation for a waiver of application of section 140(c)(2).

SEC. 405. Notwithstanding section 1342 of title 31, United States Code, the Corporation may solicit and accept the services of organizations and individuals (other than participants) to assist the Corporation in carrying out the duties of the Corporation under the national service laws: *Provided*, That an individual who provides services under this section shall be subject to the same protections and limitations as volunteers under section 196(a) of the National and Community Service Act of 1990.

SEC. 406. Organizations operating projects under the AmeriCorps Education Awards Program shall do so without regard to the requirements of sections 121(d) and (e), 131(e), 132, and 140(a), (d), and (e) of the National and Community Service Act of 1990.

SEC. 407. AmeriCorps programs receiving grants under the National Service Trust program shall meet an overall minimum share requirement of 24 percent for the first three years that they receive AmeriCorps funding, and thereafter shall meet the overall minimum share requirement as provided in section 2521.60 of title 45, Code of Federal Regulations, without regard to the operating costs match requirement in section 121(e) or the member support Federal share limitations in section 140 of the National and Community Service Act of 1990, and subject to partial waiver consistent with section 2521.70 of title 45, Code of Federal Regulations.

SEC. 408. Notwithstanding any other provision of law, formula-based grants to States and territories under section 129(a)(1)–(2) of the 1990 Act to operate AmeriCorps programs may be made if the application describes proposed positions into which participants will be placed, the proposed minimum qualifications of such participants, and an assurance that the State will select national service programs for subgrants on a competitive basis, and an assurance that the aforementioned information will be provided for each subgrant awarded prior to the execution of such subgrants.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2010, \$420,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available

or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: *Provided further*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to apply any political test or qualification in selecting, appointing, promoting, or taking any other personnel action with respect to officers, agents, and employees of the Corporation: *Provided further*, That for fiscal year 2008, in addition to the amounts provided above, \$29,700,000 shall be for costs related to digital program production, development, and distribution, associated with the transition of public broadcasting to digital broadcasting, to be awarded as determined by the Corporation in consultation with public radio and television licensees or permittees, or their designated representatives: *Provided further*, That for fiscal year 2008, in addition to the amounts provided above, \$26,750,000 is available pursuant to section 396(k)(10) of the Communications Act of 1934 for replacement and upgrade of the public radio interconnection system: *Provided further*, That none of the funds made available to the Corporation for Public Broadcasting by this Act, the Continuing Appropriations Resolution, 2007 (Public Law 110-5), or the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006 (Public Law 109-149), shall be used to support the Television Future Fund or any similar purpose.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947, including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978; and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454, \$43,800,000: *Provided*, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further*, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further*, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission, \$8,096,000.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM AND LIBRARY SERVICES: GRANTS AND
ADMINISTRATION

For carrying out the Museum and Library Services Act of 1996 and the National Museum of African American History and Culture Act, \$268,193,000, of which \$18,610,000 shall be available for library, museum and related projects and in the amounts specified in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act): *Provided*, That funds may be made available for support through inter-agency agreement or grant to commemorative Federal commissions that support museum and library activities, in partnership with libraries and museums that are eligible for funding under programs carried out by the Institute of Museum and Library Services.

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, \$10,748,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For close out activities of the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345, as amended), \$400,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, \$3,113,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, and other laws, \$256,238,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935, and as amended by the Labor-Management Relations Act, 1947, and as defined in section 3(f) of the Act of June 25, 1938, and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, including emergency boards appointed by the President, \$12,911,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission, \$10,696,000.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, \$79,000,000, which shall include amounts becoming available in fiscal year 2008 pursuant to section 224(c)(1)(B) of Public Law 98-76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds the amount available for payment of vested dual benefits: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, \$150,000, to remain available through September 30, 2009, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, \$103,694,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, not more than \$7,173,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative

45 USC 231f
note.

services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office: *Provided further*, That funds made available under the heading in this Act, or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be used for any audit, investigation, or review of the Medicare Program.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act, \$28,140,000.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, \$27,000,191,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2009, \$14,800,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed \$15,000 for official reception and representation expenses, not more than \$9,781,842,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That not less than \$2,000,000 shall be for the Social Security Advisory Board: *Provided further*, That unobligated balances of funds provided under this paragraph at the end of fiscal year 2008 not needed for fiscal year 2008 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure: *Provided further*, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations

pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made.

In addition, \$135,000,000 to be derived from administration fees in excess of \$5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93–66, which shall remain available until expended. To the extent that the amounts collected pursuant to such sections in fiscal year 2008 exceed \$135,000,000, the amounts shall be available in fiscal year 2009 only to the extent provided in advance in appropriations Acts.

In addition, up to \$1,000,000 to be derived from fees collected pursuant to section 303(c) of the Social Security Protection Act (Public Law 108–203), which shall remain available until expended.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$26,451,000, together with not to exceed \$67,098,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the “Limitation on Administrative Expenses”, Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: *Provided*, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House of Representatives and the Senate.

Notification.

TITLE V

GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act. Such transferred balances shall be used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

Lobbying.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract

recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are authorized to make available not to exceed \$28,000 and \$20,000, respectively, from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$5,000 from the funds available for “Federal Mediation and Conciliation Service, Salaries and expenses”; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed \$5,000 from funds available for “National Mediation Board, Salaries and expenses”.

Needle exchange.

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 506. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state—

(1) the percentage of the total costs of the program or project which will be financed with Federal money;

(2) the dollar amount of Federal funds for the project or program; and

(3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Abortion.

SEC. 507. (a) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for any abortion.

(b) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term “health benefits coverage” means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

Abortion.

SEC. 508. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State’s or locality’s contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering

abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

(d)(1) None of the funds made available in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

(2) In this subsection, the term “health care entity” includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

SEC. 509. (a) None of the funds made available in this Act may be used for—

Human embryos.

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term “human embryo or embryos” includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 510. (a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act (21 U.S.C. 812) except for normal and recognized executive-congressional communications.

Drugs and drug abuse.

(b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 511. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d–2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

SEC. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

Contracts.

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 513. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 514. None of the funds made available by this Act to carry out the Library Services and Technology Act may be made available to any library covered by paragraph (1) of section 224(f) of such Act, as amended by the Children's Internet Protection Act, unless such library has made the certifications required by paragraph (4) of such section.

SEC. 515. None of the funds made available by this Act to carry out part D of title II of the Elementary and Secondary Education Act of 1965 may be made available to any elementary or secondary school covered by paragraph (1) of section 2441(a) of such Act, as amended by the Children's Internet Protection Act and the No Child Left Behind Act, unless the local educational agency with responsibility for such covered school has made the certifications required by paragraph (2) of such section.

Notification.
Deadline.

SEC. 516. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that—

- (1) creates new programs;
- (2) eliminates a program, project, or activity;
- (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted;
- (4) relocates an office or employees;
- (5) reorganizes or renames offices;
- (6) reorganizes programs or activities; or
- (7) contracts out or privatizes any functions or activities presently performed by Federal employees;

unless the Committees on Appropriations of the House of Representatives and the Senate are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that—

- (1) augments existing programs, projects (including construction projects), or activities;
- (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of the House of Representatives and the Senate are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

SEC. 517. (a) None of the funds made available in this Act may be used to request that a candidate for appointment to a Federal scientific advisory committee disclose the political affiliation or voting history of the candidate or the position that the candidate holds with respect to political issues not directly related to and necessary for the work of the committee involved.

(b) None of the funds made available in this Act may be used to disseminate scientific information that is deliberately false or misleading.

SEC. 518. Within 45 days of enactment of this Act, each department and related agency funded through this Act shall submit an operating plan that details at the program, project, and activity level any funding allocations for fiscal year 2008 that are different than those specified in this Act, the accompanying detailed table in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act), or the fiscal year 2008 budget request.

Deadline.
Operating plan.

SEC. 519. None of the funds made available by this Act may be used to carry out the evaluation of the Upward Bound Program described in the absolute priority for Upward Bound Program participant selection and evaluation published by the Department of Education in the Federal Register on September 22, 2006 (71 Fed. Reg. 55447 et seq.).

SEC. 520. None of the funds in this Act may be used to employ workers described in section 274A(h)(3) of the Immigration and Nationality Act.

SEC. 521. The Secretaries of Labor, Health and Human Services, and Education shall each prepare and submit to the Committees on Appropriations of the House of Representatives and the Senate a report on the number and amount of contracts, grants, and cooperative agreements exceeding \$100,000 in value and awarded by the Department on a non-competitive basis during each quarter of fiscal year 2008, but not to include grants awarded on a formula basis. Such report shall include the name of the contractor or grantee, the amount of funding, and the governmental purpose. Such report shall be transmitted to the Committees within 30 days after the end of the quarter for which the report is submitted.

Reports.

Deadline.

SEC. 522. Not later than 30 days after the date of enactment of this Act, the Departments, agencies, and commissions funded under this Act, shall establish and maintain on the homepages of their Internet websites—

Deadline.
Websites.
5 USC app. 6
note.

(1) a direct link to the Internet websites of their Offices of Inspectors General; and

(2) a mechanism on the Offices of Inspectors General website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to those Departments, agencies, and commissions.

SEC. 523. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in

Contracts.
Certification.

an amount greater than \$5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that, to the best of its knowledge and belief, the contractor or grantee has filed all Federal tax returns required during the three years preceding the certification, has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

42 USC 1395w-4. SEC. 524. Section 1848(l)(2)(A) of the Social Security Act, as amended by section 6 of the TMA, Abstinence Education, and QI Programs Extension Act of 2007 (Public Law 110-90), is amended by reducing the dollar amount in the first sentence by \$150,000,000.

Refugees. SEC. 525. Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act for a period not to exceed 6 months.

Mexico. SEC. 526. None of the funds appropriated by this Act may be used by the Commissioner of Social Security or the Social Security Administration to pay the compensation of employees of the Social Security Administration to administer Social Security benefit payments, under any agreement between the United States and Mexico establishing totalization arrangements between the social security system established by title II of the Social Security Act and the social security system of Mexico, which would not otherwise be payable but for such agreement.

SEC. 527. None of the funds appropriated in this Act shall be expended or obligated by the Commissioner of Social Security, for purposes of administering Social Security benefit payments under title II of the Social Security Act, to process claims for credit for quarters of coverage based on work performed under a social security account number that was not the claimant's number which is an offense prohibited under section 208 of the Social Security Act.

SEC. 528. (a) ACROSS-THE-BOARD RESCISSIONS.—There is hereby rescinded an amount equal to 1.747 percent of the fiscal year 2008 budget authority—

- (1) provided for any discretionary account of this Act; and
- (2) provided in any advance appropriation for fiscal year 2008 for any discretionary account of this Act made available by any prior fiscal year appropriation Act.

(b) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

- (1) to each discretionary account and each item of budget authority described in such subsection; and
- (2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act, accompanying reports, or explanatory statement for fiscal year 2008 covering such account or item, or for accounts and items not included in

appropriation Acts, as delineated in the most recently submitted President’s budget).

(c) EXCEPTIONS.—This section shall not apply—

(1) to discretionary budget authority that has been designated as described in section 5 (in the matter preceding division A of this consolidated Act); or

(2) to discretionary budget authority made available under title III under the Student Financial Assistance account for the Federal Pell Grants program.

(d) OMB REPORT.—Within 30 days after the date of the enactment of this section the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section.

TITLE VI

NATIONAL COMMISSION ON CHILDREN AND DISASTERS

Kids in Disasters
Well-being,
Safety, and
Health Act of
2007.

SECTION 601. SHORT TITLE.

This title may be cited as the “Kids in Disasters Well-being, Safety, and Health Act of 2007”.

SEC. 602. DEFINITIONS.

In this title:

(1) ALL HAZARDS.—The term “all hazards” has the meaning given the term “hazard” under section 602(a)(1) of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5195a), and includes natural disasters, acts of terrorism, and other man-made disasters.

(2) CHILD; CHILDREN.—The terms “child” and “children” mean an individual or individuals, respectively, who have not attained 18 years of age.

(3) EMERGENCY.—The term “emergency” has the meaning given such term under section 102(1) of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5122(1)).

(4) MAJOR DISASTER.—The term “major disaster” has the meaning given such term under section 102(2) of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5122(2)).

SEC. 603. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the “National Commission on Children and Disasters” (referred to in this title as the “Commission”).

SEC. 604. PURPOSES OF COMMISSION.

The purposes of the Commission are to—

(1) conduct a comprehensive study to examine and assess the needs of children as they relate to preparation for, response to, and recovery from all hazards, including major disasters and emergencies; Study.

(2) build upon the evaluations of other entities and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of other commissions, Federal, State, and local governments, or nongovernmental entities, relating to the needs of children as they relate to preparation for,

response to, and recovery from all hazards, including major disasters and emergencies; and

Reports. (3) submit a report to the President and Congress on specific findings, conclusions, and recommendations to address the needs of children as they relate to preparation for, response to, and recovery from all hazards, including major disasters and emergencies.

SEC. 605. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

President. (1) 1 member shall be appointed by the President;

President. (2) 1 member, who is of a different political party than that of the member appointed under paragraph (1), shall be appointed by the President;

(3) 2 members shall be appointed by the majority leader of the Senate;

(4) 2 members shall be appointed by the minority leader of the Senate;

(5) 2 members shall be appointed by the Speaker of the House of Representatives; and

(6) 2 members shall be appointed by the minority leader of the House of Representatives.

Deadline. (b) CHAIRPERSON, VICE CHAIRPERSON, AND MEETINGS.—Not later than 30 days after the date on which all members of the Commission are appointed under subsection (a), such members shall meet to elect a Chairperson and Vice Chairperson from among such members and shall determine a schedule of Commission meetings.

(c) GOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an official or employee of the Federal Government.

(d) COMMISSION REPRESENTATION.—The Commission shall include at least one—

(1) representative from private nonprofit entities with demonstrated expertise in addressing the needs of children as they relate to preparation for, response to, and recovery from all hazards, including major disasters and emergencies; and

(2) State emergency manager or local emergency manager.

(e) QUALIFICATIONS.—Members appointed under subsection (a) may include—

(1) individuals involved with providing services to children, including health, education, housing, and other social services;

(2) individuals with experience in emergency management, including coordination of resources and services among State and local governments, the Federal Government, and non-governmental entities;

(3) individuals with philanthropic experience focused on the needs of children in all hazards, including major disasters and emergencies;

(4) individuals with experience in providing donated goods and services, including personnel services, to meet the needs of children and families as they relate to preparation for, response to, and recovery from all hazards, including major disasters and emergencies; and

(5) individuals who have conducted academic research related to addressing the needs of children in all hazards, including major disasters and emergencies.

(f) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission not later than 120 days after the appointment of members of the Commission. Deadline.

(g) QUORUM AND VACANCY.—

(1) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(2) VACANCY.—Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

SEC. 606. DUTIES OF COMMISSION.

The Commission shall—

(1) conduct pursuant to section 604(2) a comprehensive study that examines and assesses the needs of children as they relate to preparation for, response to, and recovery from all hazards, including major disasters and emergencies, including specific findings relating to—

(A) child physical health, mental health, and trauma;

(B) child care in all settings;

(C) child welfare;

(D) elementary and secondary education;

(E) sheltering, temporary housing, and affordable housing;

(F) transportation;

(G) juvenile justice;

(H) evacuation; and

(I) relevant activities in emergency management;

(2) identify, review, and evaluate existing laws, regulations, policies, and programs relevant to the needs of children as they relate to preparation for, response to, and recovery from all hazards, including major disasters and emergencies;

(3) identify, review, and evaluate the lessons learned from past disasters and emergencies relative to addressing the needs of children; and

(4) submit a report to the President and Congress on the Commission's specific findings, conclusions, and recommendations to address the needs of children as they relate to preparation for, response to, and recovery from all hazards, including major disasters and emergencies, including specific recommendations on the need for planning and establishing a national resource center on children and disasters, coordination of resources and services, administrative actions, policies, regulations, and legislative changes as the Commission considers appropriate. Reports.

SEC. 607. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, and receive such evidence as may be necessary to carry out the functions of the Commission.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may access, to the extent authorized by law, from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government such information,

suggestions, estimates, and statistics as the Commission considers necessary to carry out this title.

(2) **PROVISION OF INFORMATION.**—On written request of the Chairperson of the Commission, each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, provide the requested information to the Commission.

(3) **RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.**—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(c) **ASSISTANCE FROM FEDERAL AGENCIES.**—

(1) **GENERAL SERVICES ADMINISTRATION.**—On request of the Chairperson of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support and other assistance necessary for the Commission to carry out its duties.

(2) **OTHER DEPARTMENTS AND AGENCIES.**—In addition to the assistance provided for under paragraph (1), departments and agencies of the United States may provide to the Commission such assistance as they may determine advisable and as authorized by law.

(d) **CONTRACTING.**—The Commission may enter into contracts to enable the Commission to discharge its duties under this title.

(e) **DONATIONS.**—The Commission may accept, use, and dispose of donations of services or property.

(f) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as a department or agency of the United States.

SEC. 608. STAFF OF COMMISSION.

(a) **IN GENERAL.**—The Chairperson of the Commission, in consultation with the Vice Chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, in accordance with the provisions of title 5, United States Code, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Chairperson of the Commission, the head of any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government may detail, without reimbursement, any of its personnel to the Commission to assist it in carrying out its duties under this title. Any detail of an employee shall be without interruption or loss of civil service status or privilege.

(c) **CONSULTANT SERVICES.**—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 609. TRAVEL EXPENSES.

Each member of the Commission shall serve without compensation, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

SEC. 610. FEDERAL ADVISORY COMMITTEE ACT APPLICABILITY.

The provisions of the Federal Advisory Committee Act shall apply to the Commission, including the staff of the Commission.

SEC. 611. REPORTS OF COMMISSION; TERMINATION.

(a) **INTERIM REPORT.**—The Commission shall, not later than 1 year after the date of its first meeting, submit to the President and Congress an interim report containing specific findings, conclusions, and recommendations required under this title as have been agreed to by a majority of Commission members.

(b) **OTHER REPORTS AND INFORMATION.**—

(1) **REPORTS.**—The Commission may issue additional reports as the Commission determines necessary.

(2) **INFORMATION.**—The Commission may hold public hearings to collect information and shall make such information available for use by the public.

(c) **FINAL REPORT.**—The Commission shall, not later than 2 years after the date of its first meeting, submit to the President and Congress a final report containing specific findings, conclusions, and recommendations required under this title as have been agreed to by a majority of Commission members.

(d) **TERMINATION.**—

(1) **IN GENERAL.**—The Commission, and all the authorities of this title, shall terminate 180 days after the date on which the final report is submitted under subsection (b).

(2) **RECORDS.**—Not later than the date of termination of the Commission under paragraph (1), all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.

Archives.

SEC. 612. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title, \$1,500,000 for each of fiscal years 2008 and 2009.

SEC. 613. RULE OF CONSTRUCTION.

Nothing in this title shall be construed to confer on the Commission purposes and duties that are the responsibility of the Congress.

This division may be cited as the “Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008”.

Legislative
Branch
Appropriations
Act, 2008.
2 USC 60a note.

DIVISION H—LEGISLATIVE BRANCH APPROPRIATIONS ACT,
2008

TITLE I

LEGISLATIVE BRANCH APPROPRIATIONS

SENATE

EXPENSE ALLOWANCES

For expense allowances of the Vice President, \$20,000; the President Pro Tempore of the Senate, \$40,000; Majority Leader of the Senate, \$40,000; Minority Leader of the Senate, \$40,000; Majority Whip of the Senate, \$10,000; Minority Whip of the Senate, \$10,000; President Pro Tempore emeritus, \$15,000; Chairmen of the Majority and Minority Conference Committees, \$5,000 for each Chairman; and Chairmen of the Majority and Minority Policy Committees, \$5,000 for each Chairman; in all, \$195,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY
LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, \$15,000 for each such Leader; in all, \$30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, \$158,457,000, which shall be paid from this appropriation without regard to the following limitations:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, \$2,316,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, \$620,000.

OFFICE OF THE PRESIDENT PRO TEMPORE EMERITUS

For the Office of the President Pro Tempore emeritus, \$309,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, \$4,796,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, \$2,912,000.

COMMITTEE ON APPROPRIATIONS

For salaries of the Committee on Appropriations, \$14,161,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, \$1,587,000 for each such committee; in all, \$3,174,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY
AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, \$778,000.

POLICY COMMITTEES

For salaries of the Majority Policy Committee and the Minority Policy Committee, \$1,620,000 for each such committee; in all, \$3,240,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, \$379,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, \$22,388,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, \$60,600,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, \$1,684,000.

AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses, \$41,100,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, \$6,280,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, \$1,439,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SER-
GEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRE-
TARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, \$6,000; Sergeant at Arms and Doorkeeper of the Senate, \$6,000; Secretary for the Majority of the Senate, \$6,000; Secretary for the Minority of the Senate, \$6,000; in all, \$24,000.

CONTINGENT EXPENSES OF THE SENATE

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted under paragraph 1 of rule XXVI of the Standing Rules of the Senate, section 112 of the Supplemental Appropriations and Rescission Act, 1980 (Public Law 96–304), and Senate Resolution 281, 96th Congress, agreed to March 11, 1980, \$129,000,000.

EXPENSES OF THE UNITED STATES SENATE CAUCUS ON
INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, \$520,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, \$2,000,000.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, \$142,389,000, which shall remain available until September 30, 2012.

MISCELLANEOUS ITEMS

For miscellaneous items, \$17,528,000, of which up to \$500,000 shall be made available for a pilot program for mailings of postal patron postcards by Senators for the purpose of providing notice of a town meeting by a Senator in a county (or equivalent unit of local government) at which the Senator will personally attend: *Provided*, That any amount allocated to a Senator for such mailing shall not exceed 50 percent of the cost of the mailing and the remaining cost shall be paid by the Senator from other funds available to the Senator.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, \$375,704,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, \$300,000.

ADMINISTRATIVE PROVISIONS

2 USC 61–1.
Effective date.
2 USC 61–1 note.

SEC. 1. GROSS RATE OF COMPENSATION IN OFFICES OF SENATORS. Effective on and after October 1, 2007, each of the dollar amounts contained in the table under section 105(d)(1)(A) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61–1(d)(1)(A)) shall be deemed to be the dollar amounts in that table, as adjusted by law and in effect on September 30, 2007, increased by an additional \$50,000 each.

SEC. 2. PRESIDENT PRO TEMPORE EMERITUS OF THE SENATE. Section 7(e) of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 32b note) is amended by striking “and the 109th Congress” and inserting “, the 109th Congress, and the 110th Congress”.

SEC. 3. OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY. (a) IN GENERAL.—Upon the written request of the Secretary of the Conference of the Majority or the Secretary of the Conference of the Minority, the Secretary of the Senate shall transfer from the appropriations account appropriated under the subheading “OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY” under the heading “SALARIES, OFFICERS AND EMPLOYEES” such amount as the Secretary of the Conference of the Majority or the Secretary of the Conference of the Minority shall specify to the appropriations account under the heading “MISCELLANEOUS ITEMS” within the contingent fund of the Senate. 2 USC 61g-6b.

(b) AUTHORITY TO INCUR EXPENSES.—The Secretary of the Conference of the Majority or the Secretary of the Conference of the Minority may incur such expenses as may be necessary or appropriate. Expenses incurred by the Secretary of the Conference of the Majority or the Secretary of the Conference of the Minority shall be paid from the amount transferred under subsection (a) by the Secretary of the Conference of the Majority or the Secretary of the Conference of the Minority and upon vouchers approved by the Secretary of the Conference of the Majority or the Secretary of the Conference of the Minority, as applicable.

(c) AUTHORITY TO ADVANCE SUMS.—The Secretary of the Senate may advance such sums as may be necessary to defray expenses incurred in carrying out subsections (a) and (b).

(d) EFFECTIVE DATE.—This section shall apply to fiscal year 2008 and each fiscal year thereafter.

SEC. 4. UNIFORM LIMITATION ON GROSS COMPENSATION FOR EMPLOYEES OF COMMITTEES. (a) IN GENERAL.—Section 105(e) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61-1(e)) is amended by striking paragraph (3) and inserting the following:

“(3)(A) In this paragraph—

“(i) the term ‘committee of the Senate’ means—

“(I) any standing committee (including the majority and minority policy committees) of the Senate;

“(II) any select committee (including the conference majority and conference minority of the Senate); or

“(III) any joint committee the expenses of which are paid from the contingent fund of the Senate; and

“(ii) an employee of a subcommittee shall be considered to be an employee of the full committee.

“(B) Subject to adjustment as provided by law, no employee of a committee of the Senate shall be paid at a per annum gross rate in excess of \$162,515.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fiscal year 2008 and each fiscal year thereafter. 2 USC 61-1 note.

SEC. 5. UNITED STATES SENATE-JAPAN INTERPARLIAMENTARY GROUP. (a) ESTABLISHMENT AND MEETINGS.—Not to exceed 12 Senators shall be appointed to meet once per Congress with representatives of the Diet of Japan for discussion of common problems in the interest of relations between the United States and Japan. 22 USC 276p.

The Senators so appointed shall be referred to as the “United States group” of the United States Senate-Japan Interparliamentary Group. The meetings shall take place in Japan and Washington, D.C. alternatively.

(b) APPOINTMENT OF MEMBERS.—The President of the Senate shall appoint Senators under this section, including a Chair and Vice Chair, upon recommendations of the majority and minority leaders of the Senate. Such appointments shall be for the duration of each Congress.

(c) FUNDING.—There is authorized to be appropriated \$100,000 for each Congress to assist in meeting the expenses of the United States group. Appropriations shall be disbursed on vouchers to be approved by the Chair of the United States group.

(d) CERTIFICATION OF EXPENDITURES.—A report of expenditures by the United States group shall be prepared and certified each Congress by the Chair.

(e) EFFECTIVE DATE.—This section shall apply to fiscal year 2008, and each fiscal year thereafter.

SEC. 6. ORIENTATION SEMINARS. (a) IN GENERAL.—Section 107(a) of the Supplemental Appropriations Act, 1979 (2 U.S.C. 69a; Public Law 96-38) is amended in the first sentence by striking “\$25,000” and inserting “\$30,000”.

2 USC 69a note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to fiscal year 2008 and each fiscal year thereafter.

2 USC 61f-13.

SEC. 7. MEDIA SUPPORT SERVICES. (a) DEFINITIONS.—In this section, the terms “national committee” and “political party” have the meaning given such terms in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

(b) IN GENERAL.—The official duties of employees of the Sergeant at Arms and Doorkeeper of the Senate under the Senate Daily Press Gallery, the Senate Periodical Press Gallery, the Senate Press Photographers Gallery, and the Senate Radio and Television Correspondents Gallery may include providing media support services with respect to the presidential nominating conventions of the national committees of political parties.

(c) APPROVAL OF SERGEANT AT ARMS.—The terms and conditions under which employees perform official duties under subsection (b) shall be subject to the approval of the Sergeant at Arms and Doorkeeper of the Senate.

(d) EFFECTIVE DATE.—This section shall apply to fiscal year 2008 and each fiscal year thereafter.

Applicability.
2 USC 61h-6
note.

SEC. 8. CONSULTANTS. With respect to fiscal year 2008, the first sentence of section 101(a) of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h-6(a)) shall be applied by substituting “nine individual consultants” for “eight individual consultants”.

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, \$1,188,211,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, \$24,048,000, including: Office of the Speaker, \$4,761,000, including \$25,000 for

official expenses of the Speaker; Office of the Majority Floor Leader, \$2,388,000, including \$10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, \$4,290,000, including \$10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, \$1,894,000, including \$5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, \$1,420,000, including \$5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, \$499,000; Republican Steering Committee, \$943,000; Republican Conference, \$1,631,000; Republican Policy Committee, \$325,000; Democratic Steering and Policy Committee, \$1,295,000; Democratic Caucus, \$1,604,000; nine minority employees, \$1,498,000; training and program development—majority, \$290,000; training and program development—minority, \$290,000; Cloakroom Personnel—majority, \$460,000; and Cloakroom Personnel—minority, \$460,000.

MEMBERS' REPRESENTATIONAL ALLOWANCES

INCLUDING MEMBERS' CLERK HIRE, OFFICIAL EXPENSES OF MEMBERS, AND OFFICIAL MAIL

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, \$581,000,000.

COMMITTEE EMPLOYEES

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by House resolutions, \$133,000,000: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2008.

COMMITTEE ON APPROPRIATIONS

For salaries and expenses of the Committee on Appropriations, \$32,203,700, including studies and examinations of executive agencies and temporary personal services for such committee to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2008: *Provided further*, That \$2,403,700 shall be derived from prior year unobligated balances from funds previously appropriated to the Committee on Appropriations.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, \$166,785,000, including: for salaries and expenses of the Office of the Clerk, including not more than \$13,000, of which not more than \$10,000 is for the Family Room, for official representation and reception expenses, \$22,423,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than \$3,000 for official representation and reception expenses,

\$6,884,000; for salaries and expenses of the Office of the Chief Administrative Officer, \$114,553,000, of which \$6,269,000 shall remain available until expended; for salaries and expenses of the Office of the Inspector General, \$4,368,000; for salaries and expenses of the Office of Emergency Planning, Preparedness and Operations, \$3,049,000, to remain available until expended; for salaries and expenses of the Office of General Counsel, \$1,178,000; for the Office of the Chaplain, \$166,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian, \$2,000 for preparing the Digest of Rules, and not more than \$1,000 for official representation and reception expenses, \$1,799,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, \$2,939,000; for salaries and expenses of the Office of the Legislative Counsel of the House, \$7,258,000; for salaries and expenses of the Office of Interparliamentary Affairs, \$702,000; for other authorized employees, \$1,016,000; and for salaries and expenses of the Office of the Historian, \$450,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, \$254,174,000, including: supplies, materials, administrative costs and Federal tort claims, \$3,588,000; official mail for committees, leadership offices, and administrative offices of the House, \$310,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, \$227,455,000; supplies, materials, and other costs relating to the House portion of expenses for the Capitol Visitor Center, \$2,262,000, to remain available until expended; Business Continuity and Disaster Recovery, \$16,856,000, of which \$5,408,000 shall remain available until expended; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, \$703,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (2 U.S.C. 2112), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. (a) REQUIRING AMOUNTS REMAINING IN MEMBERS' REPRESENTATIONAL ALLOWANCES TO BE USED FOR DEFICIT REDUCTION OR TO REDUCE THE FEDERAL DEBT.—Notwithstanding any other provision of law, any amounts appropriated under this Act for “HOUSE OF REPRESENTATIVES—SALARIES AND EXPENSES—MEMBERS' REPRESENTATIONAL ALLOWANCES” shall be available only for fiscal year 2008. Any amount remaining after all payments are made under such allowances for fiscal year 2008 shall be deposited in the Treasury and used for deficit reduction (or, if there is no Federal budget deficit after all such payments have been made, for reducing the Federal debt, in such manner as the Secretary of the Treasury considers appropriate).

(b) REGULATIONS.—The Committee on House Administration of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) DEFINITION.—As used in this section, the term “Member of the House of Representatives” means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

SEC. 102. CONTRACT FOR EXERCISE FACILITY.—(a) Section 103(a) of the Legislative Branch Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3175), is amended by striking “private entity” and inserting “public or private entity”.

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2005.

Effective date.

SEC. 103. DEPOSITS.—(a) The second sentence of section 101 of the Legislative Branch Appropriations Act, 1996 (2 U.S.C. 117j) is amended by striking “deposited in the Treasury as miscellaneous receipts” and inserting “deposited in the Treasury for credit to the account of the Office of the Chief Administrative Officer”.

(b) The amendments made by this section shall apply with respect to fiscal year 2008 and each succeeding fiscal year.

Applicability.
2 USC 117j note.

SEC. 104. HOUSE SERVICES REVOLVING FUND.—(a) Section 105(b) of the Legislative Branch Appropriations Act, 2005 (2 U.S.C. 117m(b)) is amended by striking “the Chief Administrative Officer” and inserting the following: “the Chief Administrative Officer, including purposes relating to energy and water conservation and environmental activities carried out in buildings, facilities, and grounds under the Chief Administrative Officer’s jurisdiction.”

(b) The amendments made by this section shall apply with respect to fiscal year 2008 and each succeeding fiscal year.

Applicability.
2 USC 117m
note.

SEC. 105. ADJUSTMENT.—The first sentence of section 5 of House Resolution 1238, Ninety-first Congress, agreed to December 22, 1970 (as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971) (2 U.S.C. 31b–5), is amended by striking “step 1 of level 6” and inserting “step 7 of level 11”.

JOINT ITEMS

For Joint Committees, as follows:

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, \$4,398,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, \$9,220,000, to be disbursed by the Chief Administrative Officer of the House of Representatives.

JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES OF 2009

For salaries and expenses associated with conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 2009, in accordance with such program as may be adopted by the joint congressional committee authorized

to conduct the inaugural ceremonies of 2009, \$1,240,000 to be disbursed by the Secretary of the Senate and to remain available until September 30, 2009. Funds made available under this heading shall be available for payment, on a direct or reimbursable basis, whether incurred on, before, or after, October 1, 2008: *Provided*, That the compensation of any employee of the Committee on Rules and Administration of the Senate who has been designated to perform service with respect to the inaugural ceremonies of 2009 shall continue to be paid by the Committee on Rules and Administration, but the account from which such staff member is paid may be reimbursed for the services of the staff member (including agency contributions when appropriate) out of funds made available under this heading.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including: (1) an allowance of \$2,175 per month to the Attending Physician; (2) an allowance of \$725 per month each to four medical officers while on duty in the Office of the Attending Physician; (3) an allowance of \$725 per month to two assistants and \$580 per month each not to exceed 11 assistants on the basis heretofore provided for such assistants; and (4) \$2,063,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, \$2,798,000, to be disbursed by the Chief Administrative Officer of the House of Representatives.

CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

For salaries and expenses of the Capitol Guide Service and Special Services Office, \$5,348,000, to be disbursed by the Secretary of the Senate.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the first session of the 110th Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, \$30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

CAPITOL POLICE

SALARIES

For salaries of employees of the Capitol Police, including overtime, hazardous duty pay differential, and Government contributions for health, retirement, social security, professional liability

insurance, and other applicable employee benefits, \$232,800,000, to be disbursed by the Chief of the Capitol Police or his designee.

GENERAL EXPENSES

For necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, the awards program, postage, communication services, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and not more than \$5,000 to be expended on the certification of the Chief of the Capitol Police in connection with official representation and reception expenses, \$48,900,000, to be disbursed by the Chief of the Capitol Police or his designee: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 2008 shall be paid by the Secretary of Homeland Security from funds available to the Department of Homeland Security.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 1001. TRANSFER AUTHORITY.—Amounts appropriated for fiscal year 2008 for the Capitol Police may be transferred between the headings “SALARIES” and “GENERAL EXPENSES” upon the approval of the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 1002. ADVANCE PAYMENTS.—During fiscal year 2008 and each succeeding fiscal year, following notification of the Committees on Appropriations of the House of Representatives and the Senate, the Chief of the Capitol Police may make payments in advance for obligations of the United States Capitol Police for subscription services if the Chief determines it to be more prompt, efficient, or economical to do so.

2 USC 1981.

SEC. 1003. UTILITY TUNNEL REPAIRS.—(a) From the unexpended balances available under the heading “Architect of the Capitol, Capitol Power Plant” in chapter 6 of title V of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 111 Stat. 167), \$876,000 are hereby rescinded.

(b) In addition to the amounts otherwise made available in this Act under the heading “Capitol Police, Salaries”, there is appropriated \$876,000 for expenses under such heading resulting from any utility tunnel repairs and asbestos abatement activities carried out by the Architect of the Capitol: *Provided*, That the amount provided by this section is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

SEC. 1004. UNITED STATES CAPITOL POLICE AND LIBRARY OF CONGRESS POLICE MERGER. (a) SHORT TITLE.—This section may be cited as the “U.S. Capitol Police and Library of Congress Police Merger Implementation Act of 2007”.

(b) TRANSFER OF PERSONNEL.—

(1) TRANSFERS.—

U.S. Capitol
Police and
Library of
Congress Police
Merger
Implementation
Act of 2007.
2 USC 1901 note.
2 USC 1901 note.

Effective date.

(A) LIBRARY OF CONGRESS POLICE EMPLOYEES.—Effective on the employee's transfer date, each Library of Congress Police employee shall be transferred to the United States Capitol Police and shall become either a member or civilian employee of the Capitol Police, as determined by the Chief of the Capitol Police under paragraph (2).

(B) LIBRARY OF CONGRESS POLICE CIVILIAN EMPLOYEES.—Effective on the employee's transfer date, each Library of Congress Police civilian employee shall be transferred to the United States Capitol Police and shall become a civilian employee of the Capitol Police.

(2) TREATMENT OF LIBRARY OF CONGRESS POLICE EMPLOYEES.—

(A) DETERMINATION OF STATUS WITHIN CAPITOL POLICE.—

(i) ELIGIBILITY TO SERVE AS MEMBERS OF THE CAPITOL POLICE.—A Library of Congress Police employee shall become a member of the Capitol Police on the employee's transfer date if the Chief of the Capitol Police determines and issues a written certification that the employee meets each of the following requirements:

(I) Based on the assumption that such employee would perform a period of continuous Federal service after the transfer date, the employee would be entitled to an annuity for immediate retirement under section 8336(b) or 8412(b) of title 5, United States Code (as determined by taking into account subparagraph (C)(i)), on the date such employee becomes 60 years of age.

(II) During the transition period, the employee successfully completes training, as determined by the Chief of the Capitol Police.

(III) The employee meets the qualifications required to be a member of the Capitol Police, as determined by the Chief of the Capitol Police.

(ii) SERVICE AS CIVILIAN EMPLOYEE OF CAPITOL POLICE.—If the Chief of the Capitol Police determines that a Library of Congress Police employee does not meet the eligibility requirements, the employee shall become a civilian employee of the Capitol Police on the employee's transfer date.

(iii) FINALITY OF DETERMINATIONS.—Any determination of the Chief of the Capitol Police under this subparagraph shall not be appealable or reviewable in any manner.

(iv) DEADLINE FOR DETERMINATIONS.—The Chief of the Capitol Police shall complete the determinations required under this subparagraph for all Library of Congress Police employees not later than September 30, 2009.

(B) EXEMPTION FROM MANDATORY SEPARATION.—Section 8335(c) or 8425(c) of title 5, United States Code, shall not apply to any Library of Congress Police employee who becomes a member of the Capitol Police under this subsection, until the earlier of—

(i) the date on which the individual is entitled to an annuity for immediate retirement under section 8336(b) or 8412(b) of title 5, United States Code; or

(ii) the date on which the individual—

(I) is 57 years of age or older; and

(II) is entitled to an annuity for immediate retirement under section 8336(m) or 8412(d) of title 5, United States Code, (as determined by taking into account subparagraph (C)(i)).

(C) TREATMENT OF PRIOR CREDITABLE SERVICE FOR RETIREMENT PURPOSES.—

(i) PRIOR SERVICE FOR PURPOSES OF ELIGIBILITY FOR IMMEDIATE RETIREMENT AS MEMBER OF CAPITOL POLICE.—Any Library of Congress Police employee who becomes a member of the Capitol Police under this subsection shall be entitled to have any creditable service under section 8332 or 8411 of title 5, United States Code, that was accrued prior to becoming a member of the Capitol Police included in calculating the employee's service as a member of the Capitol Police for purposes of section 8336(m) or 8412(d) of title 5, United States Code.

(ii) PRIOR SERVICE FOR PURPOSES OF COMPUTATION OF ANNUITY.—Any creditable service under section 8332 or 8411 of title 5, United States Code, of an individual who becomes a member of the Capitol Police under this paragraph that was accrued prior to becoming a member of the Capitol Police—

(I) shall be treated and computed as employee service under section 8339 or section 8415 of such title; but

(II) shall not be treated as service as a member of the Capitol Police or service as a congressional employee for purposes of applying any formula under section 8339(b), 8339(q), 8415(c), or 8415(d) of such title under which a percentage of the individual's average pay is multiplied by the years (or other period) of such service.

(3) DUTIES OF EMPLOYEES TRANSFERRED TO CIVILIAN POSITIONS.—

(A) DUTIES.—The duties of any individual who becomes a civilian employee of the Capitol Police under this section, including a Library of Congress Police civilian employee under paragraph (1)(B) and a Library of Congress Police employee who becomes a civilian employee of the Capitol Police under paragraph (2)(A)(ii), shall be determined solely by the Chief of the Capitol Police, except that a Library of Congress Police civilian employee under paragraph (1)(B) shall continue to support Library of Congress police operations until all Library of Congress Police employees are transferred to the United States Capitol Police under this section.

(B) FINALITY OF DETERMINATIONS.—Any determination of the Chief of the Capitol Police under this paragraph shall not be appealable or reviewable in any manner.

(4) PROTECTING STATUS OF TRANSFERRED EMPLOYEES.—

(A) NONREDUCTION IN PAY, RANK, OR GRADE.—The transfer of any individual under this subsection shall not cause that individual to be separated or reduced in basic pay, rank or grade.

(B) LEAVE AND COMPENSATORY TIME.—Any annual leave, sick leave, or other leave, or compensatory time, to the credit of an individual transferred under this subsection shall be transferred to the credit of that individual as a member or an employee of the Capitol Police (as the case may be). The treatment of leave or compensatory time transferred under this subsection shall be governed by regulations of the Capitol Police Board.

(C) PROHIBITING IMPOSITION OF PROBATIONARY PERIOD.—The Chief of the Capitol Police may not impose a period of probation on any individual who is transferred under this section.

(5) RULES OF CONSTRUCTION RELATING TO EMPLOYEE REPRESENTATION.—

(A) EMPLOYEE REPRESENTATION.—Nothing in this section shall be construed to authorize any labor organization that represented an individual who was a Library of Congress police employee or a Library of Congress police civilian employee before the individual's transfer date to represent that individual as a member of the Capitol Police or an employee of the Capitol Police after the individual's transfer date.

(B) AGREEMENTS NOT APPLICABLE.—Nothing in this section shall be construed to authorize any collective bargaining agreement (or any related court order, stipulated agreement, or agreement to the terms or conditions of employment) applicable to Library of Congress police employees or to Library of Congress police civilian employees to apply to members of the Capitol Police or to civilian employees of the Capitol Police.

(6) RULE OF CONSTRUCTION RELATING TO PERSONNEL AUTHORITY OF THE CHIEF OF THE CAPITOL POLICE.—Nothing in this section shall be construed to affect the authority of the Chief of the Capitol Police to—

(A) terminate the employment of a member of the Capitol Police or a civilian employee of the Capitol Police; or

(B) transfer any individual serving as a member of the Capitol Police or a civilian employee of the Capitol Police to another position with the Capitol Police.

(7) TRANSFER DATE DEFINED.—In this section, the term “transfer date” means, with respect to an employee—

(A) in the case of a Library of Congress Police employee who becomes a member of the Capitol Police, the first day of the first pay period applicable to members of the United States Capitol Police which begins after the date on which the Chief of the Capitol Police issues the written certification for the employee under paragraph (2)(A);

(B) in the case of a Library of Congress Police employee who becomes a civilian employee of the Capitol Police, the first day of the first pay period applicable to employees of the United States Capitol Police which begins after September 30, 2009; or

(C) in the case of a Library of Congress Police civilian employee, the first day of the first pay period applicable to employees of the United States Capitol Police which begins after September 30, 2008.

(8) CANCELLATION IN PORTION OF UNOBLIGATED BALANCE OF FEDLINK REVOLVING FUND.—Amounts available for obligation by the Librarian of Congress as of the date of the enactment of this Act from the unobligated balance in the revolving fund established under section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (2 U.S.C. 182c) for the Federal Library and Information Network program of the Library of Congress and the Federal Research program of the Library of Congress are reduced by a total of \$560,000, and the amount so reduced is hereby cancelled.

(c) TRANSITION PROVISIONS.—

(1) TRANSFER AND ALLOCATIONS OF PROPERTY AND APPROPRIATIONS.—

(A) IN GENERAL.—Effective on the transfer date of any Library of Congress Police employee and Library of Congress Police civilian employee who is transferred under this section—

(i) the assets, liabilities, contracts, property, and records associated with the employee shall be transferred to the Capitol Police; and

(ii) the unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the employee shall be transferred to and made available under the appropriations accounts for the Capitol Police for “Salaries” and “General Expenses”, as applicable.

(B) JOINT REVIEW.—During the transition period, the Chief of the Capitol Police and the Librarian of Congress shall conduct a joint review of the assets, liabilities, contracts, property records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the transfer under this section.

(2) TREATMENT OF ALLEGED VIOLATIONS OF CERTAIN EMPLOYMENT LAWS WITH RESPECT TO TRANSFERRED INDIVIDUALS.—

(A) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subparagraph (C), in the case of an alleged violation of any covered law (as defined in subparagraph (D)) which is alleged to have occurred prior to the transfer date with respect to an individual who is transferred under this section, and for which the individual has not exhausted all of the remedies available for the consideration of the alleged violation which are provided for employees of the Library of Congress under the covered law prior to the transfer date, the following shall apply:

(i) The individual may not initiate any procedure which is available for the consideration of the alleged violation of the covered law which is provided for

employees of the Library of Congress under the covered law.

(ii) To the extent that the individual has initiated any such procedure prior to the transfer date, the procedure shall terminate and have no legal effect.

(iii) Subject to subparagraph (B), the individual may initiate and participate in any procedure which is available for the resolution of grievances of officers and employees of the Capitol Police under the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to provide for consideration of the alleged violation. The previous sentence does not apply in the case of an alleged violation for which the individual exhausted all of the available remedies which are provided for employees of the Library of Congress under the covered law prior to the transfer date.

(B) SPECIAL RULES FOR APPLYING CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—In applying subparagraph (A)(iii) with respect to an individual to whom this subsection applies, for purposes of the consideration of the alleged violation under the Congressional Accountability Act of 1995—

(i) the date of the alleged violation shall be the individual's transfer date;

(ii) notwithstanding the third sentence of section 402(a) of such Act (2 U.S.C. 1402(a)), the individual's request for counseling under such section shall be made not later than 60 days after the date of the alleged violation; and

(iii) the employing office of the individual at the time of the alleged violation shall be the Capitol Police Board.

(C) EXCEPTION FOR ALLEGED VIOLATIONS SUBJECT TO HEARING PRIOR TO TRANSFER.—Subparagraph (A) does not apply with respect to an alleged violation for which a hearing has commenced in accordance with the covered law on or before the transfer date.

(D) COVERED LAW DEFINED.—In this paragraph, a “covered law” is any law for which the remedy for an alleged violation is provided for officers and employees of the Capitol Police under the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.).

(3) AVAILABILITY OF DETAILEES DURING TRANSITION PERIOD.—During the transition period, the Chief of the Capitol Police may detail additional members of the Capitol Police to the Library of Congress, without reimbursement.

(4) EFFECT ON EXISTING MEMORANDUM OF UNDERSTANDING.—The Memorandum of Understanding between the Library of Congress and the Capitol Police entered into on December 12, 2004, shall remain in effect during the transition period, subject to—

(A) the provisions of this section; and

(B) such modifications as may be made in accordance with the modification and dispute resolution provisions of the Memorandum of Understanding, consistent with the provisions of this section.

(5) RULE OF CONSTRUCTION RELATING TO PERSONNEL AUTHORITY OF THE LIBRARIAN OF CONGRESS.—Nothing in this section shall be construed to affect the authority of the Librarian of Congress to—

(A) terminate the employment of a Library of Congress Police employee or Library of Congress Police civilian employee; or

(B) transfer any individual serving in a Library of Congress Police employee position or Library of Congress Police civilian employee position to another position at the Library of Congress.

(d) POLICE JURISDICTION, UNLAWFUL ACTIVITIES, AND PENALTIES.—

(1) JURISDICTION.—

(A) EXTENSION OF CAPITOL POLICE JURISDICTION.—Section 9 of the Act entitled “An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes”, approved July 31, 1946 (2 U.S.C. 1961) is amended by adding at the end the following:

“(d) For purposes of this section, ‘United States Capitol Buildings and Grounds’ shall include the Library of Congress buildings and grounds described under section 11 of the Act entitled ‘An Act relating to the policing of the buildings of the Library of Congress’, approved August 4, 1950 (2 U.S.C. 167j), except that in a case of buildings or grounds not located in the District of Columbia, the authority granted to the Metropolitan Police Force of the District of Columbia shall be granted to any police force within whose jurisdiction the buildings or grounds are located.”.

(B) REPEAL OF LIBRARY OF CONGRESS POLICE JURISDICTION.—The first section and sections 7 and 9 of the Act of August 4, 1950 (2 U.S.C. 167, 167f, 167h) are repealed on October 1, 2009.

2 USC 167 note.

(2) UNLAWFUL ACTIVITIES AND PENALTIES.—

(A) EXTENSION OF UNITED STATES CAPITOL BUILDINGS AND GROUNDS PROVISIONS TO THE LIBRARY OF CONGRESS BUILDINGS AND GROUNDS.—

(i) CAPITOL BUILDINGS.—Section 5101 of title 40, United States Code, is amended by inserting “all buildings on the real property described under section 5102(d)” after “(including the Administrative Building of the United States Botanic Garden)”.

(ii) CAPITOL GROUNDS.—Section 5102 of title 40, United States Code, is amended by adding at the end the following:

“(d) LIBRARY OF CONGRESS BUILDINGS AND GROUNDS.—

“(1) IN GENERAL.—Except as provided under paragraph (2), the United States Capitol Grounds shall include the Library of Congress grounds described under section 11 of the Act entitled ‘An Act relating to the policing of the buildings of the Library of Congress’, approved August 4, 1950 (2 U.S.C. 167j).

“(2) AUTHORITY OF LIBRARIAN OF CONGRESS.—Notwithstanding subsections (a) and (b), the Librarian of Congress shall retain authority over the Library of Congress buildings and grounds in accordance with section 1 of the Act of June 29, 1922 (2 U.S.C. 141; 42 Stat. 715).”.

(iii) CONFORMING AMENDMENT RELATING TO DISORDERLY CONDUCT.—Section 5104(e)(2) of title 40, United States Code, is amended by striking subparagraph (C) and inserting the following:

“(C) with the intent to disrupt the orderly conduct of official business, enter or remain in a room in any of the Capitol Buildings set aside or designated for the use of—

“(i) either House of Congress or a Member, committee, officer, or employee of Congress, or either House of Congress; or

“(ii) the Library of Congress;”.

(B) REPEAL OF OFFENSES AND PENALTIES SPECIFIC TO THE LIBRARY OF CONGRESS.—Sections 2, 3, 4, 5, 6, and 8 of the Act of August 4, 1950 (2 U.S.C. 167a, 167b, 167c, 167d, 167e, and 167g) are repealed.

(C) SUSPENSION OF PROHIBITIONS AGAINST USE OF LIBRARY OF CONGRESS BUILDINGS AND GROUNDS.—Section 10 of the Act of August 4, 1950 (2 U.S.C. 167i) is amended by striking “2 to 6, inclusive, of this Act” and inserting “5103 and 5104 of title 40, United States Code”.

(D) CONFORMING AMENDMENT TO DESCRIPTION OF LIBRARY OF CONGRESS GROUNDS.—Section 11 of the Act of August 4, 1950 (2 U.S.C. 167j) is amended—

(i) in subsection (a), by striking “For the purposes of this Act the” and inserting “The”;

(ii) in subsection (b), by striking “For the purposes of this Act the” and inserting “The”;

(iii) in subsection (c), by striking “For the purposes of this Act the” and inserting “The”; and

(iv) in subsection (d), by striking “For the purposes of this Act the” and inserting “The”.

(3) CONFORMING AMENDMENT RELATING TO JURISDICTION OF INSPECTOR GENERAL OF LIBRARY OF CONGRESS.—Section 1307(b)(1) of the Legislative Branch Appropriations Act, 2006 (2 U.S.C. 185(b)), is amended by striking the semicolon at the end and inserting the following: “, except that nothing in this paragraph may be construed to authorize the Inspector General to audit or investigate any operations or activities of the United States Capitol Police;”.

(4) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 2009.

(e) COLLECTIONS, PHYSICAL SECURITY, CONTROL, AND PRESERVATION OF ORDER AND DECORUM WITHIN THE LIBRARY.—

(1) ESTABLISHMENT OF REGULATIONS.—The Librarian of Congress shall establish standards and regulations for the physical security, control, and preservation of the Library of Congress collections and property, and for the maintenance of suitable order and decorum within Library of Congress.

(2) TREATMENT OF SECURITY SYSTEMS.—

(A) RESPONSIBILITY FOR SECURITY SYSTEMS.—In accordance with the authority of the Capitol Police and the Librarian of Congress established under this section, the amendments made by this section, and the provisions of law referred to in subparagraph (C), the Chief of the Capitol Police and the Librarian of Congress shall be responsible for the operation of security systems at the Library of

2 USC 167 note.

2 USC 141b.

Congress buildings and grounds described under section 11 of the Act of August 4, 1950, in consultation and coordination with each other, subject to the following:

(i) The Librarian of Congress shall be responsible for the design of security systems for the control and preservation of Library collections and property, subject to the review and approval of the Chief of the Capitol Police.

(ii) The Librarian of Congress shall be responsible for the operation of security systems at any building or facility of the Library of Congress which is located outside of the District of Columbia, subject to the review and approval of the Chief of the Capitol Police.

(B) INITIAL PROPOSAL FOR OPERATION OF SYSTEMS.—Not later than October 1, 2008, the Chief of the Capitol Police, in coordination with the Librarian of Congress, shall prepare and submit to the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate an initial proposal for carrying out this paragraph.

Deadline.

(C) PROVISIONS OF LAW.—The provisions of law referred to in this subparagraph are as follows:

(i) Section 1 of the Act of June 29, 1922 (2 U.S.C. 141).

(ii) The undesignated provision under the heading “General Provision, This Chapter” in chapter 5 of title II of division B of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (2 U.S.C. 141a).

(iii) Section 308 of the Legislative Branch Appropriations Act, 1996 (2 U.S.C. 1964).

(iv) Section 308 of the Legislative Branch Appropriations Act, 1997 (2 U.S.C. 1965).

(f) PAYMENT OF CAPITOL POLICE SERVICES PROVIDED IN CONNECTION WITH RELATING TO LIBRARY OF CONGRESS SPECIAL EVENTS.—

(1) PAYMENTS OF AMOUNTS DEPOSITED IN REVOLVING FUND.—Section 102(e) of the Library of Congress Fiscal Operations Improvement Act of 2000 (2 U.S.C. 182b(e)) is amended to read as follows:

“(e) USE OF AMOUNTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the accounts of the revolving fund under this section shall be available to the Librarian, in amounts specified in appropriations Acts and without fiscal year limitation, to carry out the programs and activities covered by such accounts.

“(2) SPECIAL RULE FOR PAYMENTS FOR CERTAIN CAPITOL POLICE SERVICES.—In the case of any amount in the revolving fund consisting of a payment received for services of the United States Capitol Police in connection with a special event or program described in subsection (a)(4), the Librarian shall transfer such amount upon receipt to the Capitol Police for deposit into the applicable appropriations accounts of the Capitol Police.”.

2 USC 143c.

(2) USE OF OTHER LIBRARY FUNDS TO MAKE PAYMENTS.—In addition to amounts transferred pursuant to section 102(e)(2) of the Library of Congress Fiscal Operations Improvement Act of 2000 (as added by paragraph (1)), the Librarian of Congress may transfer amounts made available for salaries and expenses of the Library of Congress during a fiscal year to the applicable appropriations accounts of the United States Capitol Police in order to reimburse the Capitol Police for services provided in connection with a special event or program described in section 102(a)(4) of such Act.

2 USC 182b note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to services provided by the United States Capitol Police on or after the date of the enactment of this Act.

(g) OTHER CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1015 of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1901 note) and section 1006 of the Legislative Branch Appropriations Act, 2004 (2 U.S.C. 1901 note; Public Law 108–83; 117 Stat. 1023) are repealed.

2 USC 1901 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect October 1, 2009.

2 USC 1901 note.

(h) DEFINITIONS.—In this section—

(1) the term “Act of August 4, 1950” means the Act entitled “An Act relating to the policing of the buildings and grounds of the Library of Congress,” (2 U.S.C. 167 et seq.);

(2) the term “Library of Congress Police employee” means an employee of the Library of Congress designated as police under the first section of the Act of August 4, 1950 (2 U.S.C. 167);

(3) the term “Library of Congress Police civilian employee” means an employee of the Library of Congress Office of Security and Emergency Preparedness who provides direct administrative support to, and is supervised by, the Library of Congress Police, but shall not include an employee of the Library of Congress who performs emergency preparedness or collections control and preservation functions; and

(4) the term “transition period” means the period the first day of which is the date of the enactment of this Act and the final day of which is September 30, 2009.

OFFICE OF COMPLIANCE

SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), \$3,350,000, of which \$700,000 shall remain available until September 30, 2009: *Provided*, That the Executive Director of the Office of Compliance may, within the limits of available appropriations, dispose of surplus or obsolete personal property by interagency transfer, donation, or discarding: *Provided further*, That not more than \$500 may be expended on the certification of the Executive Director of the Office of Compliance in connection with official representation and reception expenses.

ADMINISTRATIVE PROVISION

SEC. 1101. COMPENSATION OF BOARD AND OFFICERS OF THE OFFICE OF COMPLIANCE. (a) MEMBERS OF THE BOARD OF DIRECTORS.—Section 301(g) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(g)) is amended by striking paragraph (1) and inserting the following:

“(1) PER DIEM.—

“(A) RATE OF COMPENSATION FOR EACH DAY.—Each member of the Board shall be compensated, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board, at a rate equal to the daily equivalent of the lesser of—

“(i) the highest annual rate of compensation of any officer of the Senate; or

“(ii) the highest annual rate of compensation of any officer of the House of Representatives.

“(B) AUTHORITY TO PRORATE.—The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.”.

(b) OFFICERS.—Section 302 of the Congressional Accountability Act of 1995 (2 U.S.C. 1382) is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following:

“(2) COMPENSATION.—

“(A) AUTHORITY TO FIX COMPENSATION.—The Chair may fix the compensation of the Executive Director.

“(B) LIMITATION.—The rate of pay for the Executive Director may not exceed the lesser of—

“(i) the highest annual rate of compensation of any officer of the Senate; or

“(ii) the highest annual rate of compensation of any officer of the House of Representatives.”;

(2) in subsection (b), by striking paragraph (3) and inserting the following:

“(3) COMPENSATION.—

“(A) AUTHORITY TO FIX COMPENSATION.—The Chair may fix the compensation of the Deputy Executive Directors.

“(B) LIMITATION.—The rate of pay for a Deputy Executive Director may not exceed 96 percent of the lesser of—

“(i) the highest annual rate of compensation of any officer of the Senate; or

“(ii) the highest annual rate of compensation of any officer of the House of Representatives.”;

(3) in subsection (c), by striking paragraph (2) and inserting the following:

“(2) COMPENSATION.—

“(A) AUTHORITY TO FIX COMPENSATION.—The Chair may fix the compensation of the General Counsel.

“(B) LIMITATION.—The rate of pay for the General Counsel may not exceed the lesser of—

“(i) the highest annual rate of compensation of any officer of the Senate; or

“(ii) the highest annual rate of compensation of any officer of the House of Representatives.”; and

(4) in subsection (e), by striking “General Accounting Office” and inserting “Government Accountability Office”.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary for operation of the Congressional Budget Office, including not more than \$4,000 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, \$37,399,000.

ADMINISTRATIVE PROVISION

2 USC 611 note.

SEC. 1201. EXECUTIVE EXCHANGE PROGRAM FOR THE CONGRESSIONAL BUDGET OFFICE. (a) IN GENERAL.—The Director of the Congressional Budget Office may establish and conduct an executive exchange program under which employees of the Office may be assigned to private sector organizations, and employees of private sector organizations may be assigned to the Office, for 1-year periods to further the institutional interests of the Office or Congress, including for the purpose of providing training to officers and employees of the Office.

(b) LIMITATIONS AND CONDITIONS.—The Director of the Congressional Budget Office shall—

(1) limit the number of officers and employees who are assigned to private sector organizations at any one time to not more than 3;

(2) limit the number of employees from private sector organizations who are assigned to the Office at any one time to not more than 3;

(3) require that an employee of a private sector organization assigned to the Office may not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which such employee is assigned; and

(4) approve employees to be detailed from the private sector without regard to political affiliation and solely on the basis of their fitness to perform their assigned duties.

(c) TREATMENT OF PRIVATE EMPLOYEES.—An employee of a private sector organization assigned to the Office under the executive exchange program shall be considered to be an employee of the Office for purposes of—

(1) chapter 73 of title 5, United States Code;

(2) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18, United States Code;

(3) sections 1343, 1344, and 1349(b) of title 31, United States Code;

(4) chapter 171 of title 28, United States Code (commonly referred to as the “Federal Tort Claims Act”) and any other Federal tort liability statute;

(5) the Ethics in Government Act of 1978 (5 U.S.C. App.); and

(6) section 1043 of the Internal Revenue Code of 1986.

(d) TERMINATION OF ASSIGNMENTS.—No assignment under this section shall commence after the end of the 2-year period beginning on the date of enactment of this section.

(e) EFFECTIVE DATE.—Subject to subsection (d), this section shall apply to fiscal year 2008 and each fiscal year thereafter.

ARCHITECT OF THE CAPITOL

GENERAL ADMINISTRATION

For salaries for the Architect of the Capitol, and other personal services, at rates of pay provided by law; for surveys and studies in connection with activities under the care of the Architect of the Capitol; for all necessary expenses for the general and administrative support of the operations under the Architect of the Capitol including the Botanic Garden; electrical substations of the Capitol, Senate and House office buildings, and other facilities under the jurisdiction of the Architect of the Capitol; including furnishings and office equipment; including not more than \$5,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; for purchase or exchange, maintenance, and operation of a passenger motor vehicle, \$79,897,000, of which \$400,000 shall remain available until September 30, 2012.

CAPITOL BUILDING

For all necessary expenses for the maintenance, care and operation of the Capitol, \$24,090,000, of which \$8,290,000 shall remain available until September 30, 2012.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, \$10,090,000, of which \$500,000 shall remain available until September 30, 2012.

SENATE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of Senate office buildings; and furniture and furnishings to be expended under the control and supervision of the Architect of the Capitol, \$70,283,000, of which \$14,400,000 shall remain available until September 30, 2012.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, \$65,635,000, of which \$25,400,000 shall remain available until September 30, 2012.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled

water for air conditioning for the Supreme Court Building, the Union Station complex, the Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, \$85,310,000, of which \$3,155,000 shall remain available until September 30, 2012: *Provided*, That not more than \$8,000,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 2008.

LIBRARY BUILDINGS AND GROUNDS

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, \$27,553,000, of which \$4,890,000 shall remain available until September 30, 2012.

CAPITOL POLICE BUILDINGS, GROUNDS, AND SECURITY

For all necessary expenses for the maintenance, care and operation of buildings, grounds and security enhancements of the United States Capitol Police, wherever located, the Alternate Computer Facility, and AOC security operations, \$14,966,000, of which \$1,000,000 shall remain available until September 30, 2012.

BOTANIC GARDEN

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, \$8,808,000: *Provided*, That of the amount made available under this heading, the Architect may obligate and expend such sums as may be necessary for the maintenance, care and operation of the National Garden established under section 307E of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 2146), upon vouchers approved by the Architect or a duly authorized designee.

CAPITOL VISITOR CENTER

For an additional amount for the Capitol Visitor Center project, \$28,753,000, to remain available until expended, of which up to \$8,500,000 may be used for Capitol Visitor Center operations: *Provided*, That the Architect of the Capitol may not obligate any of the funds which are made available for the Capitol Visitor Center project without an obligation plan approved by the Committees on Appropriations of the Senate and House of Representatives.

ADMINISTRATIVE PROVISIONS

Architect of the
Capitol Inspector
General Act of
2007.
2 USC 1808.

SEC. 1301. INSPECTOR GENERAL OF THE ARCHITECT OF THE CAPITOL. (a) SHORT TITLE.—This section may be cited as the “Architect of the Capitol Inspector General Act of 2007”.

(b) OFFICE OF INSPECTOR GENERAL.—There is an Office of Inspector General within the Office of the Architect of the Capitol which is an independent objective office to—

(1) conduct and supervise audits and investigations relating to the Architect of the Capitol;

(2) provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness; and

(3) provide a means of keeping the Architect of the Capitol and the Congress fully and currently informed about problems and deficiencies relating to the administration of programs and operations of the Architect of the Capitol.

(c) APPOINTMENT OF INSPECTOR GENERAL; SUPERVISION; REMOVAL.—

(1) APPOINTMENT AND SUPERVISION.—

(A) IN GENERAL.—There shall be at the head of the Office of Inspector General, an Inspector General who shall be appointed by the Architect of the Capitol, in consultation with the Inspectors General of the Library of Congress, Government Printing Office, Government Accountability Office, and United States Capitol Police. The appointment shall be made without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the Architect of the Capitol.

(B) AUDITS, INVESTIGATIONS, REPORTS, AND OTHER DUTIES AND RESPONSIBILITIES.—The Architect of the Capitol shall have no authority to prevent or prohibit the Inspector General from—

(i) initiating, carrying out, or completing any audit or investigation;

(ii) issuing any subpoena during the course of any audit or investigation;

(iii) issuing any report; or

(iv) carrying out any other duty or responsibility of the Inspector General under this section.

(2) REMOVAL.—The Inspector General may be removed from office by the Architect of the Capitol. The Architect of the Capitol shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of Congress.

(3) COMPENSATION.—The Inspector General shall be paid at an annual rate of pay equal to \$1,500 less than the annual rate of pay of the Architect of the Capitol.

(d) DUTIES, RESPONSIBILITIES, AUTHORITY, AND REPORTS.—

(1) IN GENERAL.—Sections 4, 5 (other than subsections (a)(13) and (e)(1)(B) thereof), 6 (other than subsection (a)(7) and (8) thereof), and 7 of the Inspector General Act of 1978 (5 U.S.C. App.) shall apply to the Inspector General of the Architect of the Capitol and the Office of such Inspector General and such sections shall be applied to the Office of the Architect of the Capitol and the Architect of the Capitol by substituting—

(A) “Office of the Architect of the Capitol” for “establishment”; and

(B) “Architect of the Capitol” for “head of the establishment”.

(2) EMPLOYEES.—The Inspector General, in carrying out this section, is authorized to select, appoint, and employ such

officers and employees (including consultants) as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General subject to the provisions of law governing selections, appointments, and employment in the Office of the Architect of the Capitol.

(e) TRANSFERS.—All functions, personnel, and budget resources of the Office of the Inspector General of the Architect of the Capitol as in effect before the effective date of this section are transferred to the Office of Inspector General described under subsection (b).

(f) REFERENCES.—References in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Inspector General of the Architect of the Capitol shall be deemed to refer to the Inspector General as set forth under this section.

Deadline.

(g) FIRST APPOINTMENT.—By the date occurring 180 days after the date of enactment of this Act, the Architect of the Capitol shall appoint an individual to the position of Inspector General of the Architect of the Capitol described under subparagraph (A) of subsection (c)(1) in accordance with that subparagraph.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect 180 days after the date of enactment of this Act and apply with respect to fiscal year 2008 and each fiscal year thereafter.

(2) FIRST APPOINTMENT.—Subsection (g) shall take effect on the date of enactment of this Act and the Architect of the Capitol shall take such actions as necessary after such date of enactment to carry out that subsection.

2 USC 1831 note.

SEC. 1302. FLEXIBLE WORK SCHEDULES. Notwithstanding section 6101 of title 5, United States Code, the Architect of the Capitol may establish and conduct a pilot program to test flexible work schedules within the Architect of the Capitol and Botanic Garden. Such pilot program shall be in accordance with chapter 61 of title 5, United States Code. This authority shall terminate effective September 30, 2008.

Termination date.

SEC. 1303. TRAVEL AND TRANSPORTATION. (a) IN GENERAL.—Section 5721(1) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively; and

(2) by inserting after subparagraph (F) the following:

“(G) the Architect of the Capitol;”.

(b) DEMONSTRATION PROGRAM.—Section 521(1)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8241(1)(B)) is amended by striking “paragraphs (B) through (H)” and inserting “subparagraphs (B) through (I)”.

2 USC 1869.

SEC. 1304. ADVANCE PAYMENTS.—During fiscal year 2008 and each succeeding fiscal year, following notification of the Committees on Appropriations of the House of Representatives and the Senate, the Architect of the Capitol may make payments in advance for obligations of the Office of the Architect of the Capitol for subscription services if the Architect determines it to be more prompt, efficient, or economical to do so.

2 USC 1825.

SEC. 1305. CVC MAINTENANCE.—For maintenance purposes, the Capitol Visitor Center (CVC) is considered an extension of the Capitol Building, and the maintenance functions for the CVC's infrastructure is the responsibility of the Architect of the Capitol. Starting in fiscal year 2008, and each fiscal year thereafter, the

CVC’s facilities maintenance budget and associated payroll will be included with the Capitol Building’s appropriation budget, and integrated in such a way as to facilitate the reporting of expenses associated with the maintenance of the CVC facility.

SEC. 1306. LEASING AUTHORITY.—(a) Section 1102(b) of the Legislative Branch Appropriations Act, 2004 (2 U.S.C. 1822(b)) is amended—

Effective dates.

(1) in paragraph (1), by striking “Committee on Rules and Administration” and inserting “Committees on Appropriations and Rules and Administration”;

(2) in paragraph (2), by striking “the House Office Building Commission” and inserting “the Committee on Appropriations of the House of Representatives and the House Office Building Commission”; and

(3) in paragraph (3), by striking the period at the end and inserting “, for space to be leased for any other entity under subsection (a).”.

(b) The amendments made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2004.

2 USC 1822 note.

SEC. 1307. EASEMENTS FOR RIGHTS-OF-WAY. (a) IN GENERAL.—The Architect of the Capitol may grant, upon such terms as the Architect of the Capitol considers advisable, including monetary consideration, easements for rights-of-way over, in, and upon the Capitol Grounds and any other public lands under the jurisdiction and control of the Architect of the Capitol.

2 USC 1826.

(b) LIMITATION.—No easement granted under this section may include more land than is necessary for the easement.

(c) EASEMENT ACCOUNT.—There is established in the Treasury an easement account for the Architect of the Capitol. The Architect of the Capitol shall deposit in the account all proceeds received relating to the granting of easements under this section. The proceeds deposited in that account shall be available to the Architect, in such amounts and for such purposes provided in appropriations acts.

(d) IN-KIND CONSIDERATION.—Subject to subsection (f), the Architect may accept in-kind consideration instead of, or in addition to, any monetary consideration, for any easement granted under this section.

(e) TERMINATION OF EASEMENT.—The Architect of the Capitol may terminate all or part of any easement granted under this section for—

- (1) failure to comply with the terms of the grant;
- (2) nonuse for a 2-year period; or
- (3) abandonment.

(f) APPROVAL.—The Architect of the Capitol may grant an easement for rights-of-way under subsection (a) upon submission of written notice of intent to grant that easement and the amount or type of consideration to be received, and approval by—

(1) the Committee on Rules and Administration of the Senate for easements granted on property under Senate jurisdiction;

(2) the House Office Building Commission for property under House of Representatives jurisdiction; and

(3) the Committee on Rules and Administration of the Senate and the House Office Building Commission for easements granted on any other property.

(g) EFFECTIVE DATE.—This section shall apply to fiscal year 2008 and each fiscal year thereafter.

2 USC 1816a.

SEC. 1308. DESIGN-BUILD CONTRACTS.—(a) Notwithstanding any other provision of law, the Architect of the Capitol may use the two-phase selection procedures authorized in section 303M of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253m) for entering into a contract for the design and construction of a public building, facility, or work in the same manner and under the same terms and conditions as the head of an executive agency under such section.

Applicability.

(b) This section shall apply with respect to fiscal year 2008 and each succeeding fiscal year.

Appointment.
2 USC 1807.

SEC. 1309. ASSISTANT TO THE CHIEF EXECUTIVE OFFICER FOR VISITOR SERVICES. (a) DEFINITION.—In this section the term “Chief Executive Officer” means the Chief Executive Officer for Visitor Services established under section 6701 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (2 U.S.C. 1806).

(b) ASSISTANT TO THE CHIEF EXECUTIVE OFFICER.—The Architect of the Capitol shall—

(1) after consultation with the Chief Executive Officer, appoint an assistant to perform the responsibilities of the Chief Executive Officer during the absence or disability of the Chief Executive Officer, or during a vacancy in the position of the Chief Executive Officer; and

(2) fix the rate of basic pay for the position of the assistant appointed under paragraph (1) at a rate not to exceed the highest total rate of pay for the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code, for the locality involved.

(c) EFFECTIVE DATE.—This section shall apply to fiscal year 2008 and each fiscal year thereafter.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Library’s catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog records and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, \$395,784,000, of which not more than \$6,000,000 shall be derived from collections credited to this appropriation during fiscal year 2008, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150) and not more than \$350,000 shall be derived from collections during fiscal year 2008 and shall remain available until expended for the development and maintenance of an international legal information database and activities related thereto: *Provided*, That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902,

in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than \$6,350,000: *Provided further*, That of the total amount appropriated, \$16,451,000 shall remain available until September 30, 2010 for the partial acquisition of books, periodicals, newspapers, and all other materials including subscriptions for bibliographic services for the Library, including \$40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further*, That of the total amount appropriated, not more than \$12,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Overseas Field Offices: *Provided further*, That of the total amount appropriated, \$7,000,000 shall remain available until expended for the digital collections and educational curricula program: *Provided further*, That of the total amount appropriated, \$750,000 shall remain available until expended, and shall be transferred to the Abraham Lincoln Bicentennial Commission for carrying out the purposes of Public Law 106–173, of which \$10,000 may be used for official representation and reception expenses of the Abraham Lincoln Bicentennial Commission: *Provided further*, That of the total amount appropriated, \$1,482,000 shall be used for the National Digital Information Infrastructure and Preservation Program: *Provided further*, That of the total amount appropriated, \$75,000 shall be used to provide a grant to the Middle Eastern Text Initiative for translation and publishing of middle eastern text: *Provided further*, That \$125,000 shall be used to provide a grant to the University of Mississippi for the American Music Archives.

Grants.

Grants.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, \$49,558,000, of which not more than \$29,826,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 2008 under section 708(d) of title 17, United States Code: *Provided*, That not more than \$10,000,000 shall be derived from prior year unobligated balances: *Provided further*, That the Copyright Office may not obligate or expend any funds derived from collections under such section, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That not more than \$4,398,000 shall be derived from collections during fiscal year 2008 under sections 111(d)(2), 119(b)(2), 803(e), 1005, and 1316 of such title: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections and unobligated balances are less than \$44,224,000: *Provided further*, That not more than \$100,000 of the amount appropriated is available for the maintenance of an “International Copyright Institute” in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further*, That not more than \$4,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute and for copyright

delegations, visitors, and seminars: *Provided further*, That notwithstanding any provision of chapter 8 of title 17, United States Code, any amounts made available under this heading which are attributable to royalty fees and payments received by the Copyright Office pursuant to sections 111, 119, and chapter 10 of such title may be used for the costs incurred in the administration of the Copyright Royalty Judges program, with the exception of the costs of salaries and benefits for the Copyright Royalty Judges and staff under section 802(e).

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, \$102,601,000: *Provided*, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), \$67,091,000, of which \$20,704,000 shall remain available until expended, of which \$650,000 shall be available to contract to provide newspapers to blind and physically handicapped residents at no cost to the individual.

ADMINISTRATIVE PROVISIONS

SEC. 1401. INCENTIVE AWARDS PROGRAM. Of the amounts appropriated to the Library of Congress in this Act, not more than \$5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

SEC. 1402. REIMBURSABLE AND REVOLVING FUND ACTIVITIES. (a) IN GENERAL.—For fiscal year 2008, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed \$122,529,000.

(b) ACTIVITIES.—The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

(c) TRANSFER OF FUNDS.—During fiscal year 2008, the Librarian of Congress may temporarily transfer funds appropriated in this Act, under the heading “Library of Congress”, under the subheading “Salaries and Expenses”, to the revolving fund for the FEDLINK Program and the Federal Research Program established under section 103 of the Library of Congress Fiscal Operations Improvement

Act of 2000 (Public Law 106-481; 2 U.S.C. 182c): *Provided*, That the total amount of such transfers may not exceed \$1,900,000: *Provided further*, That the appropriate revolving fund account shall reimburse the Library for any amounts transferred to it before the period of availability of the Library appropriation expires.

SEC. 1403. AUDIT REQUIREMENT. Section 207(e) of the Legislative Branch Appropriations Act, 1998 (2 U.S.C. 182(e)) is amended to read as follows:

“(e) AUDIT.—The revolving fund shall be subject to audit by the Comptroller General at the Comptroller General’s discretion.”.

SEC. 1404. TRANSFER AUTHORITY. (a) IN GENERAL.—Amounts appropriated for fiscal year 2008 for the Library of Congress may be transferred during fiscal year 2008 between any of the headings under the heading “LIBRARY OF CONGRESS” upon the approval of the Committees on Appropriations of the Senate and the House of Representatives.

(b) LIMITATION.—Not more than 10 percent of the total amount of funds appropriated to the account under any heading under the heading “LIBRARY OF CONGRESS” for fiscal year 2008 may be transferred from that account by all transfers made under subsection (a).

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(INCLUDING TRANSFER OF FUNDS)

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (section 902 of title 44, United States Code); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, \$90,000,000: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under section 906 of title 44, United States Code: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years: *Provided further*, That notwithstanding the 2-year limitation under section 718 of title 44, United States Code, none of the funds appropriated or made available under this Act or any other Act for printing and binding and related services provided to Congress under chapter 7 of title 44, United States Code, may be expended to print a document, report, or publication after the 27-month period beginning on the date that such document, report, or publication is authorized by Congress to be printed, unless Congress reauthorizes such printing in accordance with section 718 of title 44, United States Code: *Provided further*, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading,

subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, \$35,000,000: *Provided*, That amounts of not more than \$2,000,000 from current year appropriations are authorized for producing and disseminating Congressional serial sets and other related publications for fiscal years 2006 and 2007 to depository and other designated libraries: *Provided further*, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: *Provided further*, That not more than \$5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of not more than 12 passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: *Provided further*, That the revolving fund and the funds provided under the headings “Office of Superintendent of Documents” and “Salaries and Expenses” together may not be available for the full-time equivalent employment of more than 2,621 work-years (or such other number of work-years as the Public Printer may request, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate): *Provided further*, That activities financed through the revolving fund may provide information in any format: *Provided further*, That the revolving fund and the funds provided under the headings “OFFICE OF SUPERINTENDENT OF DOCUMENTS” and “SALARIES AND EXPENSES” may not be used

for contracted security services at GPO's passport facility in the District of Columbia.

GOVERNMENT ACCOUNTABILITY OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Government Accountability Office, including not more than \$12,500 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with section 3324 of title 31, United States Code; benefits comparable to those payable under sections 901(5), (6), and (8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), (6), and (8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries, \$501,000,000: *Provided*, That not more than \$5,413,000 of payments received under section 782 of title 31, United States Code, shall be available for use in fiscal year 2008: *Provided further*, That not more than \$2,097,000 of reimbursements received under section 9105 of title 31, United States Code, shall be available for use in fiscal year 2008: *Provided further*, That of the total amount provided, up to \$2,500,000 is for technology assessment studies: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of either Forum's costs as determined by the respective Forum, including necessary travel expenses of non-Federal participants: *Provided further*, That payments hereunder to the Forum may be credited as reimbursements to any appropriation from which costs involved are initially financed.

ADMINISTRATIVE PROVISIONS

SEC. 1501. CONTRACT APPEALS BOARD. (a) DEFINITIONS.—In this section—

(1) the term “Board” means the Contract Appeals Board established under subsection (b); and

(2) the term “legislative branch agency” means—

- (A) the Architect of the Capitol;
- (B) the United States Botanic Gardens;
- (C) the Government Accountability Office;
- (D) the Government Printing Office;
- (E) the Library of Congress;
- (F) the Congressional Budget Office;
- (G) the United States Capitol Police; and
- (H) any other agency, including any office, board, or commission, established in the legislative branch; and

(b) ESTABLISHMENT.—There is established a Contract Appeals Board within the Government Accountability Office. The Board shall hear and decide appeals from decisions of a contracting officer

31 USC 702 note.

with respect to any contract entered into by a legislative branch agency.

(c) MEMBERS OF THE BOARD.—

(1) APPOINTMENT.—The Comptroller General shall appoint at least 3 members to the Contract Appeals Board.

(2) QUALIFICATIONS.—Each member shall have not less than 5 years experience in public contract law.

(3) PAY.—Subject to any provision of law relating to pay applicable to the Office of General Counsel of the Government Accountability Office, the Comptroller General shall establish and adjust the annual rate of basic pay of members of the Board.

(d) PROVISIONS APPLICABLE TO APPEALS.—The Contract Disputes Act of 1978 (Public Law 95-563, 41 U.S.C. 601 et seq.), as amended, shall apply to appeals to the Board, except that section 4, subsections 8(a), (b), and (c), and subsection 10(a) shall not apply to such appeals and the amount of any claim referenced in subsection 6(c) shall be \$50,000. The Comptroller General shall prescribe regulations for procedures for appeals to the Board that are consistent with procedures under the Contract Disputes Act of 1978.

Regulations.

(e) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2008 and each fiscal year thereafter.

2 USC 262o-2
note.

SEC. 1502. REPEAL AND MODIFICATION OF CERTAIN REPORTING REQUIREMENTS. (a) ANNUAL REPORT BY GAO ON CONSISTENCY OF IMF PRACTICES WITH STATUTORY POLICIES.—Section 504(e) of the Consolidated Appropriations Act, 2000 (Public Law 106-113; 113 Stat. 1501A-318) is repealed.

50 USC app.
2404 note.

(b) REVIEW OF PROPOSED CHANGES TO EXPORT THRESHOLDS FOR COMPUTERS.—Section 314 of the Consolidated Appropriations Act, 2001 (Public Law 106-554; 114 Stat. 2763A-123) is repealed.

(c) CONGRESSIONAL HUNGER FELLOWSHIP PROGRAM AUDIT.—Section 4404(f)(4)(A) of the Congressional Hunger Fellows Act of 2002 (2 U.S.C. 1161(f)(4)(A); Public Law 107-171) is amended—

(1) by striking “shall” and inserting “may”; and

(2) by striking “annual.”.

(d) HAITIAN REFUGEE IMMIGRATION.—Section 902(k) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note; Public Law 105-277) is repealed.

(e) AUDIT OF FINANCIAL TRANSACTIONS.—Section 11 of the National Moment of Remembrance Act (36 U.S.C. 116 note; Public Law 106-579) is repealed.

(f) LOSS RATIOS AND REFUND OF PREMIUMS.—Section 1882(r)(5) of the Social Security Act (42 U.S.C. 1395ss(r)(5)) is amended—

(1) in subparagraph (A)—

(A) by striking “(A) The Comptroller General shall periodically, not less than once every 3 years,” and inserting “The Secretary may”; and

(B) by striking “and to the Secretary”; and

(2) by striking subparagraph (B).

(g) RADIATION EXPOSURE COMPENSATION REPORTS.—Section 14 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note; Public Law 101-426) is repealed.

OPEN WORLD LEADERSHIP CENTER TRUST FUND

For a payment to the Open World Leadership Center Trust Fund for financing activities of the Open World Leadership Center under section 313 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151), \$9,000,000: *Provided*, That not later than March 31, 2008, the Board of Trustees of the Open World Leadership Center shall prepare and submit a report to the Committees on Appropriations of the Senate and the House of Representatives for potential options for transfer of the Open World Leadership Center to a department or agency in the executive branch, establishment of the Center as an independent agency in the executive branch, or other appropriate options.

Deadline.
Reports.

JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING
AND DEVELOPMENT

For payment to the John C. Stennis Center for Public Service Development Trust Fund established under section 116 of the John C. Stennis Center for Public Service Training and Development Act (2 U.S.C. 1105), \$430,000.

TITLE II

GENERAL PROVISIONS

SEC. 201. MAINTENANCE AND CARE OF PRIVATE VEHICLES. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 202. FISCAL YEAR LIMITATION. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 2008 unless expressly so provided in this Act.

SEC. 203. RATES OF COMPENSATION AND DESIGNATION. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 (46 Stat. 32 et seq.) is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: *Provided*, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 204. CONSULTING SERVICES. The expenditure of any appropriation under this Act for any consulting service through procurement contract, under section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued under existing law.

Contracts.

SEC. 205. AWARDS AND SETTLEMENTS. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of the Congressional Accountability Act of 1995

(2 U.S.C. 1415(a)) to pay awards and settlements as authorized under such subsection.

SEC. 206. COSTS OF LBFMC. Amounts available for administrative expenses of any legislative branch entity which participates in the Legislative Branch Financial Managers Council (LBFMC) established by charter on March 26, 1996, shall be available to finance an appropriate share of LBFMC costs as determined by the LBFMC, except that the total LBFMC costs to be shared among all participating legislative branch entities (in such allocations among the entities as the entities may determine) may not exceed \$2,000.

SEC. 207. LANDSCAPE MAINTENANCE. The Architect of the Capitol, in consultation with the District of Columbia, is authorized to maintain and improve the landscape features, excluding streets and sidewalks, in the irregular shaped grassy areas bounded by Washington Avenue, SW on the northeast, Second Street SW on the west, Square 582 on the south, and the beginning of the I–395 tunnel on the southeast.

SEC. 208. LIMITATION ON TRANSFERS. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 209. GUIDED TOURS OF THE CAPITOL.—(a) Except as provided in subsection (b), none of the funds made available to the Architect of the Capitol or the U.S. Capitol Guide Service and Congressional Special Services Office in this Act may be used to eliminate guided tours of the United States Capitol which are led by employees and interns of offices of Members of Congress and other offices of the House of Representatives and Senate.

(b) At the direction of the Capitol Police Board, or at the direction of the Architect of the Capitol or Director of the U.S. Capitol Guide Service and Congressional Special Services Office with the approval of the Capitol Police Board, guided tours of the United States Capitol which are led by employees and interns described in subsection (a) may be suspended temporarily or otherwise subject to restriction for security or related reasons to the same extent as guided tours of the United States Capitol which are led by the Architect of the Capitol or the Capitol Guide Service.

SEC. 210. (a) RESCISSIONS.—There is hereby rescinded an amount equal to 0.25 percent of the budget authority provided for fiscal year 2008 for any discretionary account in title I of this Act.

(b) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in such subsection; and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(c) EXCEPTION.—This section shall not apply to section 1003 of title I of this Act.

(d) ADMINISTRATION OF ACROSS-THE-BOARD REDUCTIONS.—In the administration of subsection (a), with respect to the budget authority provided under the heading “SENATE” in title I of this Act—

(1) the percentage rescissions under subsection (a) shall apply to the total amount of all funds appropriated under that heading; and

(2) the rescissions may be applied without regard to subsection (b).

This division may be cited as the “Legislative Branch Appropriations Act, 2008”.

DIVISION I—MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

Military
Construction and
Veterans Affairs
and Related
Agencies
Appropriations
Act, 2008.

TITLE I

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSION OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, \$3,936,583,000, to remain available until September 30, 2012: *Provided*, That of this amount, not to exceed \$321,983,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction, Army” under Public Law 110–5, \$8,690,000 are hereby rescinded.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

(INCLUDING RESCISSIONS OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$2,198,394,000, to remain available until September 30, 2012: *Provided*, That of this amount, not to exceed \$113,017,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination

Notification.

and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction, Navy and Marine Corps” under Public Law 108-132, \$5,862,000; under Public Law 108-324, \$2,069,000; and under Public Law 110-5, \$2,626,000 are hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$1,159,747,000, to remain available until September 30, 2012: *Provided*, That of this amount, not to exceed \$43,721,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction, Air Force” under Public Law 108-324, \$5,319,000; and under Public Law 110-5, \$5,151,000 are hereby rescinded.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$1,609,596,000, to remain available until September 30, 2012: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$155,569,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction, Defense-Wide” under Public Law 110-5, \$10,192,000 are hereby rescinded.

Notification.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$536,656,000, to remain available until September 30, 2012.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$287,537,000, to remain available until September 30, 2012.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$148,133,000, to remain available until September 30, 2012.

MILITARY CONSTRUCTION, NAVY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$64,430,000, to remain available until September 30, 2012.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

(INCLUDING RESCISSION OF FUNDS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$28,359,000, to remain available until September 30, 2012: *Provided*, That of the funds appropriated for “Military Construction, Air Force Reserve” under Public Law 109–114, \$3,069,000 are hereby rescinded.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, \$201,400,000, to remain available until expended.

FAMILY HOUSING CONSTRUCTION, ARMY

(INCLUDING RESCISSION OF FUNDS)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension,

and alteration, as authorized by law, \$424,400,000, to remain available until September 30, 2012: *Provided*, That of the funds appropriated for “Family Housing Construction, Army” under Public Law 110–5, \$4,559,000 are hereby rescinded.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$731,920,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$293,129,000, to remain available until September 30, 2012.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND
MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$371,404,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION OF FUNDS)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$327,747,000, to remain available until September 30, 2012: *Provided*, That of the funds appropriated for “Family Housing Construction, Air Force” under Public Law 108–132, \$15,000,000 are hereby rescinded.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$688,335,000.

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, \$48,848,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, \$500,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE

For expenses of construction, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, as currently authorized by law, \$104,176,000, to remain available until September 30, 2012, which shall be only for the Assembled Chemical Weapons Alternatives program.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For deposit into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$295,689,000, to remain available until expended.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$7,235,591,000, to remain available until expended: *Provided*, That the Department of Defense shall notify the Committees on Appropriations of both Houses of Congress 14 days prior to obligating an amount for a construction project that exceeds or reduces the amount identified for that project in the most recently submitted budget request for this account by 20 percent or \$2,000,000, whichever is less: *Provided further*, That the previous proviso shall not apply to projects costing less than \$5,000,000, except for those projects not previously identified in any budget submission for this account and exceeding the minor construction threshold under 10 U.S.C. 2805.

Notification.
Deadline.

ADMINISTRATIVE PROVISIONS

SEC. 101. None of the funds made available in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds made available in this title for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds made available in this title for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this title may be used to begin construction of new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this title shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers

or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or the designee of the Attorney General; (3) where the estimated value is less than \$25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this title shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Acts making appropriations for military construction.

Notification.

SEC. 107. None of the funds made available in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 108. None of the funds made available in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

Notification.

SEC. 110. None of the funds made available in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 111. None of the funds made available in this title may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds made available in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

Notification.
Military
exercises.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

SEC. 114. Not more than 20 percent of the funds made available in this title which are limited for obligation during the current

fiscal year shall be obligated during the last two months of the fiscal year.

(INCLUDING TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds made available to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available, if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. (a) The Secretary of Defense, in consultation with the Secretary of State, shall submit to the Committees on Appropriations of both Houses of Congress, by February 15 of each year, an annual report, in unclassified and, if necessary classified form, on actions taken by the Department of Defense and the Department of State during the previous fiscal year to encourage host countries to assume a greater share of the common defense burden of such countries and the United States.

Deadlines.
Reports.
22 USC 1928
note.

(b) The report under subsection (a) shall include a description of—

(1) attempts to secure cash and in-kind contributions from host countries for military construction projects;

(2) attempts to achieve economic incentives offered by host countries to encourage private investment for the benefit of the United States Armed Forces;

(3) attempts to recover funds due to be paid to the United States by host countries for assets deeded or otherwise imparted to host countries upon the cessation of United States operations at military installations;

(4) the amount spent by host countries on defense, in dollars and in terms of the percent of gross domestic product (GDP) of the host country; and

(5) for host countries that are members of the North Atlantic Treaty Organization (NATO), the amount contributed to NATO by host countries, in dollars and in terms of the percent of the total NATO budget.

(c) In this section, the term “host country” means other member countries of NATO, Japan, South Korea, and United States allies bordering the Arabian Sea.

(INCLUDING TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

(INCLUDING TRANSFER OF FUNDS)

Notification.

SEC. 120. Subject to 30 days prior notification to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in “Family Housing” accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in “Military Construction” accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169 of title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

Deadline.
Notice.

SEC. 121. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(INCLUDING TRANSFER OF FUNDS)

SEC. 122. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the accounts established by sections 2906(a)(1) and 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 123. Notwithstanding this or any other provision of law, funds made available in this title for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than \$35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

10 USC 2821
note.

Notification.

Reports.
Deadline.

SEC. 124. Whenever the Secretary of Defense or any other official of the Department of Defense is requested by the subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives or the subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate to respond to a question or inquiry submitted by the chairman or another member of that subcommittee pursuant to a subcommittee hearing or other activity, the Secretary (or other official) shall respond to the request, in writing, within 21 days of the date on which the request is transmitted to the Secretary (or other official).

Inquiry request.
Deadline.

SEC. 125. Amounts contained in the Ford Island Improvement Account established by subsection (h) of section 2814 of title 10, United States Code, are appropriated and shall be available until expended for the purposes specified in subsection (i)(1) of such section or until transferred pursuant to subsection (i)(3) of such section.

(INCLUDING TRANSFER OF FUNDS)

SEC. 126. None of the funds made available in this title, or in any Act making appropriations for military construction which remain available for obligation, may be obligated or expended to carry out a military construction, land acquisition, or family housing project at or for a military installation approved for closure, or at a military installation for the purposes of supporting a function that has been approved for realignment to another installation, in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C.

Notification.
Deadline.

2687 note), unless such a project at a military installation approved for realignment will support a continuing mission or function at that installation or a new mission or function that is planned for that installation, or unless the Secretary of Defense certifies that the cost to the United States of carrying out such project would be less than the cost to the United States of cancelling such project, or if the project is at an active component base that shall be established as an enclave or in the case of projects having multi-agency use, that another Government agency has indicated it will assume ownership of the completed project. The Secretary of Defense may not transfer funds made available as a result of this limitation from any military construction project, land acquisition, or family housing project to another account or use such funds for another purpose or project without the prior approval of the Committees on Appropriations of both Houses of Congress. This section shall not apply to military construction projects, land acquisition, or family housing projects for which the project is vital to the national security or the protection of health, safety, or environmental quality: *Provided*, That the Secretary of Defense shall notify the congressional defense committees within seven days of a decision to carry out such a military construction project.

(INCLUDING TRANSFER OF FUNDS)

SEC. 127. During the 5-year period after appropriations available in this Act to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation “Foreign Currency Fluctuations, Construction, Defense”, to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 128. None of the funds in this title shall be used for any activity related to the construction of an Outlying Landing Field in Washington County, North Carolina.

TITLE II

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by section 107 and chapters 11, 13, 18, 51, 53, 55, and 61 of title 38, United States Code; pension benefits to or on behalf of veterans as authorized by chapters 15, 51, 53, 55, and 61 of title 38, United States Code; and burial benefits, the Reinstated Entitlement Program for Survivors, emergency and other officers’ retirement pay, adjusted-service credits and certificates, payment

of premiums due on commercial life insurance policies guaranteed under the provisions of title IV of the Servicemembers Civil Relief Act (50 U.S.C. App. 541 et seq.) and for other benefits as authorized by sections 107, 1312, 1977, and 2106, and chapters 23, 51, 53, 55, and 61 of title 38, United States Code, \$41,236,322,000, to remain available until expended: *Provided*, That not to exceed \$28,583,000 of the amount appropriated under this heading shall be reimbursed to “General operating expenses” and “Medical administration” for necessary expenses in implementing the provisions of chapters 51, 53, and 55 of title 38, United States Code, the funding source for which is specifically provided as the “Compensation and pensions” appropriation: *Provided further*, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to “Medical care collections fund” to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61 of title 38, United States Code, \$3,300,289,000, to remain available until expended: *Provided*, That expenses for rehabilitation program services and assistance which the Secretary is authorized to provide under subsection (a) of section 3104 of title 38, United States Code, other than under paragraphs (1), (2), (5), and (11) of that subsection, shall be charged to this account.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen’s indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by title 38, United States Code, chapters 19 and 21, \$41,250,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by subchapters I through III of chapter 37 of title 38, United States Code: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during fiscal year 2008, within the resources available, not to exceed \$500,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, \$154,562,000.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, \$71,000, as authorized by chapter 31 of title 38, United States Code: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided*

further, That funds made available under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$3,287,000.

In addition, for administrative expenses necessary to carry out the direct loan program, \$311,000, which may be transferred to and merged with the appropriation for “General operating expenses”.

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program authorized by subchapter V of chapter 37 of title 38, United States Code, \$628,000.

GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by subchapter VI of chapter 20 of title 38, United States Code, not to exceed \$750,000 of the amounts appropriated by this Act for “General operating expenses” and “Medical administration” may be expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment, food services, and salaries and expenses of health-care employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; \$29,104,220,000, plus reimbursements, of which not less than \$2,900,000,000 shall be expended for specialty mental health care and not less than \$130,000,000 shall be expended for the homeless grants and per diem program: *Provided*, That of the funds made available under this heading, not to exceed \$1,350,000,000 shall be available until September 30, 2009: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for the provision of medical treatment for veterans who have service-connected disabilities, lower income, or have special needs: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: *Provided further*, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: *Provided further*, That for the Department of Defense/Department of Veterans

Priorities.

Priorities.

Affairs Health Care Sharing Incentive Fund, as authorized by section 8111(d) of title 38, United States Code, a minimum of \$15,000,000, to remain available until expended, for any purpose authorized by section 8111 of title 38, United States Code.

MEDICAL ADMINISTRATION

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; and administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.): \$3,517,000,000, plus reimbursements, of which \$250,000,000 shall be available until September 30, 2009.

MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities of the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering, and architectural activities not charged to project costs; for repairing, altering, improving, or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry services, \$4,100,000,000, plus reimbursements, of which \$350,000,000 shall be available until September 30, 2009: *Provided*, That \$325,000,000 for non-recurring maintenance provided under this heading shall be allocated in a manner not subject to the Veterans Equitable Resource Allocation.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by chapter 73 of title 38, United States Code, \$480,000,000, plus reimbursements, to remain available until September 30, 2009.

NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of one passenger motor vehicle for use in cemeterial operations; and hire of passenger motor vehicles, \$195,000,000, of which not to exceed \$20,000,000 shall be available until September 30, 2009.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of Department-Wide capital planning, management and policy activities, uniforms, or allowances therefor; not to exceed \$25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, \$1,605,000,000: *Provided*, That expenses for services and assistance authorized under paragraphs (1), (2), (5), and (11) of section 3104(a) of title 38, United States Code, that the Secretary of Veterans Affairs determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: *Provided further*, That the Veterans Benefits Administration shall be funded at not less than \$1,327,001,000: *Provided further*, That of the funds made available under this heading, not to exceed \$75,000,000 shall be available for obligation until September 30, 2009: *Provided further*, That from the funds made available under this heading, the Veterans Benefits Administration may purchase (on a one-for-one replacement basis only) up to two passenger motor vehicles for use in operations of that Administration in Manila, Philippines.

INFORMATION TECHNOLOGY SYSTEMS

Expenditure
plan.

Deadline.
Reprogramming
letter.

For necessary expenses for information technology systems and telecommunications support, including developmental information systems and operational information systems; including pay and associated cost for operations and maintenance associated staff; for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by section 3109 of title 5, United States Code, \$1,966,465,000, to be available until September 30, 2009: *Provided*, That none of these funds may be obligated until the Department of Veterans Affairs submits to the Committees on Appropriations of both Houses of Congress, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget; (2) complies with the Department of Veterans Affairs enterprise architecture; (3) conforms with an established enterprise life cycle methodology; and (4) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government: *Provided further*, That within 30 days of enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a reprogramming base letter which provides, by project, the costs included in this appropriation.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, to include information technology, in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), \$80,500,000, of which \$5,000,000 shall be available until September 30, 2009.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, construction management services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is more than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, or where funds for a project were made available in a previous major project appropriation, \$1,069,100,000, to remain available until expended, of which \$2,000,000 shall be to make reimbursements as provided in section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) for claims paid for contract disputes: *Provided*, That except for advance planning activities, including needs assessments which may or may not lead to capital investments, and other capital asset management related activities, including portfolio development and management activities, and investment strategy studies funded through the advance planning fund and the planning and design activities funded through the design fund, including needs assessments which may or may not lead to capital investments, none of the funds appropriated under this heading shall be used for any project which has not been approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 2008, for each approved project shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2008; and (2) by the awarding of a construction contract by September 30, 2009: *Provided further*, That the Secretary of Veterans Affairs shall promptly submit to the Committees on Appropriations of both Houses of Congress a written report on any approved major construction project for which obligations are not incurred within the time limitations established above: *Provided further*, That none of the funds appropriated in this or any other Act may be used to reduce the mission, services, or infrastructure, including land, of the 18 facilities on the Capital Asset Realignment for Enhanced Services (CARES) list requiring further study, as specified by the Secretary of Veterans Affairs, without prior approval of the Committees on Appropriations of both Houses of Congress.

Deadlines.
Contracts.

Reports.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or

for the use of the Department of Veterans Affairs, including planning and assessments of needs which may lead to capital investments, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, 8122, and 8162 of title 38, United States Code, where the estimated cost of a project is equal to or less than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, \$630,535,000, to remain available until expended, along with unobligated balances of previous “Construction, minor projects” appropriations which are hereby made available for any project where the estimated cost is equal to or less than the amount set forth in such section: *Provided*, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify, or alter existing hospital, nursing home, and domiciliary facilities in State homes, for furnishing care to veterans as authorized by sections 8131 through 8137 of title 38, United States Code, \$165,000,000, to remain available until expended.

GRANTS FOR CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to assist States in establishing, expanding, or improving State veterans cemeteries as authorized by section 2408 of title 38, United States Code, \$39,500,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Any appropriation for fiscal year 2008 for “Compensation and pensions”, “Readjustment benefits”, and “Veterans insurance and indemnities” may be transferred as necessary to any other of the mentioned appropriations: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and such Committees issue an approval, or absent a response, a period of 30 days has elapsed.

Transfer
authority.
Deadline.

(INCLUDING TRANSFER OF FUNDS)

SEC. 202. Amounts made available for fiscal year 2008, in this Act or any other Act, under the “Medical services”, “Medical Administration”, and “Medical facilities” accounts may be transferred among the accounts to the extent necessary to implement the restructuring of the Veterans Health Administration accounts:

Provided, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

Transfer
authority.

SEC. 203. Appropriations available in this title for salaries and expenses shall be available for services authorized by section 3109 of title 5, United States Code, hire of passenger motor vehicles; lease of a facility or land or both; and uniforms or allowances therefore, as authorized by sections 5901 through 5902 of title 5, United States Code.

SEC. 204. No appropriations in this title (except the appropriations for “Construction, major projects”, and “Construction, minor projects”) shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 205. No appropriations in this title shall be available for hospitalization or examination of any persons (except beneficiaries entitled to such hospitalization or examination under the laws providing such benefits to veterans, and persons receiving such treatment under sections 7901 through 7904 of title 5, United States Code, or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)), unless reimbursement of the cost of such hospitalization or examination is made to the “Medical services” account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 206. Appropriations available in this title for “Compensation and pensions”, “Readjustment benefits”, and “Veterans insurance and indemnities” shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 2007.

SEC. 207. Appropriations available in this title shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from sections 3328(a), 3334, and 3712(a) of title 31, United States Code, except that if such obligations are from trust fund accounts they shall be payable only from “Compensation and pensions”.

(INCLUDING TRANSFER OF FUNDS)

SEC. 208. Notwithstanding any other provision of law, during fiscal year 2008, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans’ Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the “General operating expenses” account for the cost of administration of the insurance programs financed through those accounts: *Provided*, That reimbursement shall be made only from the surplus earnings accumulated in such an insurance program during fiscal year 2008 that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: *Provided further*, That if the cost of administration of such an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: *Provided further*, That the Secretary shall determine the cost of administration for fiscal year 2008 which is properly allocable to the provision of each such insurance program and to the provision of any total disability income insurance included in that insurance program.

SEC. 209. Amounts deducted from enhanced-use lease proceeds to reimburse an account for expenses incurred by that account during a prior fiscal year for providing enhanced-use lease services, may be obligated during the fiscal year in which the proceeds are received.

(INCLUDING TRANSFER OF FUNDS)

SEC. 210. Funds available in this title or funds for salaries and other administrative expenses shall also be available to reimburse the Office of Resolution Management of the Department of Veterans Affairs and the Office of Employment Discrimination Complaint Adjudication under section 319 of title 38, United States Code, for all services provided at rates which will recover actual costs but not exceed \$32,067,000 for the Office of Resolution Management and \$3,148,000 for the Office of Employment and Discrimination Complaint Adjudication: *Provided*, That payments may be made in advance for services to be furnished based on estimated costs: *Provided further*, That amounts received shall be credited to “General operating expenses” for use by the office that provided the service.

Reports.
Deadline.

SEC. 211. No appropriations in this title shall be available to enter into any new lease of real property if the estimated annual rental is more than \$300,000 unless the Secretary submits a report which the Committees on Appropriations of both Houses of Congress approve within 30 days following the date on which the report is received.

SEC. 212. No funds of the Department of Veterans Affairs shall be available for hospital care, nursing home care, or medical services provided to any person under chapter 17 of title 38, United States Code, for a non-service-connected disability described in section 1729(a)(2) of such title, unless that person has disclosed to the Secretary of Veterans Affairs, in such form as the Secretary may require, current, accurate third-party reimbursement information for purposes of section 1729 of such title: *Provided*, That the Secretary may recover, in the same manner as any other debt due the United States, the reasonable charges for such care or services from any person who does not make such disclosure as required: *Provided further*, That any amounts so recovered for care or services provided in a prior fiscal year may be obligated by the Secretary during the fiscal year in which amounts are received.

(INCLUDING TRANSFER OF FUNDS)

SEC. 213. Notwithstanding any other provision of law, at the discretion of the Secretary of Veterans Affairs, proceeds or revenues derived from enhanced-use leasing activities (including disposal) may be deposited into the “Construction, major projects” and “Construction, minor projects” accounts and be used for construction (including site acquisition and disposition), alterations, and improvements of any medical facility under the jurisdiction or for the use of the Department of Veterans Affairs. Such sums as realized are in addition to the amount provided for in “Construction, major projects” and “Construction, minor projects”.

SEC. 214. Amounts made available under “Medical services” are available—

(1) for furnishing recreational facilities, supplies, and equipment; and

(2) for funeral expenses, burial expenses, and other expenses incidental to funerals and burials for beneficiaries receiving care in the Department.

(INCLUDING TRANSFER OF FUNDS)

SEC. 215. Such sums as may be deposited to the Medical Care Collections Fund pursuant to section 1729A of title 38, United States Code, may be transferred to “Medical services”, to remain available until expended for the purposes of that account.

SEC. 216. Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall allow veterans who are eligible under existing Department of Veterans Affairs medical care requirements and who reside in Alaska to obtain medical care services from medical facilities supported by the Indian Health Service or tribal organizations. The Secretary shall: (1) limit the application of this provision to rural Alaskan veterans in areas where an existing Department of Veterans Affairs facility or Veterans Affairs-contracted service is unavailable; (2) require participating veterans and facilities to comply with all appropriate rules and regulations, as established by the Secretary; (3) require this provision to be consistent with Capital Asset Realignment for Enhanced Services activities; and (4) result in no additional cost to the Department of Veterans Affairs or the Indian Health Service.

Alaska.

(INCLUDING TRANSFER OF FUNDS)

SEC. 217. Such sums as may be deposited to the Department of Veterans Affairs Capital Asset Fund pursuant to section 8118 of title 38, United States Code, may be transferred to the “Construction, major projects” and “Construction, minor projects” accounts, to remain available until expended for the purposes of these accounts.

SEC. 218. None of the funds available to the Department of Veterans Affairs, in this Act, or any other Act, may be used to replace the current system by which the Veterans Integrated Services Networks select and contract for diabetes monitoring supplies and equipment.

SEC. 219. None of the funds made available in this title may be used to implement any policy prohibiting the Directors of the Veterans Integrated Services Networks from conducting outreach or marketing to enroll new veterans within their respective Networks.

SEC. 220. The Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a quarterly report on the financial status of the Veterans Health Administration.

(INCLUDING TRANSFER OF FUNDS)

SEC. 221. Amounts made available under the “Medical services”, “Medical Administration”, “Medical facilities”, “General operating expenses”, and “National Cemetery Administration” accounts for fiscal year 2008, may be transferred to or from the “Information technology systems” account: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

Transfer
authority.

Transfer
authority.
Deadline.

SEC. 222. Amounts made available for the “Information technology systems” account may be transferred between projects: *Provided*, That no project may be increased or decreased by more than \$1,000,000 of cost prior to submitting a request to the Committees on Appropriations of both Houses of Congress to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed.

(INCLUDING TRANSFER OF FUNDS)

SEC. 223. Any balances in prior year accounts established for the payment of benefits under the Reinstated Entitlement Program for Survivors shall be transferred to and merged with amounts available under the “Compensation and pensions” account, and receipts that would otherwise be credited to the accounts established for the payment of benefits under the Reinstated Entitlement Program for Survivors program shall be credited to amounts available under the “Compensation and pensions” account.

SEC. 224. PROHIBITION ON DISPOSAL OF DEPARTMENT OF VETERANS AFFAIRS LANDS AND IMPROVEMENTS AT WEST LOS ANGELES MEDICAL CENTER, CALIFORNIA. (a) IN GENERAL.—The Secretary of Veterans Affairs may not declare as excess to the needs of the Department of Veterans Affairs, or otherwise take any action to exchange, trade, auction, transfer, or otherwise dispose of, or reduce the acreage of, Federal land and improvements at the Department of Veterans Affairs West Los Angeles Medical Center, California, encompassing approximately 388 acres on the north and south sides of Wilshire Boulevard and west of the 405 Freeway.

(b) SPECIAL PROVISION REGARDING LEASE WITH REPRESENTATIVE OF THE HOMELESS.—Notwithstanding any provision of this Act, section 7 of the Homeless Veterans Comprehensive Services Act of 1992 (Public Law 102-590) shall remain in effect.

(c) CONFORMING AMENDMENT.—Section 8162(c)(1) of title 38, United States Code, is amended—

(1) by inserting “or section 224(a) of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2008” after “section 421(b)(2) of the Veterans’ Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 553);” and

(2) by striking “that section” and inserting “such sections”.

(d) EFFECTIVE DATE.—This section, including the amendment made by this section, shall apply with respect to fiscal year 2008 and each fiscal year thereafter.

38 USC 8162
note.

Research.
Gulf War.

SEC. 225. The Department shall continue research into Gulf War Illness at levels not less than those made available in fiscal year 2007, within available funds contained in this Act.

Deadlines.
Website.
5 USC app. 6
note.

SEC. 226. (a) Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of Veterans Affairs shall establish and maintain on the homepage of the Internet website of the Office of Inspector General a mechanism by which individuals can anonymously report cases of waste, fraud, or abuse with respect to the Department of Veterans Affairs.

(b) Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall establish and maintain on the homepage of the Internet website of the Department of Veterans Affairs a direct link to the Internet website of the Office of Inspector General of the Department of Veterans Affairs.

SEC. 227. (a) Upon a determination by the Secretary of Veterans Affairs that such action is in the national interest, and will have a direct benefit for veterans through increased access to treatment, the Secretary of Veterans Affairs may transfer not more than \$5,000,000 to the Secretary of Health and Human Services for the Graduate Psychology Education Program, which includes treatment of veterans, to support increased training of psychologists skilled in the treatment of post-traumatic stress disorder, traumatic brain injury, and related disorders.

(b) The Secretary of Health and Human Services may only use funds transferred under this section for the purposes described in subsection (a).

(c) The Secretary of Veterans Affairs shall notify Congress Notification.

SEC. 228. None of the funds appropriated or otherwise made available by this Act or any other Act for the Department of Veterans Affairs may be used in a manner that is inconsistent with—

(1) section 842 of the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006 (Public Law 109-115; 119 Stat. 2506); or

(2) section 8110(a)(5) of title 38, United States Code.

SEC. 229. The Secretary of Veterans Affairs may carry out a major medical facility lease in fiscal year 2008 in an amount not to exceed \$12,000,000 to implement the recommendations outlined in the August 2007 Study of South Texas Veterans' Inpatient and Specialty Outpatient Health Care Needs.

(INCLUDING RESCISSION OF FUNDS)

SEC. 230. Of the amounts made available for “Veterans Health Administration, Medical Services” in Public Law 110-28, \$66,000,000 are rescinded. For an additional amount for “Departmental Administration, Construction, Major Projects”, \$66,000,000, to be available until expended: *Provided*, That the amount provided by this section is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

SEC. 231. Section 1710(f)(2)(B) of title 38, United States Code, is amended by striking “September 30, 2007,” and inserting “September 30, 2008,”.

SEC. 232. Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking “October 1, 2007,” and inserting “October 1, 2008,”.

SEC. 233. The unobligated balance of funds appropriated under the heading “Construction, Major Projects” in Public Law 109-234 for environmental clean-up and removal of debris from the Department of Veterans Affairs property in Gulfport, Mississippi, shall be available to the Department to replace missing doors and windows, and to repair roofs, of the buildings identified by the City of Gulfport, Mississippi, that will convey with the property, to prevent further environmental damage to the interior infrastructure of these buildings: *Provided*, That the amount provided by this section is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

SEC. 234. Notwithstanding any other provision of law, increases necessary to carry out section 3674 of title 38, United States Code at a level equal to fiscal year 2007 shall be available from amounts

Mississippi.
Real property.

provided in this title for “Departmental Administration, General Operating Expenses”.

SEC. 235. (a) EMERGENCY DESIGNATION.—Notwithstanding any other provision of this title (except section 230), of the amounts otherwise provided by this title for the following accounts, the following amounts are designated as emergency requirements and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008:

Veterans Health Administration, Medical Services, \$1,936,549,000.

Veterans Health Administration, Medical Administration, \$75,000,000.

Veterans Health Administration, Medical Facilities, \$508,000,000.

Veterans Health Administration, Medical and Prosthetic Research, \$69,000,000.

National Cemetery Administration, \$28,191,000.

Departmental Administration, General Operating Expenses, \$133,163,000.

Departmental Administration, Information Technology Systems, \$107,248,000.

Departmental Administration, Office of the Inspector General, \$7,901,000.

Departmental Administration, Construction, Major Projects, \$341,700,000.

Departmental Administration, Construction, Minor Projects, \$397,139,000.

Departmental Administration, Grants for Construction of State Extended Care Facilities, \$80,000,000.

Departmental Administration, Grants for Construction of State Veterans Cemeteries, \$7,500,000.

Deadline.
Budget request.
President.

(b) CONTINGENT APPROPRIATION.—Any amount appropriated in this title that is designated by the Congress as an emergency requirement pursuant to subsection (a) shall be made available only after submission to the Congress by January 18, 2008, a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement.

(c) REQUIREMENT FOR AVAILABILITY.—None of the funds described in subsection (a) shall become available for obligation unless all such funds are made available for obligation.

TITLE III

RELATED AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one-for-one replacement basis only) and hire of passenger motor

vehicles; not to exceed \$7,500 for official reception and representation expenses; and insurance of official motor vehicles in foreign countries, when required by law of such countries, \$44,600,000, to remain available until expended.

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, \$11,000,000, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by sections 7251 through 7298 of title 38, United States Code, \$22,717,000, of which \$1,210,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102-229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed \$1,000 for official reception and representation expenses, \$31,230,000, to remain available until expended. In addition, such sums as may be necessary for parking maintenance, repairs and replacement, to be derived from the Lease of Department of Defense Real Property for Defense Agencies account.

Funds appropriated under this Act may be provided to Arlington County, Virginia, for the relocation of the federally-owned water main at Arlington National Cemetery making additional land available for ground burials.

ARMED FORCES RETIREMENT HOME

TRUST FUND

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington, District of Columbia and the Armed Forces Retirement Home—Gulfport, Mississippi, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, \$55,724,000.

GENERAL FUND PAYMENT, ARMED FORCES RETIREMENT HOME

For payment to the “Armed Forces Retirement Home”, \$800,000, to remain available until expended.

TITLE IV

GENERAL PROVISIONS

SEC. 401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 402. Such sums as may be necessary for fiscal year 2008 for pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 403. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 404. No part of any funds appropriated in this Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before Congress, except in presentation to Congress itself.

SEC. 405. All departments and agencies funded under this Act are encouraged, within the limits of the existing statutory authorities and funding, to expand their use of “E-Commerce” technologies and procedures in the conduct of their business practices and public service activities.

SEC. 406. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this or any other appropriations Act.

Submissions.

SEC. 407. Unless stated otherwise, all reports and notifications required by this Act shall be submitted to the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

Deadline.
Reports.

SEC. 408. The Director of the Congressional Budget Office shall, not later than February 1, 2008, submit to the Committees on Appropriations of the House of Representatives and the Senate a report projecting annual appropriations necessary for the Department of Veterans Affairs to continue providing necessary health care to veterans for fiscal years 2009 through 2012.

Colorado.

SEC. 409. None of the funds appropriated or otherwise made available in this Act may be used for any action that is related to or promotes the expansion of the boundaries or size of the Pinon Canyon Maneuver Site, Colorado.

SEC. 410. (a) In this section:

- (1) The term “City” means the City of Aurora, Colorado.
- (2) The term “deed” means the quitclaim deed—
 - (A) conveyed by the Secretary to the City; and
 - (B) dated May 24, 1999.
- (3) The term “non-Federal land” means—

(A) parcel I of the Fitzsimons Army Medical Center, Colorado; and

(B) the parcel of land described in the deed.

(4) The term “Secretary” means the Secretary of the Interior.

(b)(1) In accordance with paragraph (2), to allow the City to convey by donation to the United States the non-Federal land to be used by the Secretary of Veterans Affairs for the construction of a veterans medical facility.

(2) In carrying out paragraph (1), with respect to the non-Federal land, the Secretary shall forego exercising any rights provided by the—

(A) deed relating to a reversionary interest of the United States; and

(B) any other reversionary interest of the United States.

This division may be cited as the “Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2008”.

DIVISION J—DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2008

Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008.

TITLE I

DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed \$700,000 of this appropriation), as authorized by section 801 of the United States Information and Educational Exchange Act of 1948; representation to certain international organizations in which the United States participates pursuant to treaties ratified pursuant to the advice and consent of the Senate or specific Acts of Congress; arms control, non-proliferation and disarmament activities as authorized; acquisition by exchange or purchase of passenger motor vehicles as authorized by law; and for expenses of general administration, \$4,385,042,000: *Provided*, That of the amount provided by this paragraph, \$575,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That of the amount made available under this heading, not to exceed \$10,000,000 may be transferred to, and merged with, “Emergencies in the Diplomatic and Consular Service”, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That of the amount made available under this heading, not less than \$360,905,000 shall be available only for public diplomacy international information programs: *Provided further*, That of the funds made available under this heading, \$5,000,000 shall be made available for a demonstration program to expand access

Establishment. to consular services: *Provided further*, That of the amount appropriated under this heading, \$2,000,000 shall be available for the Secretary to establish and operate a public/private interagency public diplomacy center which shall serve as a program integration and coordination entity for United States public diplomacy programs: *Provided further*, That of the amounts appropriated under this heading, \$4,000,000, to remain available until expended, shall be for compensation to the families of members of the Foreign Service or other United States Government employees or their dependents, who were killed in terrorist attacks since 1979: *Provided further*, That none of the funds made available for compensation in the previous proviso may be obligated without specific authorization in a subsequent Act of Congress: *Provided further*, That during fiscal year 2008, foreign service annuitants may be employed, notwithstanding section 316.401 of title 5, Code of Federal Regulations, pursuant to waivers under section 824(g)(1)(C)(ii) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)(1)(C)(ii)): *Provided further*, That of the funds appropriated under this heading, \$5,000,000 shall be made available for the Ambassador's Fund for Cultural Preservation: *Provided further*, That of the funds appropriated under this heading, \$500,000 may not be available for obligation until the Secretary of State submits a report to the Committees on Appropriations outlining a plan to increase the capacity of United States Embassy Moscow to monitor human rights and Russian laws relating to the press and civil society groups, and consults with the Committees on Appropriations concerning such plan: *Provided further*, That the Secretary may transfer to and merge with "Emergencies in the Diplomatic and Consular Service" for rewards payments unobligated balances of funds appropriated under "Diplomatic and Consular Programs" for this fiscal year and for each fiscal year hereafter, at no later than the end of the fifth fiscal year after the fiscal year for which any such funds were appropriated or otherwise made available: *Provided further*, That funds available under this heading may be available for a United States Government interagency task force to examine, coordinate and oversee United States participation in the United Nations headquarters renovation project: *Provided further*, That no funds may be obligated or expended for processing licenses for the export of satellites of United States origin (including commercial satellites and satellite components) to the People's Republic of China unless, at least 15 days in advance, the Committees on Appropriations are notified of such proposed action: *Provided further*, That funds appropriated under this heading are available, pursuant to 31 U.S.C. 1108(g), for the field examination of programs and activities in the United States funded from any account contained in this title.

Reports.
Russia.
Human rights.

22 USC 2706a.

Satellites.
China.
Deadline.
Notification.

In addition, not to exceed \$1,558,390 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; in addition, as authorized by section 810 of the United States Information and Educational Exchange Act, not to exceed \$6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from English teaching, library, motion pictures, and publication

programs and from fees from educational advising and counseling and exchange visitor programs; and, in addition, not to exceed \$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities.

In addition, for the costs of worldwide security protection, \$974,760,000, to remain available until expended: *Provided*, That of the amount provided by this paragraph, \$206,632,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, \$60,062,000, to remain available until expended, as authorized: *Provided*, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, \$34,008,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980 (Public Law 96-465), as it relates to post inspections.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized, \$505,441,000, to remain available until expended: *Provided*, That not to exceed \$5,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, educational advising and counseling programs, and exchange visitor programs as authorized.

REPRESENTATION ALLOWANCES

For representation allowances as authorized, \$8,175,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services, as authorized, \$23,000,000, to remain available until September 30, 2009.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926 (22 U.S.C. 292-303), preserving, maintaining, repairing, and planning for buildings that are owned or directly leased by the Department of State, renovating, in addition to funds otherwise available, the Harry S Truman Building, and carrying out the Diplomatic Security Construction Program as authorized, \$761,216,000, to remain available until expended as authorized, of which not to exceed \$25,000 may be used for domestic and overseas representation as authorized: *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture, furnishings, or generators for other departments and agencies.

In addition, for the costs of worldwide security upgrades, acquisition, and construction as authorized, \$676,000,000, to remain available until expended.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, \$9,000,000, to remain available until expended as authorized, of which not to exceed \$1,000,000 may be transferred to and merged with the “Repatriation Loans Program Account”, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, \$678,000, as authorized: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses necessary to carry out the direct loan program, \$607,000, which may be transferred to and merged with “Diplomatic and Consular Programs”.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act (Public Law 96–8), \$16,351,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY
FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, \$158,900,000.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

22 USC 269a
note.

Budget.
United Nations.

Notification.
Deadline.
United Nations.

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$1,354,400,000: *Provided*, That the Secretary of State shall, at the time of the submission of the President’s budget to Congress under section 1105(a) of title 31, United States Code, transmit to the Committees on Appropriations the most recent biennial budget prepared by the United Nations for the operations of the United Nations: *Provided further*, That the Secretary of State shall notify the Committees on Appropriations at least 15 days in advance (or in an emergency, as far in advance as is practicable) of any United Nations action to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations budget for the biennium 2008–2009 to exceed the revised United Nations budget level for the biennium 2006–2007 of \$4,173,895,900: *Provided further*, That any payment of arrearages under this title

shall be directed toward activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$1,700,500,000, of which 15 percent shall remain available until September 30, 2009: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency as far in advance as is practicable): (1) the Committees on Appropriations and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the national interest that will be served, and the planned exit strategy; (2) the Committees on Appropriations and other appropriate committees of the Congress are notified that the United Nations has taken appropriate measures to prevent United Nations employees, contractor personnel, and peacekeeping forces serving in any United Nations peacekeeping mission from trafficking in persons, exploiting victims of trafficking, or committing acts of illegal sexual exploitation, and to hold accountable individuals who engage in such acts while participating in the peacekeeping mission, including the prosecution in their home countries of such individuals in connection with such acts; and (3) a reprogramming of funds pursuant to section 615 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the Committees on Appropriations that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That of the amount provided by this paragraph, \$468,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

Deadline.

Notification.

Notification.

Certification.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

22 USC 269a
note.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and

Mexico, and to comply with laws applicable to the United States Section, including not to exceed \$6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, \$30,430,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, \$88,425,000, to remain available until expended, as authorized.

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

Canada.

Availability date.
Reports.

For necessary expenses, not otherwise provided, for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182, \$10,940,000: *Provided*, That of the amount provided under this heading for the International Joint Commission, \$9,000 may be made available for representation expenses 45 days after submission to the Committees on Appropriations of a report detailing obligations, expenditures, and associated activities for fiscal years 2005, 2006, and 2007, including any unobligated funds which expired at the end of each fiscal year and the justification for why such funds were not obligated.

Of the funds made available in the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006, Public Law 109-108, as continued by the Continuing Appropriations Resolution, 2007 (division B of Public Law 109-289, as amended by Public Law 110-5), for the International Joint Commission (119 Stat. 2323), \$300,000 for the Lake Champlain Basin Program shall remain available for the purposes intended until September 30, 2009.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, \$26,527,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions pursuant to 31 U.S.C. 3324: *Provided further*, That funds appropriated under this heading shall be available for programs in the amounts contained in the table included in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act) accompanying this Act and no proposal for deviation from those amounts shall be considered.

OTHER

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by the Asia Foundation Act (22 U.S.C. 4402), \$15,500,000, to remain available until expended, as authorized.

CENTER FOR MIDDLE EASTERN-WESTERN DIALOGUE TRUST FUND

For necessary expenses of the Center for Middle Eastern-Western Dialogue Trust Fund, the total amount of the interest and earnings accruing to such Fund on or before September 30, 2008, to remain available until expended.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 2008, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A-110 (Uniform Administrative Requirements) and A-122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

Contracts.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 2008, to remain available until expended.

EAST-WEST CENTER

To enable the Secretary of State to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, \$19,500,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

RELATED AGENCIES

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the Broadcasting Board of Governors, as authorized, to carry out international communication activities, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception and purchase, lease, and installation of necessary equipment for radio and television transmission and reception to Cuba, and to make and supervise grants for radio and television broadcasting to the Middle East, \$676,727,000: *Provided*, That of the total amount in this heading, not to exceed \$16,000 may be used for official receptions within the United States as authorized, not to

Cuba.
Middle East.

exceed \$35,000 may be used for representation abroad as authorized, and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes: *Provided further*, That of the amount provided by this paragraph, \$12,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

BROADCASTING CAPITAL IMPROVEMENTS

For the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized, \$10,748,000, to remain available until expended, as authorized.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For necessary expenses for the Commission for the Preservation of America's Heritage Abroad, \$499,000, as authorized by section 1303 of Public Law 99–83.

COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

SALARIES AND EXPENSES

For necessary expenses for the United States Commission on International Religious Freedom, as authorized by title II of the International Religious Freedom Act of 1998 (Public Law 105–292), \$3,300,000, to remain available until September 30, 2009.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, \$2,370,000, to remain available until September 30, 2009.

CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA

SALARIES AND EXPENSES

For necessary expenses of the Congressional-Executive Commission on the People's Republic of China, as authorized, \$2,000,000, including not more than \$3,000 for the purpose of official representation, to remain available until September 30, 2009.

UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW
COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States-China Economic and Security Review Commission, \$4,000,000, including not more than \$4,000 for the purpose of official representation, to remain available until September 30, 2009: *Provided*, That the Commission shall submit a spending plan to the Committees on Appropriations no later than March 1, 2008, which effectively addresses the recommendations of the Government Accountability Office's audit of the Commission (GAO–07–1128): *Provided further*, That the Commission shall provide to the Committees on Appropriations a quarterly accounting of the cumulative balances of any unobligated funds that were received by the Commission during any previous fiscal year: *Provided further*, That for purposes of costs relating to printing and binding, the Commission shall be deemed, effective on the date of its establishment, to be a committee of Congress: *Provided further*, That compensation for the executive director of the Commission may not exceed the rate payable for level II of the Executive Schedule under section 5314 of title 5, United States Code: *Provided further*, That section 1238(c)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, is amended by striking “June” and inserting “December”: *Provided further*, That travel by members of the Commission and its staff shall be arranged and conducted under the rules and procedures applying to travel by members of the House of Representatives and its staff.

Spending plan.
Deadline.Reports.
Deadline.

Effective date.

22 USC 7002.

UNITED STATES SENATE-CHINA INTERPARLIAMENTARY GROUP

SALARIES AND EXPENSES

For necessary expenses of the United States Senate-China Interparliamentary Group, as authorized under section 153 of the Consolidated Appropriations Act, 2004 (22 U.S.C. 276n; Public Law 108–99; 118 Stat. 448), \$150,000, to remain available until September 30, 2009.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, \$25,000,000, to remain available until September 30, 2009.

GENERAL PROVISIONS—THIS TITLE

ALLOWANCES AND DIFFERENTIALS

SEC. 101. Funds appropriated under title I of this Act shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of title 5, United States Code; for services as authorized by 5 U.S.C. 3109; and for hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

UNOBLIGATED BALANCES REPORT

SEC. 102. The Department of State and the Broadcasting Board of Governors shall provide to the Committees on Appropriations a quarterly accounting of the cumulative balances of any unobligated funds that were received by such agency during any previous fiscal year.

EMBASSY CONSTRUCTION

SEC. 103. (a) Of funds provided under title I of this Act, except as provided in subsection (b), a project to construct a diplomatic facility of the United States may not include office space or other accommodations for an employee of a Federal agency or department if the Secretary of State determines that such department or agency has not provided to the Department of State the full amount of funding required by subsection (e) of section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999 (as enacted into law by section 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–453), as amended by section 629 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005.

(b) Notwithstanding the prohibition in subsection (a), a project to construct a diplomatic facility of the United States may include office space or other accommodations for members of the Marine Corps.

PEACEKEEPING MISSIONS

United Nations.
President.

SEC. 104. None of the funds made available under title I of this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds that: (1) the United Nations undertaking is a peacekeeping mission; (2) such undertaking will involve United States Armed Forces under the command or operational control of a foreign national; and (3) the President's military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

DENIAL OF VISAS

SEC. 105. (a) None of the funds appropriated or otherwise made available under title I of this Act shall be expended for any purpose for which appropriations are prohibited by section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999.

Applicability.

(b) The requirements in subsections (b) and (c) of section 616 of that Act shall continue to apply during fiscal year 2008.

SENIOR POLICY OPERATING GROUP

SEC. 106. (a) The Senior Policy Operating Group on Trafficking in Persons, established under section 105(f) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7103(f)) to coordinate agency activities regarding policies (including grants and grant policies) involving the international trafficking in persons,

shall coordinate all such policies related to the activities of traffickers and victims of severe forms of trafficking.

(b) None of the funds provided under title I of this or any other Act making appropriations for Department of State and Related Agencies shall be expended to perform functions that duplicate coordinating responsibilities of the Operating Group.

(c) The Operating Group shall continue to report only to the authorities that appointed them pursuant to section 105(f).

UNITED STATES CITIZENS BORN IN JERUSALEM

SEC. 107. For the purposes of registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

CONSULTING SERVICES

SEC. 108. The expenditure of any appropriation under title I of this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Contracts.

COMPLIANCE WITH SECTION 609

SEC. 109. (a) None of the funds appropriated or otherwise made available under title I of this Act shall be expended for any purpose for which appropriations are prohibited by section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999.

(b) The requirements in subparagraphs (A) and (B) of section 609 of that Act shall continue to apply during fiscal year 2008.

Applicability.

STATE DEPARTMENT AUTHORITIES

SEC. 110. Funds appropriated under title I of this Act for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

PERSONNEL ACTIONS

SEC. 111. Any costs incurred by a department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 615 of title VI of this Act and shall not be available for obligation

or expenditure except in compliance with the procedures set forth in that section.

RESTRICTIONS ON UNITED NATIONS DELEGATIONS

SEC. 112. None of the funds made available under title I of this Act may be used to pay expenses for any United States delegation to any specialized agency, body, or commission of the United Nations if such commission is chaired or presided over by a country, the government of which the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), has provided support for acts of international terrorism.

PEACEKEEPING ASSESSMENT

22 USC 287e
note.

SEC. 113. Section 404(b)(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, (22 U.S.C. 287e note) is amended at the end by adding the following: “(v) For assessments made during calendar year 2008, 27.1 percent.”.

ALHURRA BROADCASTING

Certification.
Reports.
Terrorism.

SEC. 114. Funds appropriated for the programs and activities of Alhurra in fiscal year 2008 may be made available only if the Secretary of State certifies and reports to the Committees on Appropriations that Alhurra does not advocate on behalf of any organization that the Secretary knows, or has reason to believe, engages in terrorist activities.

DEPARTMENT OF STATE INSPECTOR GENERAL

Deadline.
Website.
5 USC app. 6
note.

SEC. 115. (a) LINK TO OFFICE OF INSPECTOR GENERAL FROM HOMEPAGE OF DEPARTMENT OF STATE.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall establish and maintain on the homepage of the Internet website of the Department of State a direct link to the Internet website of the Office of Inspector General of the Department of State.

(b) ANONYMOUS REPORTING OF WASTE, FRAUD, OR ABUSE.—Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of State shall establish and maintain on the homepage of the Internet website of the Office of Inspector General a mechanism by which individuals can anonymously report cases of waste, fraud, or abuse with respect to the Department of State.

CONSULAR OPERATIONS

Iraq.
Deadline.

SEC. 116. The Secretary of State shall establish limited consular operations in Iraq within 180 days of enactment of this Act in which designated categories of aliens may apply and interview for admission to the United States.

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Negotiations.
Plans.
Reports.

SEC. 117. Of the funds appropriated in this Act under the heading “International Boundary and Water Commission, United States and Mexico, Construction” (IBWC), up to \$66,000,000 may be expended for construction of secondary wastewater treatment

capability of at least 25 million gallons per day (mgd) from the Tijuana River, subject to the following conditions: (1) IBWC shall resume negotiations in accordance with section 804 of Public Law 106–457; (2) IBWC shall prepare design and engineering plans to upgrade the South Bay International Wastewater Treatment Plant to treat 25 mgd to secondary treatment and update its conceptual designs for a scalable project capable of treating up to 100 mgd to secondary at the facility; and (3) none of the funds made available by this section may be obligated for construction before the Government Accountability Office completes a report on the proposed projects.

COMMISSION FINANCIAL MANAGEMENT

SEC. 118. (a) REQUIREMENT FOR PERFORMANCE REVIEWS.—The United States-China Economic and Security Review Commission shall comply with chapter 43 of title 5, United States Code, regarding the establishment and regular review of employee performance appraisals. Compliance.

(b) LIMITATION ON CASH AWARDS.—The United States-China Economic and Security Review Commission shall comply with section 4505a of title 5, United States Code, with respect to limitations on payment of performance-based cash awards.

TITLE II

EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$1,000,000, to remain available until September 30, 2009.

PROGRAM ACCOUNT

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country, other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act, that has detonated a nuclear explosive after the date of the enactment of this Act: *Provided further*, That notwithstanding section 1(c) of Public Law 103–428, as amended, sections 1(a) and (b) of Public Law 103–428 shall remain in effect through October 1, 2008: *Provided further*, That not less than 10 percent of the aggregate loan, guarantee, and insurance authority available to

Contracts.

12 USC 635 note.

the Export-Import Bank under this Act should be used for renewable energy and environmentally beneficial products and services.

SUBSIDY APPROPRIATION

Termination
date.

Notification.

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, \$68,000,000, to remain available until September 30, 2011: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That such sums shall remain available until September 30, 2026, for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 2008, 2009, 2010, and 2011: *Provided further*, That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, and related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any Eastern European country, any Baltic State or any agency or national thereof.

ADMINISTRATIVE EXPENSES

Termination
date.

For administrative expenses to carry out the direct and guaranteed loan and insurance programs, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed \$30,000 for official reception and representation expenses for members of the Board of Directors, \$78,000,000: *Provided*, That the Export-Import Bank may accept, and use, payment or services provided by transaction participants for legal, financial, or technical services in connection with any transaction for which an application for a loan, guarantee or insurance commitment has been made: *Provided further*, That notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 2008.

RECEIPTS COLLECTED

Effective date.
Termination
date.
12 USC 635a
note.

Receipts collected pursuant to the Export-Import Bank Act of 1945, as amended, and the Federal Credit Reform Act of 1990, as amended, in an amount not to exceed the amount appropriated herein, shall be credited as offsetting collections to this account: *Provided*, That the sums herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis by such offsetting collections so as to result in a final fiscal year appropriation from the General Fund estimated at \$0: *Provided further*, That amounts collected in fiscal year 2008 in excess of obligations, up to \$50,000,000, shall become available October 1, 2008 and shall remain available until September 30, 2011.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided*, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed \$35,000) shall not exceed \$47,500,000: *Provided further*, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, \$23,500,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2008, 2009, and 2010: *Provided further*, That funds so obligated in fiscal year 2008 remain available for disbursement through 2016; funds obligated in fiscal year 2009 remain available for disbursement through 2017; funds obligated in fiscal year 2010 remain available for disbursement through 2018: *Provided further*, That notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any program authorized by title IV of the Foreign Assistance Act of 1961 in Iraq: *Provided further*, That funds made available pursuant to the authority of the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations.

Notification.

In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, \$50,400,000, to remain available until September 30, 2009.

TITLE III

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 2008, unless otherwise specified herein, as follows:

GLOBAL HEALTH AND CHILD SURVIVAL

(INCLUDING TRANSFER OF FUNDS)

HIV/AIDS. For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for global health activities, in addition to funds otherwise available for such purposes, \$1,843,150,000, to remain available until September 30, 2009, and which shall be apportioned directly to the United States Agency for International Development: *Provided*, That this amount shall be made available for such activities as: (1) child survival and maternal health programs; (2) immunization and oral rehydration programs; (3) other health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for children displaced or orphaned by causes other than AIDS; (5) programs for the prevention, treatment, control of, and research on HIV/AIDS, tuberculosis, polio, malaria, and other infectious diseases, and for assistance to communities severely affected by HIV/AIDS, including children infected or affected by AIDS; and (6) family planning/reproductive health: *Provided further*, That none of the funds appropriated under this paragraph may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: *Provided further*, That of the funds appropriated under this paragraph, not to exceed \$350,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: *Provided further*, That of the funds appropriated under this paragraph the following amounts should be allocated as follows: \$450,150,000 for child survival and maternal health; \$15,000,000 for vulnerable children; \$350,000,000 for HIV/AIDS; \$633,000,000 for other infectious diseases, including \$153,000,000 for tuberculosis control, of which \$15,000,000 shall be used for the Global TB Drug Facility; and \$395,000,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species: *Provided further*, That of the funds appropriated under this paragraph, \$72,500,000 should be made available for a United States contribution to The GAVI Fund, and up to \$6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading “Operating Expenses of the United States Agency for International Development” for costs directly related to global health, but funds made available for such costs may not be derived from amounts made available for contribution under this and preceding provisos: *Provided further*, That of the funds appropriated under this paragraph, \$115,000,000 shall be made available to combat

Avian flu.
Notification.

avian influenza, of which \$15,000,000 shall be made available, notwithstanding any other provision of law except section 551 of Public Law 109-102, to enhance the preparedness of militaries in Asia and Africa to respond to an avian influenza pandemic, subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That any determination made under the previous proviso must be made no later than six months after the date of enactment of this Act, and must be accompanied by a comprehensive analysis as well as the complete evidence and criteria utilized to make the determination: *Provided further*, That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: *Provided further*, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further*, That none of the funds made available under this Act may be used to lobby for or against abortion: *Provided further*, That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph

Abortion.
Sterilization.

Deadline.

Abortion.

Lobbying.

Abortion.
Deadline.
Reports.

Nondiscrimi-
nation.
Compliance.

Condoms.

(4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further*, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further*, That to the maximum extent feasible, taking into consideration cost, timely availability, and best health practices, funds appropriated in this Act or prior appropriations Acts that are made available for condom procurement shall be made available only for the procurement of condoms manufactured in the United States: *Provided further*, That information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use: *Provided further*, That of the amount provided by this paragraph, \$115,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

In addition, for necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 for the prevention, treatment, and control of, and research on, HIV/AIDS, \$4,700,000,000, to remain available until expended, and which shall be apportioned directly to the Department of State: *Provided*, That of the funds appropriated under this paragraph, \$550,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108-25) for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria, and shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That up to 5 percent of the aggregate amount of funds made available to the Global Fund in fiscal year 2008 may be made available to the United States Agency for International Development for technical assistance related to the activities of the Global Fund: *Provided further*, That of the funds appropriated under this paragraph, up to \$13,000,000 may be made available, in addition to amounts otherwise available for such purposes, for administrative expenses of the Office of the Global AIDS Coordinator: *Provided further*, That funds made available under this heading shall be made available notwithstanding the second sentence of section 403(a) of Public Law 108-25.

DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103, 105, 106, and sections 251 through 255, and chapter 10 of part I of the Foreign Assistance Act of 1961, \$1,636,881,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and

victims of war, not to exceed \$43,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: *Provided further*, That \$400,000,000 should be allocated for basic education: *Provided further*, That of the funds appropriated by this Act, not less than \$245,000,000 shall be made available for microenterprise and microfinance development programs for the poor, especially women: *Provided further*, That of the funds appropriated under this heading, not less than \$28,000,000 shall be made available for Collaborative Research Support Programs: *Provided further*, That of the funds appropriated under this heading, \$750,000 shall be made available to implement 7 U.S.C. section 1736g-2(a)(2)(C) to improve food aid product quality and nutrient delivery: *Provided further*, That of the funds appropriated under this heading, not less than \$22,500,000 shall be made available for the American Schools and Hospitals Abroad program: *Provided further*, That of the funds appropriated under this heading, \$12,000,000 should be made available for cooperative development programs within the Office of Private and Voluntary Cooperation: *Provided further*, That funds appropriated under this heading should be made available for programs to address sexual and gender-based violence: *Provided further*, That of the funds appropriated in this Act, not less than \$300,000,000 shall be made available for safe drinking water and sanitation supply projects, including water management related to safe drinking water and sanitation, only to implement the Senator Paul Simon Water for the Poor Act of 2005 (Public Law 109-121), of which not less than \$125,000,000 should be made available for such projects in Africa: *Provided further*, That of the funds appropriated under this heading, not less than \$15,000,000 shall be made available for programs to improve women's leadership capacity in recipient countries, and \$10,000,000 may be made available to support a fund that enhances economic opportunities for very poor, poor, and low-income women in developing countries.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 for international disaster relief, rehabilitation, and reconstruction assistance, \$432,350,000, to remain available until expended, of which \$20,000,000 should be for famine prevention and relief: *Provided further*, That of the amount provided by this paragraph, \$110,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

TRANSITION INITIATIVES

For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, \$45,000,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: *Provided*, That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: *Provided further*, That the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5

Reports.
Deadline.

days prior to beginning a new program of assistance: *Provided further*, That if the President determines that it is important to the national interests of the United States to provide transition assistance in excess of the amount appropriated under this heading, up to \$15,000,000 of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961 may be used for purposes of this heading and under the authorities applicable to funds appropriated under this heading: *Provided further*, That funds made available pursuant to the previous proviso shall be made available subject to prior consultation with the Committees on Appropriations.

DEVELOPMENT CREDIT AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans and loan guarantees provided by the United States Agency for International Development, as authorized by sections 256 and 635 of the Foreign Assistance Act of 1961, up to \$21,000,000 may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading “Assistance for Eastern Europe and the Baltic States”: *Provided*, That such funds shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: *Provided further*, That such costs, including the cost of modifying such direct and guaranteed loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That funds made available by this paragraph may be used for the cost of modifying any such guaranteed loans under this Act or prior Acts, and funds used for such costs shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading: *Provided further*, That these funds are available to subsidize total loan principal, any portion of which is to be guaranteed, of up to \$700,000,000.

Notification.

Applicability.

In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, \$8,160,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: *Provided*, That funds made available under this heading shall remain available until September 30, 2010.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, \$655,800,000, of which up to \$25,000,000 may remain available until September 30, 2009: *Provided*, That none of the funds appropriated under this heading and under the heading “Capital Investment Fund” may be made

Reports.

Deadline.

available to finance the construction (including architect and engineering services), purchase, or long-term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed construction (including architect and engineering services), purchase, or long-term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: *Provided further*, That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long-term lease of offices does not exceed \$1,000,000: *Provided further*, That contracts or agreements entered into with funds appropriated under this heading may entail commitments for the expenditure of such funds through fiscal year 2009: *Provided further*, That any decision to open a new overseas mission or office of the United States Agency for International Development or, except where there is a substantial security risk to mission personnel, to close or significantly reduce the number of personnel of any such mission or office, shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the authority of sections 610 and 109 of the Foreign Assistance Act of 1961 may be exercised by the Secretary of State to transfer funds appropriated to carry out chapter 1 of part I of such Act to “Operating Expenses of the United States Agency for International Development” in accordance with the provisions of those sections: *Provided further*, That of the amount provided by this paragraph, \$20,800,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

Notification.

CAPITAL INVESTMENT FUND OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT

For necessary expenses for overseas construction and related costs, and for the procurement and enhancement of information technology and related capital investments, pursuant to section 667 of the Foreign Assistance Act of 1961, \$88,000,000, to remain available until expended: *Provided*, That this amount is in addition to funds otherwise available for such purposes: *Provided further*, That funds appropriated under this heading shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations.

Notification.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, \$38,000,000, to remain available until September 30, 2009, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, \$2,994,823,000,

Egypt.
Grants.

to remain available until September 30, 2009: *Provided*, That of the funds appropriated under this heading, not less than \$415,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic and democratic reforms which are additional to those which were undertaken in previous fiscal years: *Provided further*, That with respect to the provision of assistance for Egypt for democracy, human rights and governance activities, the organizations implementing such assistance and the specific nature of that assistance shall not be subject to the prior approval by the Government of Egypt: *Provided further*, That of the funds appropriated under this heading for assistance for Egypt, not less than \$135,000,000 shall be made available for project assistance, of which not less than \$20,000,000 shall be made available for democracy, human rights and governance programs and not less than \$50,000,000 shall be used for education programs, of which not less than \$10,000,000 should be made available for scholarships for Egyptian students with high financial need to attend United States accredited institutions of higher education in Egypt: *Provided further*, That \$11,000,000 of the funds appropriated under this heading should be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: *Provided further*, That of the funds appropriated under this heading, not less than \$363,547,000 shall be made available only for assistance for Jordan: *Provided further*, That of the funds appropriated under this heading that are made available for assistance for Jordan, up to \$40,000,000 may be transferred to, and merged with, funds appropriated by this Act under the heading “Debt Restructuring” for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of reducing or cancelling amounts owed to the United States or any agency of the United States by the Hashemite Kingdom of Jordan: *Provided further*, That of the funds appropriated under this heading not more than \$218,500,000 may be made available for assistance for the West Bank and Gaza, of which not to exceed \$2,000,000 may be used for administrative expenses of the United States Agency for International Development, in addition to funds otherwise available for such purposes, to carry out programs in the West Bank and Gaza: *Provided further*, That if the President exercises the waiver authority under section 650 of this Act, of the funds made available under this heading for assistance to the Palestinian Authority, not more than \$100,000,000 of the funds made available under this heading for cash transfer assistance to the Palestinian Authority may be obligated for such assistance until the Secretary of State certifies and reports to the Committees on Appropriations that the Palestinian Authority has established a single treasury account for all Palestinian Authority financing and all financing mechanisms flow through this account, has eliminated all parallel financing mechanisms outside of the Palestinian Authority treasury account, and has established a single comprehensive civil service roster and payroll: *Provided further*, That none of the funds appropriated under this heading for cash transfer assistance to the Palestinian Authority may be obligated for salaries of personnel of the

Jordan.

Certification.

Palestinian Authority located in Gaza: *Provided further*, That none of the funds appropriated under this heading for cash transfer assistance to the Palestinian Authority may be obligated or expended for assistance to Hamas or any entity effectively controlled by Hamas or any power-sharing government with Hamas unless Hamas has accepted the principles contained in section 620K(b)(1)(A) and (B) of the Foreign Assistance Act of 1961, as amended: *Provided further*, That the Secretary of State shall ensure that Federal or non-Federal audits of all funds appropriated under this heading for cash transfer assistance to the Palestinian Authority are conducted on at least an annual basis to ensure compliance with this Act, and such audit shall include a detailed accounting of all programs, projects, and activities carried out using such funds, including both obligations and expenditures, and that the audit is compliant with generally accepted accounting standards: *Provided further*, That funds made available under this heading for cash transfer assistance to the Palestinian Authority shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That \$45,000,000 of the funds appropriated under this heading shall be made available for assistance for Lebanon, of which not less than \$10,000,000 should be made available for scholarships and direct support of American educational institutions in Lebanon: *Provided further*, That not more than \$300,000,000 of the funds made available for assistance for Afghanistan under this heading may be obligated for such assistance until the Secretary of State certifies to the Committees on Appropriations that the Government of Afghanistan at both the national and provincial level is cooperating fully with United States funded poppy eradication and interdiction efforts in Afghanistan: *Provided further*, That the President may waive the previous proviso if he determines and reports to the Committees on Appropriations that to do so is vital to the national security interests of the United States: *Provided further*, That such report shall include an analysis of the steps being taken by the Government of Afghanistan, at the national and provincial level, to cooperate fully with United States funded poppy eradication and interdiction efforts in Afghanistan: *Provided further*, That of the funds appropriated under this heading, \$196,000,000 shall be apportioned directly to the United States Agency for International Development (USAID) for alternative development/institution building and sustainable development programs in Colombia and may be transferred to, and merged with, funds appropriated under the heading “Development Assistance” to continue programs administered by USAID: *Provided further*, That with respect to funds apportioned to USAID for programs in Colombia under this heading, the responsibility for policy decisions for the use of such funds, including which activities will be funded and the amount of funds that will be provided for each of those activities, shall be the responsibility of the Administrator of USAID in consultation with the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs: *Provided further*, That of the funds appropriated under this heading that are available for assistance for the Democratic Republic of Timor-Leste, up to \$1,000,000 may be available for administrative expenses of the United States Agency for International Development in addition to amounts otherwise made available for such purposes: *Provided further*, That notwithstanding any other provision of law, funds appropriated under

Notification.

Lebanon.

Afghanistan.
Certification.

Reports.

Notification. this heading may be made available for programs and activities for the Central Highlands of Vietnam: *Provided further*, That notwithstanding any other provision of law, of the funds appropriated under this heading, up to \$53,000,000 may be made available for energy-related assistance for North Korea, subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated under this heading that are made available for a Middle East Financing Facility, Middle East Enterprise Fund, or any other similar entity in the Middle East shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the amount provided by this paragraph, \$542,568,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, \$15,000,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until September 30, 2009.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, \$295,950,000, to remain available until September 30, 2009, which shall be available, notwithstanding any other provision of law, for assistance and for related programs for Eastern Europe and the Baltic States.

(b) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

Applicability. (c) The provisions of section 628 of this Act shall apply to funds appropriated under this heading: *Provided*, That notwithstanding any provision of this or any other Act, including provisions in this subsection regarding the application of section 628 of this Act, local currencies generated by, or converted from, funds appropriated by this Act and by previous appropriations Acts and made available for the economic revitalization program in Bosnia may be used in Eastern Europe and the Baltic States to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy SEED Act of 1989.

President. Certification. (d) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1-A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related

activities between state sponsors of terrorism and terrorist organizations and Bosnian officials has not been terminated.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the Independent States of the former Soviet Union and for related programs, \$399,735,000, to remain available until September 30, 2009: *Provided*, That the provisions of such chapters shall apply to funds appropriated by this paragraph: *Provided further*, That funds made available for the Southern Caucasus region may be used, notwithstanding any other provision of law, for confidence-building measures and other activities in furtherance of the peaceful resolution of regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: *Provided further*, That notwithstanding any other provision of law, funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, that are made available pursuant to the provisions of section 807 of Public Law 102–511 shall be subject to a 6 percent ceiling on administrative expenses.

Applicability.

INDEPENDENT AGENCIES

INTER-AMERICAN FOUNDATION

For necessary expenses to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, \$21,000,000, to remain available until September 30, 2009.

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, \$30,000,000, to remain available until September 30, 2009: *Provided*, That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the Board of Directors of the Foundation: *Provided further*, That interest earned shall be used only for the purposes for which the grant was made: *Provided further*, That notwithstanding section 505(a)(2) of the African Development Foundation Act, (1) in exceptional circumstances the Board of Directors of the Foundation may waive the \$250,000 limitation contained in that section with respect to a project and (2) a project may exceed the limitation by up to \$10,000 if the increase is due solely to foreign currency fluctuation: *Provided further*, That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.

Reports.

PEACE CORPS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of the Peace Corps Act (75 Stat. 612), including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use

Abortions. outside of the United States, \$333,500,000, to remain available until September 30, 2009: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further*, That the Director may transfer to the Foreign Currency Fluctuations Account, as authorized by 22 U.S.C. 2515, an amount not to exceed \$2,000,000: *Provided further*, That funds transferred pursuant to the previous proviso may not be derived from amounts made available for Peace Corps overseas operations.

MILLENNIUM CHALLENGE CORPORATION

Reports. For necessary expenses to carry out the provisions of the Millennium Challenge Act of 2003, \$1,557,000,000, to remain available until expended: *Provided*, That of the funds appropriated under this heading, up to \$88,000,000 may be available for administrative expenses of the Millennium Challenge Corporation: *Provided further*, That up to 10 percent of the funds appropriated under this heading may be made available to carry out the purposes of section 616 of the Millennium Challenge Act of 2003 for candidate countries for fiscal year 2008: *Provided further*, That none of the funds available to carry out section 616 of such Act may be made available until the Chief Executive Officer of the Millennium Challenge Corporation provides a report to the Committees on Appropriations listing the candidate countries that will be receiving assistance under section 616 of such Act, the level of assistance proposed for each such country, a description of the proposed programs, projects and activities, and the implementing agency or agencies of the United States Government: *Provided further*, That section 605(e)(4) of the Millennium Challenge Act of 2003 shall apply to funds appropriated under this heading: *Provided further*, That funds appropriated under this heading may be made available for a Millennium Challenge Compact entered into pursuant to section 609 of the Millennium Challenge Act of 2003 only if such Compact obligates, or contains a commitment to obligate subject to the availability of funds and the mutual agreement of the parties to the Compact to proceed, the entire amount of the United States Government funding anticipated for the duration of the Compact.

Applicability.

DEPARTMENT OF STATE

DEMOCRACY FUND

Notification. (a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 for the promotion of democracy globally, \$164,000,000, of which the following amounts shall be made available, subject to the regular notification procedures of the Committees on Appropriations, until September 30, 2010—

(1) \$64,000,000 for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State, of which \$15,000,000 shall be for democracy and rule of law programs in the People's Republic of China, Hong Kong, and Taiwan: *Provided*, That assistance for Taiwan should be matched from sources other than the United States Government: *Provided further*, That \$5,000,000 shall be made available for programs and activities for the promotion of democracy in countries located outside the Middle East region with a significant Muslim population, and where such programs and activities would be important to United States efforts to

respond to, deter, or prevent acts of international terrorism: *Provided further*, That funds used for such purposes should support new initiatives and activities in those countries: *Provided further*, That \$15,000,000 shall be made available for an internet freedom initiative to expand access and information in closed societies, including in the Middle East and Asia: *Provided further*, That the Department of State shall consult with the Committees on Appropriations prior to the initial obligation of funds made available pursuant to the previous proviso; and

Consultation.

(2) \$100,000,000 for the National Endowment for Democracy: *Provided*, That of the funds appropriated by this Act under the headings “Development Assistance”, “Economic Support Fund”, “Assistance for Eastern Europe and the Baltic States”, and “Assistance for the Independent States of the Former Soviet Union”, an additional \$11,000,000 should be made available to support the ongoing programs and activities of the National Endowment for Democracy.

(b) Funds appropriated by this Act that are made available for the promotion of democracy may be made available notwithstanding any other provision of law and, with regard to the National Endowment for Democracy, any regulation. Funds appropriated under this heading are in addition to funds otherwise available for such purposes.

(c) For the purposes of funds appropriated by this Act, the term “promotion of democracy” means programs that support good governance, human rights, independent media, and the rule of law, and otherwise strengthen the capacity of democratic political parties, governments, nongovernmental organizations and institutions, and citizens to support the development of democratic states, institutions, and practices that are responsive and accountable to citizens.

(d) Any contract, grant or cooperative agreement (or any amendment to any contract, grant, or cooperative agreement) in excess of \$2,500,000 for the promotion of democracy under this Act shall be subject to the regular notification procedures of the Committees on Appropriations.

Contracts.
Grants.
Notification.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, \$558,449,000, to remain available until September 30, 2010: *Provided*, That during fiscal year 2008, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the Secretary of State shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further*, That none of the funds provided under this heading for counter narcotics activities in Afghanistan shall be made available for eradication programs through the aerial spraying of herbicides: *Provided*

Notification.

Deadline.
Reports.

further, That of the funds appropriated under this heading, not less than \$39,750,000 shall be made available for judicial, human rights, rule of law and related activities for Colombia, of which not less than \$20,000,000 shall be made available for the Office of the Attorney General, of which \$5,000,000 shall be for the Human Rights Unit, \$5,000,000 shall be for the Justice and Peace Unit, \$7,000,000 shall be used to support a witness protection program for victims of armed groups, and \$3,000,000 shall be for investigations of mass graves and identification of remains: *Provided further*, That of the funds appropriated under this heading that are available for assistance for Colombia, \$8,000,000 shall be available for human rights activities, \$5,500,000 shall be available for judicial reform, \$3,000,000 shall be for the Office of the Procuraduria General de la Nacion, \$2,000,000 shall be for the Office of the Defensoria del Pueblo, and \$750,000 should be made available for a United States contribution to the Office of the United Nations High Commissioner for Human Rights in Colombia to support monitoring and public reporting of human rights conditions in the field: *Provided further*, That of the funds appropriated under this heading, not more than \$38,000,000 may be available for administrative expenses.

ANDEAN COUNTERDRUG PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

Deadline. Reports.	For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support counterdrug activities in the Andean region of South America, \$327,460,000, to remain available until September 30, 2010: <i>Provided</i> , That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: <i>Provided further</i> , That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: <i>Provided further</i> , That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961 shall be made available subject to the regular notification procedures of the Committees on Appropriations: <i>Provided further</i> , That funds made available to the Department of State for assistance to the Government of Colombia in this Act may be used to support a unified campaign against narcotics trafficking and organizations designated as Foreign Terrorist Organizations, and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations: <i>Provided further</i> , That this authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary organizations, illegal self-defense groups, illegal security cooperatives, or other criminal, guerrilla or successor armed groups or organizations: <i>Provided further</i> , That the President shall ensure that if any helicopter procured with funds in this Act or prior Acts making appropriations
Notification.	
President. Helicopter. Columbia.	

for foreign operations, export financing, and related programs, is used to aid or abet the operations of any illegal self-defense group, paramilitary organization, illegal security cooperative or successor organizations in Colombia, such helicopter shall be immediately returned to the United States: *Provided further*, That no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available by this Act for Colombia: *Provided further*, That rotary and fixed wing aircraft supported with funds appropriated under this heading for assistance for Colombia may be used for aerial or manual drug eradication and interdiction including to transport personnel and supplies and to provide security for such operations, and to provide transport in support of alternative development programs and investigations of cases under the jurisdiction of the Attorney General, the Procuraduria General de la Nacion, and the Defensoria del Pueblo: *Provided further*, That of the funds appropriated under this heading that are available for Colombia, up to \$2,500,000 shall be transferred to, and merged with, funds appropriated under the heading “Foreign Military Financing Program” and shall be made available only for assistance for the Colombian Armed Forces to provide security for manual eradication programs and up to \$2,500,000 shall be transferred to, and merged with, funds appropriated under the heading “International Narcotics Control and Law Enforcement” and shall be made available only for assistance for the Colombian National Police to provide security for manual eradication programs: *Provided further*, That of the funds available for the Colombian national police for the procurement of chemicals for aerial coca and poppy eradication programs, not more than 20 percent of such funds may be made available for such eradication programs unless the Secretary of State certifies to the Committees on Appropriations that: (1) the herbicide is being used in accordance with EPA label requirements for comparable use in the United States and with Colombian laws; and (2) the herbicide, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment including endemic species: *Provided further*, That such funds may not be made available unless the Secretary of State certifies to the Committees on Appropriations that complaints of harm to health or licit crops caused by such aerial eradication are thoroughly evaluated and fair compensation is being paid in a timely manner for meritorious claims: *Provided further*, That the Secretary shall submit a report to the Committees on Appropriations detailing all claims, evaluations, and compensation paid during the twelve month period prior to the date of enactment of this Act: *Provided further*, That such funds may not be made available for such purposes unless programs are being implemented by United States Agency for International Development, the Government of Colombia, or other organizations, in consultation and coordination with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers and communities whose illicit crops are targeted for aerial eradication: *Provided further*, That none of the funds appropriated by this Act shall be made available for the cultivation or processing of African oil palm, if doing so would contribute to significant loss of native species, disrupt or contaminate natural water sources, reduce local food security, or cause the forced displacement of local people: *Provided further*, That funds appropriated by this

Certification.

Certification.

Reports.

Certification.

Certification.
Human rights.

Act may be used for aerial eradication in Colombia's national parks or reserves only if the Secretary of State certifies to the Committees on Appropriations on a case-by-case basis that there are no effective alternatives and the eradication is conducted in accordance with Colombian laws: *Provided further*, That funds appropriated under this heading that are made available for assistance for the Bolivian military and police may be made available for such purposes only if the Secretary of State certifies to the Committees on Appropriations that the Bolivian military and police are respecting human rights and cooperating fully with investigations and prosecutions by civilian judicial authorities of military and police personnel who have been implicated in gross violations of human rights: *Provided further*, That of the funds appropriated under this heading, not more than \$17,000,000 may be available for administrative expenses of the Department of State, and not more than \$7,800,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$1,029,900,000, to remain available until expended: *Provided*, That not more than \$23,000,000 may be available for administrative expenses: *Provided further*, That not less than \$40,000,000 of the funds made available under this heading shall be made available for refugees resettling in Israel: *Provided further*, That funds made available under this heading shall be made available for assistance for refugees from North Korea: *Provided further*, That of the amount provided by this paragraph, \$200,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)), \$45,000,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, \$487,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of

part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided*, That of this amount not to exceed \$34,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further*, That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further*, That of the funds appropriated under this heading, not less than \$26,000,000 shall be made available for the Biosecurity Engagement Program: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further*, That of the funds made available for demining and related activities, not to exceed \$700,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further*, That funds appropriated under this heading that are available for “Anti-terrorism Assistance” and “Export Control and Border Security” shall remain available until September 30, 2009.

Reports.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961, \$20,400,000, to remain available until September 30, 2010, which shall be available notwithstanding any other provision of law.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts owed to the United States as a result of concessional loans made to eligible countries, pursuant to parts IV and V of the Foreign Assistance Act of 1961, of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as amended, of concessional loans, guarantees and credit agreements, as authorized under section

572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), and of canceling amounts owed, as a result of loans or guarantees made pursuant to the Export-Import Bank Act of 1945, by countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106-113, \$30,300,000, to remain available until September 30, 2010: *Provided*, That not less than \$20,000,000 of the funds appropriated under this heading shall be made available to carry out the provisions of part V of the Foreign Assistance Act of 1961: *Provided further*, That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—

- (1) the Inter-American Development Bank;
- (2) the African Development Fund;
- (3) the African Development Bank; and
- (4) the Central American Bank for Economic Integration:

Human rights.

Provided further, That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: *Provided further*, That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: *Provided further*, That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: *Provided further*, That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

(1) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disbursement, other than loans made by such institutions to export-oriented commercial projects that generate foreign exchange which are generally referred to as “enclave” loans; and

(2) have documented and demonstrated their commitment to redirect their budgetary resources from international debt repayments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

Notification.

Provided further, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: *Provided further*, That none of the funds made available under this heading in this or any other appropriations Act shall be made available for Sudan or Burma unless the Secretary of the Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office.

TITLE IV
MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, \$85,877,000, of which up to \$3,000,000 may remain available until expended: *Provided*, That funds appropriated under this heading shall not be available for Equatorial Guinea: *Provided further*, That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: *Provided further*, That funds appropriated under this heading that are made available for assistance for Angola, Cameroon, Central African Republic, Chad, Cote d'Ivoire, Guinea, Libya, and Nepal may be made available only for expanded international military education and training: *Provided further*, That funds made available under this heading in the second proviso and for assistance for Haiti, Guatemala, the Democratic Republic of the Congo, Sri Lanka, Ethiopia, Bangladesh, Libya, Angola, and Nigeria may only be provided through the regular notification procedures of the Committees on Appropriations and any such notification shall include a detailed description of proposed activities.

Notification.

FOREIGN MILITARY FINANCING PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, \$4,588,325,000: *Provided*, That of the funds appropriated under this heading, not less than \$2,400,000,000 shall be available for grants only for Israel, and not less than \$1,300,000,000 shall be made available for grants only for Egypt: *Provided further*, That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further*, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than \$631,200,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further*, That of the funds appropriated by this paragraph, \$300,000,000 shall be made available for assistance for Jordan: *Provided further*, That of the funds appropriated under this heading, not more than \$53,000,000 shall be available for Colombia, of which \$5,000,000 should be made available for medical and rehabilitation assistance, removal of landmines, and to enhance communications capabilities: *Provided further*, That of the funds appropriated under this heading, \$3,655,000 may be made available for assistance for Morocco, and an additional \$1,000,000 may be made available if the Secretary of State certifies to the Committees

Israel.
Deadline.

Certification.
Morocco.
Human rights.

on Appropriations that the Government of Morocco is continuing to make progress on human rights, and is allowing all persons to advocate freely their views regarding the status and future of the Western Sahara through the exercise of their rights to peaceful expression, association and assembly and to document violations of human rights in that territory without harassment: *Provided further*, That funds appropriated or otherwise made available by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further*, That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a): *Provided further*, That \$4,000,000 of the funds appropriated under this heading shall be transferred to and merged with funds appropriated under the heading “Diplomatic and Consular Programs” to be made available to the Bureau of Democracy, Human Rights and Labor, Department of State, to ensure adequate monitoring of the uses of assistance made available under this heading in countries where such monitoring is most needed, in addition to amounts otherwise available for such purposes.

Notification.

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided*, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 615 of this Act: *Provided further*, That none of the funds appropriated under this heading shall be available for assistance for Sudan: *Provided further*, That none of the funds appropriated under this heading may be made available for assistance for Haiti, Guatemala, Nepal, Sri Lanka, Pakistan, Bangladesh, Philippines, Indonesia, Bosnia and Herzegovina, Ethiopia, and Democratic Republic of the Congo except pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through non-governmental and international organizations: *Provided further*, That only those countries for which assistance was justified for the “Foreign Military Sales Financing Program” in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That not more than \$41,900,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further*, That not more than \$395,000,000 of funds realized

pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2008 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further*, That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2008 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act: *Provided further*, That of the amount provided by this paragraph, \$100,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

Egypt.
Deadline.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, \$263,230,000: *Provided*, That of the funds made available under this heading, not less than \$25,000,000 shall be made available for a United States contribution to the Multinational Force and Observers mission in the Sinai: *Provided further*, That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the amount provided by this paragraph, \$35,000,000 is designated as described in section 5 (in the matter preceding division A of this consolidated Act).

TITLE V

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

GLOBAL ENVIRONMENT FACILITY

For the United States contribution for the Global Environment Facility, \$81,763,000 to the International Bank for Reconstruction and Development as trustee for the Global Environment Facility, by the Secretary of the Treasury, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, \$950,000,000, to remain available until expended.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the fund, \$25,000,000, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended, \$75,153,000, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, \$2,037,000, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed \$31,918,770.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, \$135,684,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, \$10,159 for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

For the United States contribution by the Secretary of the Treasury to increase the resources of the International Fund for Agricultural Development, \$18,072,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, \$319,485,000.

TITLE VI

GENERAL PROVISIONS

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 601. (a) No funds appropriated in titles II through V of this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which,

together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section “international financial institutions” are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

RESTRICTION ON CONTRIBUTIONS TO THE UNITED NATIONS

SEC. 602. None of the funds appropriated or otherwise made available under any title of this Act may be made available to make any assessed contribution or voluntary payment of the United States to the United Nations if the United Nations implements or imposes any taxation on any United States persons.

LIMITATION ON RESIDENCE EXPENSES

SEC. 603. Of the funds appropriated or made available pursuant to title III of this Act, not to exceed \$100,500 shall be for official residence expenses of the United States Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

UNOBLIGATED BALANCES REPORT

SEC. 604. Any Department or Agency to which funds are appropriated or otherwise made available by this Act shall provide to the Committees on Appropriations a quarterly accounting of cumulative balances by program, project, and activity of the funds received by such Department or Agency in this fiscal year or any previous fiscal year that remain unobligated and unexpended.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 605. Of the funds appropriated or made available pursuant to titles II through V of this Act, not to exceed \$250,000 shall be available for representation and entertainment allowances, of which not to exceed \$4,000 shall be available for entertainment allowances, for the United States Agency for International Development during the current fiscal year: *Provided*, That no such entertainment funds may be used for the purposes listed in section 648 of this Act: *Provided further*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading “Foreign Military Financing Program”, not to exceed \$4,000 shall be available for entertainment expenses and not to

exceed \$130,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading “International Military Education and Training”, not to exceed \$55,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed \$3,000 shall be available for entertainment and representation allowances: *Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed a total of \$4,000 shall be available for entertainment expenses: *Provided further*, That of the funds made available by this Act under the heading “Trade and Development Agency”, not to exceed \$4,000 shall be available for representation and entertainment allowances: *Provided further*, That of the funds made available by this Act under the heading “Millennium Challenge Corporation”, not to exceed \$115,000 shall be available for representation and entertainment allowances.

PROHIBITION ON TAXATION OF UNITED STATES ASSISTANCE

Negotiations.

SEC. 606. (a) PROHIBITION ON TAXATION.—None of the funds appropriated under titles II through V of this Act may be made available to provide assistance for a foreign country under a new bilateral agreement governing the terms and conditions under which such assistance is to be provided unless such agreement includes a provision stating that assistance provided by the United States shall be exempt from taxation, or reimbursed, by the foreign government, and the Secretary of State shall expeditiously seek to negotiate amendments to existing bilateral agreements, as necessary, to conform with this requirement.

Certification.
Reports.

(b) REIMBURSEMENT OF FOREIGN TAXES.—An amount equivalent to 200 percent of the total taxes assessed during fiscal year 2008 on funds appropriated by this Act by a foreign government or entity against commodities financed under United States assistance programs for which funds are appropriated by this Act, either directly or through grantees, contractors and subcontractors shall be withheld from obligation from funds appropriated for assistance for fiscal year 2009 and allocated for the central government of such country and for the West Bank and Gaza Program to the extent that the Secretary of State certifies and reports in writing to the Committees on Appropriations that such taxes have not been reimbursed to the Government of the United States.

(c) DE MINIMIS EXCEPTION.—Foreign taxes of a de minimis nature shall not be subject to the provisions of subsection (b).

(d) REPROGRAMMING OF FUNDS.—Funds withheld from obligation for each country or entity pursuant to subsection (b) shall be reprogrammed for assistance to countries which do not assess taxes on United States assistance or which have an effective arrangement that is providing substantial reimbursement of such taxes.

(e) DETERMINATIONS.—

(1) The provisions of this section shall not apply to any country or entity the Secretary of State determines—

(A) does not assess taxes on United States assistance or which has an effective arrangement that is providing substantial reimbursement of such taxes; or

(B) the foreign policy interests of the United States outweigh the policy of this section to ensure that United States assistance is not subject to taxation.

(2) The Secretary of State shall consult with the Committees on Appropriations at least 15 days prior to exercising the authority of this subsection with regard to any country or entity.

Consultation.
Deadline.

(f) IMPLEMENTATION.—The Secretary of State shall issue rules, regulations, or policy guidance, as appropriate, to implement the prohibition against the taxation of assistance contained in this section.

Regulations.

(g) DEFINITIONS.—As used in this section—

(1) the terms “taxes” and “taxation” refer to value added taxes and customs duties imposed on commodities financed with United States assistance for programs for which funds are appropriated by this Act; and

(2) the term “bilateral agreement” refers to a framework bilateral agreement between the Government of the United States and the government of the country receiving assistance that describes the privileges and immunities applicable to United States foreign assistance for such country generally, or an individual agreement between the Government of the United States and such government that describes, among other things, the treatment for tax purposes that will be accorded the United States assistance provided under that agreement.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 607. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, North Korea, Iran, or Syria: *Provided*, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 608. None of the funds appropriated or otherwise made available pursuant to titles II through V of this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by military coup or decree: *Provided*, That assistance may be resumed to such government if the President determines and certifies to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office: *Provided further*, That the provisions of this section shall not apply to assistance to promote democratic elections or public participation in democratic processes: *Provided further*, That funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.

President.
Certification.

TRANSFER AUTHORITY

SEC. 609. (a) DEPARTMENT OF STATE AND BROADCASTING BOARD OF GOVERNORS.—Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State under title I of this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such

transfers: *Provided*, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the Broadcasting Board of Governors under title I of this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 615 (a) and (b) of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

(b) EXPORT FINANCING TRANSFER AUTHORITIES.—Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 2008, for programs under title II of this Act may be transferred between such appropriations for use for any of the purposes, programs, and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

(c)(1) LIMITATION ON TRANSFERS BETWEEN AGENCIES.—None of the funds made available under titles II through V of this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

(2) Notwithstanding paragraph (1), in addition to transfers made by, or authorized elsewhere in, this Act, funds appropriated by this Act to carry out the purposes of the Foreign Assistance Act of 1961 may be allocated or transferred to agencies of the United States Government pursuant to the provisions of sections 109, 610, and 632 of the Foreign Assistance Act of 1961.

(d) TRANSFERS BETWEEN ACCOUNTS.—None of the funds made available under titles II through V of this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President provides notification in accordance with the regular notification procedures of the Committees on Appropriations.

(e) AUDIT OF INTER-AGENCY TRANSFERS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall expressly provide that the Office of the Inspector General for the agency receiving the transfer or allocation of such funds shall perform periodic program and financial audits of the use of such funds: *Provided*, That funds transferred under such authority may be made available for the cost of such audits.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 610. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by

President.
Notification.

President.

leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

AVAILABILITY OF FUNDS

SEC. 611. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 661, section 667, chapters 4, 5, 6, 8, and 9 of part II of the Foreign Assistance Act of 1961, section 23 of the Arms Export Control Act, and funds provided under the headings “Assistance for Eastern Europe and the Baltic States” and “Development Credit Authority”, shall remain available for an additional 4 years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 612. No part of any appropriation provided under titles II through V in this Act shall be used to furnish assistance to the government of any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.

President.

COMMERCE AND TRADE

SEC. 613. (a) None of the funds appropriated or made available pursuant to titles II through V of this Act for direct assistance and none of the funds otherwise made available to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not

apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact on the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

22 USC 262h
note.

SEC. 614. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to titles II through V of this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

REPROGRAMMING NOTIFICATION REQUIREMENTS

Deadlines.

SEC. 615. (a) None of the funds made available in title I of this Act, or in prior appropriations Acts to the agencies and departments funded by this Act that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees or of currency reflows or other offsetting collections, or made available by transfer, to the agencies and departments funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) closes or opens a mission or post; (6) reorganizes or renames offices; (7) reorganizes programs or activities; or (8) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations are notified 15 days in advance of such reprogramming of funds.

(b) For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds provided under title I of this Act, or provided under previous appropriations Acts to the agencies or department funded under title I of this Act that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies or department funded by title I of this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$750,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings, including savings from a reduction in personnel, which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations are notified 15 days in advance of such reprogramming of funds.

(c) For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under titles II through V of this Act for “Global Health and Child Survival”, “Development Assistance”, “International Organizations and Programs”, “Trade and Development Agency”, “International Narcotics Control and Law Enforcement”, “Andean Counterdrug Programs”, “Assistance for Eastern Europe and the Baltic States”, “Assistance for the Independent States of the Former Soviet Union”, “Economic Support Fund”, “Democracy Fund”, “Peacekeeping Operations”, “Capital Investment Fund”, “Operating Expenses of the United States Agency for International Development”, “Operating Expenses of the United States Agency for International Development Office of Inspector General”, “Nonproliferation, Anti-terrorism, Demining and Related Programs”, “Millennium Challenge Corporation” (by country only), “Foreign Military Financing Program”, “International Military Education and Training”, “Peace Corps”, and “Migration and Refugee Assistance”, shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Committees on Appropriations for obligation under any of these specific headings unless the Committees on Appropriations of both Houses of Congress are previously notified 15 days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: *Provided further*, That this subsection shall not apply to any reprogramming for an activity, program, or project for which funds are appropriated under titles III or IV of this Act of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.

(d) The requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring

notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL
ORGANIZATIONS AND PROGRAMS

22 USC 2227.

SEC. 616. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under titles II through V of this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2009: *Provided*, That section 307(a) of the Foreign Assistance Act of 1961 is amended by striking “Libya,”.

INDEPENDENT STATES OF THE FORMER SOVIET UNION

President.

SEC. 617. (a) None of the funds appropriated under the heading “Assistance for the Independent States of the Former Soviet Union” shall be made available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: *Provided*, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

(b) None of the funds appropriated under the heading “Assistance for the Independent States of the Former Soviet Union” shall be made available for any state to enhance its military capability: *Provided*, That this restriction does not apply to demilitarization, demining or nonproliferation programs.

(c) Funds appropriated under the heading “Assistance for the Independent States of the Former Soviet Union” for the Russian Federation, Armenia, Kazakhstan, and Uzbekistan shall be subject to the regular notification procedures of the Committees on Appropriations.

(d) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

President.
Certification.

(e)(1) Of the funds appropriated under the heading “Assistance for the Independent States of the Former Soviet Union” that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President

determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation—

(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

(2) Paragraph (1) shall not apply to—

(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

(f) Section 907 of the FREEDOM Support Act shall not apply to—

(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104-201 or non-proliferation assistance;

(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(5) any financing provided under the Export-Import Bank Act of 1945; or

(6) humanitarian assistance.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 618. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations.

ALLOCATIONS

SEC. 619. (a) Funds provided in this Act for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act) accompanying this Act:

“Educational and Cultural Exchange Programs”.

“American Sections, International Commissions”.

“International Broadcasting Operations”.

“Global Health and Child Survival”.

“Economic Support Fund”.

“Assistance for Eastern Europe and the Baltic States”.

“Assistance for the Independent States of the Former Soviet Union”.

“Democracy Fund”.

“International Narcotics Control and Law Enforcement”.

“Andean Counterdrug Programs”.

“Nonproliferation, Anti-Terrorism, Demining and Related Programs”.

“Foreign Military Financing Program”.

“Peacekeeping Operations”.

“International Organizations and Programs”.

(b) Any proposed increases or decreases to the amounts contained in such tables in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act) shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 620. None of the funds appropriated under titles II through V of this Act shall be obligated or expended for assistance for Serbia, Sudan, Zimbabwe, Pakistan, Cuba, Iran, Haiti, Libya, Ethiopia, Mexico, Nepal, or Cambodia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

Reports.
Deadline.

SEC. 621. For the purpose of titles II through V of this Act “program, project, and activity” shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts funding directives, ceilings, and limitations with the exception that for the following accounts: “Economic Support Fund” and “Foreign Military Financing Program”, “program, project, and activity” shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the United States Agency for International Development “program, project, and activity” shall also be considered to include central, country, regional, and program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

GLOBAL HEALTH AND CHILD SURVIVAL ACTIVITIES

SEC. 622. Up to \$13,500,000 of the funds made available by this Act in title III for assistance under the heading “Global Health and Child Survival”, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: *Provided*, That up to \$3,500,000 of the funds made available by this Act for assistance under the heading “Development Assistance” may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: *Provided further*, That funds appropriated by titles III and IV of this Act that are made available for bilateral assistance for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law except for the provisions under the heading “Global Health and Child Survival” and the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 7601 et seq.), as amended: *Provided further*, That of the funds appropriated under title III of this Act, not less than \$461,000,000 shall be made available for family planning/reproductive health.

AFGHANISTAN

SEC. 623. Of the funds appropriated under titles III and IV of this Act, not less than \$1,057,050,000 should be made available for assistance for Afghanistan: *Provided*, That of the funds made available pursuant to this section, \$3,000,000 should be made available for reforestation activities: *Provided further*, That funds made available pursuant to the previous proviso should be matched, to the maximum extent possible, with contributions from American and Afghan businesses: *Provided further*, That of the funds allocated for assistance for Afghanistan from this Act not less than \$75,000,000 shall be made available to support programs that directly address the needs of Afghan women and girls, including for the Afghan Independent Human Rights Commission, the Afghan Ministry of Women’s Affairs, and for women-led nonprofit organizations in Afghanistan: *Provided further*, That of the funds appropriated by this Act that are available for Afghanistan, \$20,000,000 should be made available through United States universities to develop agriculture extension services for Afghan farmers, \$2,000,000 should be made available for a United States contribution to the North Atlantic Treaty Organization/International Security Assistance Force Post-Operations Humanitarian Relief Fund, and not less than \$10,000,000 should be made available for continued support of the United States Agency for International Development’s Afghan Civilian Assistance Program.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 624. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance

Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: *Provided*, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at \$7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: *Provided further*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

GLOBAL FUND MANAGEMENT

Certification.

SEC. 625. (a) Notwithstanding any other provision of this Act, 20 percent of the funds that are appropriated by this Act for a contribution to support the Global Fund to Fight AIDS, Tuberculosis and Malaria (the “Global Fund”) shall be withheld from obligation to the Global Fund until the Secretary of State certifies to the Committees on Appropriations that the Global Fund—

(1) is releasing incremental disbursements only if grantees demonstrate progress against clearly defined performance indicators;

(2) is providing support and oversight to country-level entities, such as country coordinating mechanisms, principal recipients, and Local Fund Agents (LFAs), to enable them to fulfill their mandates;

(3) has a full-time, professional, independent Office of Inspector General that is fully operational;

(4) requires LFAs to assess whether a principal recipient has the capacity to oversee the activities of sub-recipients;

(5) is making progress toward implementing a reporting system that breaks down grantee budget allocations by programmatic activity;

(6) has adopted and is implementing a policy to publish on a publicly available website the reports of the Global Fund’s Inspector General in a manner that is consistent with the Policy for Disclosure of Reports of the Inspector General as approved at the 16th Meeting of the Board of the Global Fund to Fight AIDS, Tuberculosis and Malaria; and

(7) is tracking and encouraging the involvement of civil society, including faith-based organizations, in country coordinating mechanisms and program implementation.

Reports.
Deadline.

(b) The Secretary of State shall submit a report to the Committees on Appropriations not later than 120 days after enactment of this Act on the involvement of faith-based organizations in Global Fund programs. The report shall include—

(1) on a country-by-country basis—

(A) a description of the amount of grants and subgrants provided to faith-based organizations; and

(B) a detailed description of the involvement of faith-based organizations in the Country Coordinating Mechanism (CCM) process of the Global Fund; and

(2) a description of actions the Global Fund is taking to enhance the involvement of faith-based organizations in the CCM process, particularly in countries in which the involvement of faith-based organizations has been underrepresented.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 626. (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines—

President.

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

Waiver authority.

Federal Register,
publication.
Deadline.
Notification.

DEBT-FOR-DEVELOPMENT

SEC. 627. In order to enhance the continued participation of nongovernmental organizations in debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts local currencies which accrue to that organization as a result of economic assistance provided under title III of this Act and, subject to the regular notification procedures of the Committees on Appropriations, any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

SEPARATE ACCOUNTS

SEC. 628. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.— 22 USC 2362 note.

(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated; and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

- (i) project and sector assistance activities; or
- (ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—

(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98-1159).

(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion

President.

of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ENTERPRISE FUND RESTRICTIONS

SEC. 629. (a) Prior to the distribution of any assets resulting from any liquidation, dissolution, or winding up of an Enterprise Fund, in whole or in part, the President shall submit to the Committees on Appropriations, in accordance with the regular notification procedures of the Committees on Appropriations, a plan for the distribution of the assets of the Enterprise Fund.

(b) Funds made available under titles II through V of this Act for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

FINANCIAL MARKET ASSISTANCE

SEC. 630. Of the funds appropriated by this Act under the headings “Trade and Development Agency”, “Development Assistance”, “Transition Initiatives”, “Economic Support Fund”, “International Affairs Technical Assistance”, “Assistance for the Independent States of the Former Soviet Union”, “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, and “Assistance for Eastern Europe and Baltic States”, not less than \$40,000,000 should be made available for building capital markets and financial systems in countries eligible to receive United States assistance.

AUTHORITIES FOR THE PEACE CORPS, INTER-AMERICAN FOUNDATION AND AFRICAN DEVELOPMENT FOUNDATION

SEC. 631. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

Reports.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 632. None of the funds appropriated under titles II through V of this Act may be obligated or expended to provide—

(1) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States; or

(2) assistance for any program, project, or activity that contributes to the violation of internationally recognized

workers rights, as defined in section 507(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided*, That the application of section 507(4)(D) and (E) of such Act should be commensurate with the level of development of the recipient country and sector, and shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

COMPREHENSIVE EXPENDITURES REPORT

SEC. 633. Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing the total amount of United States Government expenditures in fiscal years 2005 and 2006, by Federal agency, for programs and activities in each foreign country, identifying the line item as presented in the President's Budget Appendix and the purpose for which the funds were provided: *Provided*, That if required, information may be submitted in classified form.

SPECIAL AUTHORITIES

SEC. 634. (a) AFGHANISTAN, IRAQ, PAKISTAN, LEBANON, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BURMESE.—Funds appropriated under titles II through V of this Act that are made available for assistance for Afghanistan may be made available notwithstanding section 612 of this Act or any similar provision of law and section 660 of the Foreign Assistance Act of 1961, and funds appropriated in titles II and III of this Act that are made available for Iraq, Lebanon, Montenegro, Pakistan, and for victims of war, displaced children, and displaced Burmese, and to assist victims of trafficking in persons and, subject to the regular notification procedures of the Committees on Appropriations, to combat such trafficking, may be made available notwithstanding any other provision of law.

(b) TROPICAL FORESTRY AND BIODIVERSITY CONSERVATION ACTIVITIES.—Funds appropriated by this Act to carry out the provisions of sections 103 through 106, and chapter 4 of part II, of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and energy programs aimed at reducing greenhouse gas emissions: *Provided*, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) PERSONAL SERVICES CONTRACTORS.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 25 personal services contractors in the United States, notwithstanding any other provision of law, for the purpose of providing direct, interim support for new or expanded overseas programs and activities managed by the agency until permanent direct hire personnel are hired and trained: *Provided*, That not more than 10 of such contractors shall be assigned to any bureau or office: *Provided further*, That such funds appropriated to carry out title II of the Agricultural Trade Development

and Assistance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

(d)(1) **WAIVER.**—The President may waive the provisions of section 1003 of Public Law 100-204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

President.
Certification.

(2) **PERIOD OF APPLICATION OF WAIVER.**—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(e) **SMALL BUSINESS.**—In entering into multiple award indefinite-quantity contracts with funds appropriated by this Act, the United States Agency for International Development may provide an exception to the fair opportunity process for placing task orders under such contracts when the order is placed with any category of small or small disadvantaged business.

(f) **VIETNAMESE REFUGEES.**—Section 594(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (enacted as division D of Public Law 108-447; 118 Stat. 3038) is amended by striking “2007” and inserting “2009”.

(g) **RECONSTITUTING CIVILIAN POLICE AUTHORITY.**—In providing assistance with funds appropriated by this Act under section 660(b)(6) of the Foreign Assistance Act of 1961, support for a nation emerging from instability may be deemed to mean support for regional, district, municipal, or other sub-national entity emerging from instability, as well as a nation emerging from instability.

(h) **CHINA PROGRAMS.**—Notwithstanding any other provision of law, of the funds appropriated under the heading “Development Assistance” in this Act, not less than \$10,000,000 shall be made available to United States educational institutions and nongovernmental organizations for programs and activities in the People’s Republic of China relating to the environment, democracy, and the rule of law: *Provided*, That funds made available pursuant to this authority shall be subject to the regular notification procedures of the Committees on Appropriations.

(i) **MIDDLE EAST FOUNDATION.**—Funds appropriated by this Act and prior Acts for a Middle East Foundation shall be subject to the regular notification procedures of the Committees on Appropriations.

(j) **EXTENSION OF AUTHORITY.**—Section 1365(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 22 U.S.C. 2778 note) is amended by striking “During the 16 year period beginning on October 23, 1992” and inserting “During the 22 year period beginning on October 23, 1992” before the period at the end.

(k) **EXTENSION OF AUTHORITY.**—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking “and 2007” and inserting “2007, and 2008”; and

(B) in subsection (e), by striking “2007” each place it appears and inserting “2008”; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking “2007” and inserting “2008”.

(l) **WORLD FOOD PROGRAM.**—Of the funds managed by the Bureau for Democracy, Conflict, and Humanitarian Assistance of the United States Agency for International Development, from this or any other Act, not less than \$10,000,000 shall be made available as a general contribution to the World Food Program, notwithstanding any other provision of law.

(m) **CAPITAL SECURITY COST-SHARING.**—Notwithstanding any other provision of law, of the funds appropriated under the heading “Embassy Security, Construction, and Maintenance”, not less than \$2,000,000 shall be made available for the Capital Security Cost-Sharing fees of the Library of Congress.

(n) **DISARMAMENT, DEMOBILIZATION AND REINTEGRATION.**—Notwithstanding any other provision of law, regulation or Executive order, funds appropriated by this Act and prior Acts making appropriations for foreign operations, export financing, and related programs under the headings “Economic Support Fund”, “Peacekeeping Operations”, “International Disaster Assistance”, and “Transition Initiatives” should be made available to support programs to disarm, demobilize, and reintegrate into civilian society former members of foreign terrorist organizations: *Provided*, That the Secretary of State shall consult with the Committees on Appropriations prior to the obligation of funds pursuant to this subsection: *Provided further*, That for the purposes of this subsection, “International Disaster Assistance” may also mean “International Disaster and Famine Assistance”: *Provided further*, That for the purposes of this subsection the term “foreign terrorist organization” means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.

(o) **NONGOVERNMENTAL ORGANIZATIONS.**—With respect to the provision of assistance for democracy, human rights and governance activities, the organizations implementing such assistance and the specific nature of that assistance shall not be subject to the prior approval by the government of any foreign country.

(p) **PRISON CONDITIONS.**—Funds appropriated by this Act to carry out the provisions of chapters 1 and 11 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and the Support for East European Democracy (SEED) Act of 1989, may be used to provide assistance to improve conditions in prison facilities administered by foreign governments, including among other things, activities to improve prison sanitation and ensure the availability of adequate food, drinking water and medical care for prisoners: *Provided*, That assistance made available under this subsection may be made available notwithstanding section 660 of the Foreign Assistance Act of 1961, and subject to the regular notification procedures of the Committees on Appropriations.

(q) **PROGRAM FOR RESEARCH AND TRAINING ON EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.**—Of the funds appropriated by this Act under the heading, “Economic Support Fund”, not less than \$5,000,000 shall be made available to carry out the Program for Research and Training on Eastern Europe and the Independent States of the Former Soviet Union (title VIII) as authorized by the Soviet-Eastern European Research and Training Act of 1983 (22 U.S.C. 4501–4508, as amended).

(r) **BROADCASTING BOARD OF GOVERNORS AUTHORITY.**—Section 504(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 22 U.S.C. 6206 note) is amended by striking “December 31, 2007” and inserting “December 31, 2008”.

(s) TRANSATLANTIC LEGISLATORS' DIALOGUE AUTHORITY.—Section 109(c) of Public Law 98-164 is amended by striking “\$50,000” and inserting “\$100,000”.

22 USC 276l
note.

(t) OPIC AUTHORITY.—Notwithstanding section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)), the authority of subsections (a) through (c) of section 234 of such Act shall remain in effect through April 1, 2008.

22 USC 2194
note.

ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 635. It is the sense of the Congress that—

(1) the Arab League boycott of Israel, and the secondary boycott of American firms that have commercial ties with Israel, is an impediment to peace in the region and to United States investment and trade in the Middle East and North Africa;

(2) the Arab League boycott, which was regrettably reinstated in 1997, should be immediately and publicly terminated, and the Central Office for the Boycott of Israel immediately disbanded;

(3) all Arab League states should normalize relations with their neighbor Israel;

(4) the President and the Secretary of State should continue to vigorously oppose the Arab League boycott of Israel and find concrete steps to demonstrate that opposition by, for example, taking into consideration the participation of any recipient country in the boycott when determining to sell weapons to said country; and

(5) the President should report to Congress annually on specific steps being taken by the United States to encourage Arab League states to normalize their relations with Israel to bring about the termination of the Arab League boycott of Israel, including those to encourage allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ELIGIBILITY FOR ASSISTANCE

SEC. 636. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained under titles II through V of this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading “Assistance for Eastern Europe and the Baltic States”: *Provided*, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

President.
Notification.

(b) PUBLIC LAW 480.—During fiscal year 2008, restrictions contained in this or any other Act with respect to assistance for

a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided*, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

RESERVATIONS OF FUNDS

SEC. 637. (a) Funds appropriated under titles II through V of this Act which are specifically designated may be reprogrammed for other programs within the same account notwithstanding the designation if compliance with the designation is made impossible by operation of any provision of this or any other Act: *Provided*, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the United States Agency for International Development that are specifically designated for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such designated funds can be obligated during the original period of availability: *Provided*, That such designated funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such designation.

(c) Ceilings and specifically designated funding levels contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Specifically designated funding levels or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

ASIA

SEC. 638. (a) FUNDING LEVELS.—Of the funds appropriated by this Act under the headings “Global Health and Child Survival” and “Development Assistance”, not less than the amount of funds initially allocated for each such account pursuant to subsection 653(a) of the Foreign Assistance Act of 1961 for fiscal year 2007 shall be made available for Cambodia, Philippines, Vietnam, Asia and Near East Regional, and Regional Development Mission/Asia: *Provided*, That for the purposes of this subsection, “Global Health

and Child Survival” shall mean “Child Survival and Health Programs Fund”.

(b) BURMA.—

(1) The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose and vote against the extension by such institution any loan or financial or technical assistance or any other utilization of funds of the respective bank to and for Burma.

50 USC 1701
note.

(2) Of the funds appropriated by this Act under the heading “Economic Support Fund”, not less than \$13,000,000 shall be made available to support democracy activities in Burma, along the Burma-Thailand border, for activities of Burmese student groups and other organizations located outside Burma, and for the purpose of supporting the provision of humanitarian assistance to displaced Burmese along Burma’s borders: *Provided*, That such funds may be made available notwithstanding any other provision of law: *Provided further*, That in addition to assistance for Burmese refugees provided under the heading “Migration and Refugee Assistance” in this Act, not less than \$3,000,000 shall be made available for community-based organizations operating in Thailand to provide food, medical and other humanitarian assistance to internally displaced persons in eastern Burma: *Provided further*, That funds made available under this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) TIBET.—

(1) The Secretary of the Treasury should instruct the United States executive director to each international financial institution to use the voice and vote of the United States to support projects in Tibet if such projects do not provide incentives for the migration and settlement of non-Tibetans into Tibet or facilitate the transfer of ownership of Tibetan land and natural resources to non-Tibetans; are based on a thorough needs-assessment; foster self-sufficiency of the Tibetan people and respect Tibetan culture and traditions; and are subject to effective monitoring.

(2) Notwithstanding any other provision of law, not less than \$5,000,000 of the funds appropriated by this Act under the heading “Economic Support Fund” should be made available to nongovernmental organizations to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in the Tibetan Autonomous Region and in other Tibetan communities in China, and not less than \$250,000 should be made available to the National Endowment for Democracy for human rights and democracy programs relating to Tibet.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 639. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: *Provided*, That not to exceed \$25,000 may be made available to carry out the provisions of section 316 of Public Law 96-533.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 640. None of the funds appropriated or made available pursuant to titles II through V of this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations or, from funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, the costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

REQUESTS FOR DOCUMENTS

SEC. 641. None of the funds appropriated or made available pursuant to titles II through V of this Act shall be available to a nongovernmental organization, including any contractor, which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the United States Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 642. (a) None of the funds appropriated or otherwise made available by titles II through V of this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act of 1979. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the President makes a determination pursuant to subsection (b), the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES AND REAL PROPERTY TAXES OWED BY FOREIGN COUNTRIES

SEC. 643. (a) Subject to subsection (c), of the funds appropriated under titles II through V by this Act that are made available for assistance for a foreign country, an amount equal to 110 percent of the total amount of the unpaid fully adjudicated parking fines and penalties and unpaid property taxes owed by the central government of such country shall be withheld from obligation for assistance for the central government of such country until the Secretary of State submits a certification to the Committees on Appropriations

Termination
date.

Applicability.

President.
Reports.

Certification.

stating that such parking fines and penalties and unpaid property taxes are fully paid.

(b) Funds withheld from obligation pursuant to subsection (a) may be made available for other programs or activities funded by this Act, after consultation with and subject to the regular notification procedures of the Committees on Appropriations, provided that no such funds shall be made available for assistance for the central government of a foreign country that has not paid the total amount of the fully adjudicated parking fines and penalties and unpaid property taxes owed by such country.

(c) Subsection (a) shall not include amounts that have been withheld under any other provision of law.

(d)(1) The Secretary of State may waive the requirements set forth in subsection (a) with respect to parking fines and penalties no sooner than 60 days from the date of enactment of this Act, or at any time with respect to a particular country, if the Secretary determines that it is in the national interests of the United States to do so.

Waiver authority.
Deadline.

(2) The Secretary of State may waive the requirements set forth in subsection (a) with respect to the unpaid property taxes if the Secretary of State determines that it is in the national interests of the United States to do so.

(e) Not later than 6 months after the initial exercise of the waiver authority in subsection (d), the Secretary of State, after consultations with the City of New York, shall submit a report to the Committees on Appropriations describing a strategy, including a timetable and steps currently being taken, to collect the parking fines and penalties and unpaid property taxes and interest owed by nations receiving foreign assistance under this Act.

Deadline.
Reports.
New York.

(f) In this section:

(1) The term “fully adjudicated” includes circumstances in which the person to whom the vehicle is registered—

(A)(i) has not responded to the parking violation summons; or

(ii) has not followed the appropriate adjudication procedure to challenge the summons; and

(B) the period of time for payment of or challenge to the summons has lapsed.

(2) The term “parking fines and penalties” means parking fines and penalties—

(A) owed to—

(i) the District of Columbia; or

(ii) New York, New York; and

(B) incurred during the period April 1, 1997, through September 30, 2007.

(3) The term “unpaid property taxes” means the amount of unpaid taxes and interest determined to be owed by a foreign country on real property in the District of Columbia or New York, New York in a court order or judgment entered against such country by a court of the United States or any State or subdivision thereof.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 644. None of the funds appropriated under titles II through V of this Act may be obligated for assistance for the Palestine

Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided*, That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 645. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961 of up to \$30,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided*, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further*, That funds made available for tribunals other than Yugoslavia, Rwanda, or the Special Court for Sierra Leone shall be made available subject to the regular notification procedures of the Committees on Appropriations.

LANDMINES AND CLUSTER MUNITIONS

SEC. 646. (a) LANDMINES.—Notwithstanding any other provision of law, demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

(b) CLUSTER MUNITIONS.—During the current fiscal year, no military assistance shall be furnished for cluster munitions, no defense export license for cluster munitions may be issued, and no cluster munitions or cluster munitions technology shall be sold or transferred, unless—

(1) the submunitions of the cluster munitions have a 99 percent or higher tested rate; and

(2) the agreement applicable to the assistance, transfer, or sale of the cluster munitions or cluster munitions technology specifies that the cluster munitions will only be used against clearly defined military targets and will not be used where civilians are known to be present.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 647. None of the funds appropriated under titles II through V of this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the

United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided*, That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: *Provided further*, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 648. None of the funds appropriated or otherwise made available under titles III or IV of this Act under the heading “International Military Education and Training” or “Foreign Military Financing Program” for Informational Program activities or under the headings “Global Health and Child Survival”, “Development Assistance”, and “Economic Support Fund” may be obligated or expended to pay for—

- (1) alcoholic beverages; or
- (2) entertainment expenses for activities that are substantially of a recreational character, including but not limited to entrance fees at sporting events, theatrical and musical productions, and amusement parks.

COLOMBIA

SEC. 649. (a) ASSISTANCE FOR COLOMBIA.—Of the funds appropriated in titles III and IV of this Act, not more than \$545,608,000 shall be available for assistance for Colombia.

(b) FUNDING AMOUNTS AND NOTIFICATION.—Funds appropriated by this Act that are available for assistance for Colombia shall be made available in the amounts indicated in the table in the accompanying explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act) and any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) ASSISTANCE FOR THE COLOMBIAN ARMED FORCES.—

(1) FUNDING.—Funds appropriated by this Act that are available for assistance for the Colombian Armed Forces, may be made available as follows:

(A) Up to 70 percent of such funds may be obligated prior to the certification and report by the Secretary of State pursuant to subparagraph (B).

(B) Up to 15 percent of such funds may be obligated only after the Secretary of State consults with, and subsequently certifies and submits a written report to, the Committees on Appropriations that the Government of Colombia is meeting the requirements described in paragraph (2).

Certification.
Reports.

(2) REQUIREMENTS.—The requirements referred to in paragraph (1) are as follows:

(A) The Commander General of the Colombian Armed Forces is suspending or placing on administrative duty, if requested by the prosecutor, those members of the Armed Forces, of whatever rank, who, according to the Minister of Defense, the Attorney General or the Procuraduría General de la Nación, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations or successor armed groups.

(B) The Government of Colombia is investigating and prosecuting, in the civilian justice system, those members of the Colombian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations or successor armed groups.

(C) The Colombian Armed Forces are cooperating fully with civilian prosecutors and judicial authorities in such cases (including providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information).

(D) The Colombian Armed Forces have taken all necessary steps to sever links (including denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation) at all levels, with paramilitary organizations or successor armed groups, especially in regions where such organizations have a significant presence.

(E) The Government of Colombia is dismantling paramilitary leadership and financial networks by arresting and prosecuting under civilian criminal law individuals who have provided financial, planning, or logistical support, or have otherwise aided or abetted paramilitary organizations or successor armed groups; by identifying and seizing land and other assets illegally acquired by such organizations or their associates and returning such land or assets to their rightful occupants or owners; by revoking reduced sentences for demobilized paramilitaries who engage in new criminal activity; and by arresting and prosecuting under civilian criminal law, and when requested, promptly extraditing to the United States members of successor armed groups.

(F) The Government of Colombia is ensuring that the Colombian Armed Forces are not violating the land and property rights of Colombia's indigenous and Afro-Colombian communities, and that the Colombian Armed Forces are implementing procedures to distinguish between civilians, including displaced persons, and combatants in their operations.

(3) The balance of such funds may be obligated after July 31, 2008, if, before such date, the Secretary of State consults with, and submits a written certification to, the Committees

Deadline.
Certification.

on Appropriations that the Colombian Armed Forces are continuing to meet the requirements described in paragraph (2) and are conducting vigorous operations to restore civilian government authority and respect for human rights in areas under the effective control of paramilitary organizations or successor armed groups and guerrilla organizations.

(4) CERTAIN FUNDS EXEMPTED.—The requirement to withhold funds from obligation shall not apply with respect to funds made available under the heading “Andean Counterdrug Programs” for continued support for the Critical Flight Safety Program or for any alternative development programs in Colombia administered by the Bureau of International Narcotics and Law Enforcement Affairs of the Department of State.

(5) REPORT.—At the time the Secretary of State submits certifications pursuant to paragraphs (1)(B) and (3) of this subsection, the Secretary shall also submit to the Committees on Appropriations a report that contains, with respect to each such paragraph, a detailed description of the specific actions taken by both the Colombian Government and Colombian Armed Forces which support each requirement of the certification, and the cases or issues brought to the attention of the Secretary, including through the Department of State’s annual Country Reports on Human Rights Practices, for which the actions taken by the Colombian Government or Armed Forces have been determined by the Secretary of State to be inadequate.

(d) CONSULTATIVE PROCESS.—Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2008, the Secretary of State shall consult with Colombian and internationally recognized human rights organizations regarding progress in meeting the requirements contained in subsection (c)(2).

Deadlines.

(e) ASSISTANCE FOR DEMOBILIZATION AND DISARMAMENT OF FORMER COMBATANTS IN COLOMBIA.—

(1) AVAILABILITY OF FUNDS.—Of the funds appropriated in this Act under the heading “Economic Support Fund”, up to \$11,442,000 may be made available in fiscal year 2008 for assistance for the disarmament, demobilization, and reintegration of former members of foreign terrorist organizations (FTOs) in Colombia, if the Secretary of State consults with and makes a certification described in paragraph (2) to the Committees on Appropriations prior to the initial obligation of amounts for such assistance for the fiscal year involved.

(2) CERTIFICATION.—A certification described in this subsection is a certification that—

(A) assistance for the fiscal year will be provided only for individuals who have: (i) verifiably renounced and terminated any affiliation or involvement with FTOs or other illegal armed groups; (ii) are meeting all the requirements of the Colombia demobilization program, including having disclosed their involvement in past crimes and their knowledge of the FTO’s structure, financing sources, illegal assets, and the location of kidnapping victims and bodies of the disappeared; and (iii) are not involved in acts of intimidation or violence;

(B) the Government of Colombia is providing full cooperation to the Government of the United States to

extradite the leaders and members of the FTOs who have been indicted in the United States for murder, kidnapping, narcotics trafficking, or other violations of United States law, and is extraditing to the United States those commanders, leaders and members indicted in the United States who have breached the terms of the Colombian demobilization program, including by failing to fully confess their crimes, failing to disclose their illegal assets, or committing new crimes since the approval of the Justice and Peace Law;

(C) the Government of Colombia is not knowingly taking any steps to legalize the titles of land or other assets illegally obtained and held by FTOs, their associates, or successors, has established effective procedures to identify such land and other assets, and is seizing and returning such land and other assets to their rightful occupants or owners;

(D) the Government of Colombia is implementing a concrete and workable framework for dismantling the organizational structures of foreign terrorist organizations; and

(E) funds shall not be made available as cash payments to individuals and are available only for activities under the following categories: verification, reintegration (including training and education), vetting, recovery of assets for reparations for victims, and investigations and prosecutions.

(f) **ILLEGAL ARMED GROUPS.**—

(1) **DENIAL OF VISAS TO SUPPORTERS OF COLOMBIAN ILLEGAL ARMED GROUPS.**—Subject to paragraph (2), the Secretary of State shall not issue a visa to any alien who the Secretary determines, based on credible evidence—

(A) has willfully provided any support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), the United Self-Defense Forces of Colombia (AUC), or successor armed groups, including taking actions or failing to take actions which allow, facilitate, or otherwise foster the activities of such groups; or

(B) has committed, ordered, incited, assisted, or otherwise participated in the commission of a gross violation of human rights, including extra-judicial killings, in Colombia.

(2) **WAIVER.**—Paragraph (1) shall not apply if the Secretary of State certifies to the Committees on Appropriations, on a case-by-case basis, that the issuance of a visa to the alien is necessary to support the peace process in Colombia or for urgent humanitarian reasons.

(g) **DEFINITIONS.**—In this section:

(1) **AIDED OR ABETTED.**—The term “aided or abetted” means to provide any support to paramilitary or successor armed groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

(2) **PARAMILITARY GROUPS.**—The term “paramilitary groups” means illegal self-defense groups and illegal security cooperatives, including those groups and cooperatives that have formerly demobilized but continue illegal operations, as well as parts thereof.

(3) **FOREIGN TERRORIST ORGANIZATION.**—The term “foreign terrorist organization” means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.

LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 650. (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) **WAIVER.**—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Committees on Appropriations that waiving such prohibition is important to the national security interests of the United States.

President.
Certification.

(c) **PERIOD OF APPLICATION OF WAIVER.**—Any waiver pursuant to subsection (b) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(d) **REPORT.**—Whenever the waiver authority pursuant to subsection (b) is exercised, the President shall submit a report to the Committees on Appropriations detailing the justification for the waiver, the purposes for which the funds will be spent, and the accounting procedures in place to ensure that the funds are properly disbursed. The report shall also detail the steps the Palestinian Authority has taken to arrest terrorists, confiscate weapons and dismantle the terrorist infrastructure.

President.

LIMITATION ON ASSISTANCE TO SECURITY FORCES

SEC. 651. Chapter 1 of part III of the Foreign Assistance Act of 1961 is amended by adding the following section:

“SEC. 620J. LIMITATION ON ASSISTANCE TO SECURITY FORCES.

22 USC 2378d.

“(a) **IN GENERAL.**—No assistance shall be furnished under this Act or the Arms Export Control Act to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights.

“(b) **EXCEPTION.**—The prohibition in subsection (a) shall not apply if the Secretary determines and reports to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice.

“(c) **DUTY TO INFORM.**—In the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.”.

FOREIGN MILITARY TRAINING REPORT

SEC. 652. The annual foreign military training report required by section 656 of the Foreign Assistance Act of 1961 shall be submitted by the Secretary of Defense and the Secretary of State to the Committees on Appropriations by the date specified in that section.

AUTHORIZATION REQUIREMENT

SEC. 653. Funds appropriated by this Act, except funds appropriated under the headings “Trade and Development Agency” and “Overseas Private Investment Corporation”, may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

LIBYA

SEC. 654. (a) None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to finance directly any assistance for Libya.

Certification.

(b) The prohibition of subsection (a) shall no longer apply if the Secretary of State certifies to the Committees on Appropriations that the Government of Libya has made the final settlement payments to the Pan Am 103 victims’ families, paid to the LaBelle Disco bombing victims the agreed upon settlement amounts, and is engaging in good faith settlement discussions regarding other relevant terrorism cases.

Deadline.
Reports.

(c) Not later than 180 days after enactment of this Act, the Secretary shall submit a report to the Committees on Appropriations describing (1) actions taken by the Department of State to facilitate a resolution of these cases; and (2) United States commercial activities in Libya’s energy sector.

PALESTINIAN STATEHOOD

Certification.

SEC. 655. (a) LIMITATION ON ASSISTANCE.—None of the funds appropriated under titles II through V of this Act may be provided to support a Palestinian state unless the Secretary of State determines and certifies to the appropriate congressional committees that—

(1) the governing entity of a new Palestinian state—

(A) has demonstrated a firm commitment to peaceful co-existence with the State of Israel;

(B) is taking appropriate measures to counter terrorism and terrorist financing in the West Bank and Gaza, including the dismantling of terrorist infrastructures, and is cooperating with appropriate Israeli and other appropriate security organizations; and

(2) the Palestinian Authority (or the governing entity of a new Palestinian state) is working with other countries in the region to vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will enable Israel and an independent Palestinian state to exist within the context of full and normal relationships, which should include—

(A) termination of all claims or states of belligerency;

(B) respect for and acknowledgement of the sovereignty, territorial integrity, and political independence

of every state in the area through measures including the establishment of demilitarized zones;

(C) their right to live in peace within secure and recognized boundaries free from threats or acts of force;

(D) freedom of navigation through international waterways in the area; and

(E) a framework for achieving a just settlement of the refugee problem.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the governing entity should enact a constitution assuring the rule of law, an independent judiciary, and respect for human rights for its citizens, and should enact other laws and regulations assuring transparent and accountable governance.

(c) WAIVER.—The President may waive subsection (a) if he determines that it is important to the national security interests of the United States to do so. President.

(d) EXEMPTION.—The restriction in subsection (a) shall not apply to assistance intended to help reform the Palestinian Authority and affiliated institutions, or the governing entity, in order to help meet the requirements of subsection (a), consistent with the provisions of section 650 of this Act (“Limitation on Assistance to the Palestinian Authority”).

PROHIBITION ON ASSISTANCE TO THE PALESTINIAN BROADCASTING CORPORATION

SEC. 656. None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

WEST BANK AND GAZA ASSISTANCE

SEC. 657. (a) OVERSIGHT.—For fiscal year 2008, 30 days prior to the initial obligation of funds for the bilateral West Bank and Gaza Program, the Secretary of State shall certify to the Committees on Appropriations that procedures have been established to assure the Comptroller General of the United States will have access to appropriate United States financial information in order to review the uses of United States assistance for the Program funded under the heading “Economic Support Fund” for the West Bank and Gaza. Deadline. Certification.

(b) VETTING.—Prior to the obligation of funds appropriated by this Act under the heading “Economic Support Fund” for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity nor, with respect to private entities or educational institutions, those that have as a principal officer of the entity’s governing board or governing board of trustees any individual that has been determined to be involved in, or advocating terrorist activity or determined to be a member of a designated foreign terrorist organization. The Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any Procedures.

individual, entity, or educational institution which she has determined to be involved in or advocating terrorist activity.

(c) PROHIBITION.—

(1) None of the funds appropriated under titles II through V of this Act for assistance under the West Bank and Gaza Program may be made available for the purpose of recognizing or otherwise honoring individuals who commit, or have committed acts of terrorism.

Reports.

(2) Notwithstanding any other provision of law, none of the funds made available by this or prior appropriations act, including funds made available by transfer, may be made available for obligation for security assistance for the West Bank and Gaza until the Secretary of State reports to the Committees on Appropriations on the benchmarks that have been established for security assistance for the West Bank and Gaza and reports on the extent of Palestinian compliance with such benchmarks.

(d) AUDITS.—

(1) The Administrator of the United States Agency for International Development shall ensure that Federal or non-Federal audits of all contractors and grantees, and significant subcontractors and sub-grantees, under the West Bank and Gaza Program, are conducted at least on an annual basis to ensure, among other things, compliance with this section.

(2) Of the funds appropriated by this Act up to \$500,000 may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements of this subsection. Such funds are in addition to funds otherwise available for such purposes.

(e) Subsequent to the certification specified in subsection (a), the Comptroller General of the United States shall conduct an audit and an investigation of the treatment, handling, and uses of all funds for the bilateral West Bank and Gaza Program in fiscal year 2008 under the heading “Economic Support Fund”. The audit shall address—

(1) the extent to which such Program complies with the requirements of subsections (b) and (c), and

(2) an examination of all programs, projects, and activities carried out under such Program, including both obligations and expenditures.

Deadline.

Reports.

(f) Not later than 180 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations updating the report contained in section 2106 of chapter 2 of title II of Public Law 109-13.

WAR CRIMINALS

SEC. 658. (a)(1) None of the funds appropriated or otherwise made available under titles II through V of this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution to vote against any new project involving the extension by such institutions of any financial or technical assistance, to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State,

to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the International Criminal Tribunal for the former Yugoslavia (the “Tribunal”) all persons in their territory who have been indicted by the Tribunal and to otherwise cooperate with the Tribunal.

(2) The provisions of this subsection shall not apply to humanitarian assistance or assistance for democratization.

(b) The provisions of subsection (a) shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are—

Applicability.
Reports.

(1) cooperating with the Tribunal, including access for investigators to archives and witnesses, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension; and

(2) are acting consistently with the Dayton Accords.

(c) Not less than 10 days before any vote in an international financial institution regarding the extension of any new project involving financial or technical assistance or grants to any country or entity described in subsection (a), the Secretary of the Treasury, in consultation with the Secretary of State, shall provide to the Committees on Appropriations a written justification for the proposed assistance, including an explanation of the United States position regarding any such vote, as well as a description of the location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

Deadline.
Submission.

(d) In carrying out this section, the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of the Treasury shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (a).

(e) The Secretary of State may waive the application of subsection (a) with respect to projects within a country, entity, or municipality upon a written determination to the Committees on Appropriations that such assistance directly supports the implementation of the Dayton Accords.

Waiver authority.

(f) DEFINITIONS.—As used in this section:

(1) COUNTRY.—The term “country” means Bosnia and Herzegovina, Croatia and Serbia.

(2) ENTITY.—The term “entity” refers to the Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska.

(3) MUNICIPALITY.—The term “municipality” means a city, town or other subdivision within a country or entity as defined herein.

(4) DAYTON ACCORDS.—The term “Dayton Accords” means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

USER FEES

SEC. 659. The Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution (as defined in section 1701(c)(2) of the International

Financial Institutions Act) and the International Monetary Fund to oppose any loan, grant, strategy or policy of these institutions that would require user fees or service charges on poor people for primary education or primary healthcare, including prevention, care and treatment for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being, in connection with the institutions' financing programs.

CONTRIBUTION TO THE UNITED NATIONS POPULATION FUND

SEC. 660. (a) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under “International Organizations and Programs” and “Global Health and Child Survival” accounts for fiscal year 2008, \$40,000,000 shall be made available for the United Nations Population Fund (UNFPA): *Provided*, That of this amount, not less than \$7,000,000 shall be derived from funds appropriated under the heading “International Organizations and Programs”.

(b) AVAILABILITY OF FUNDS.—Funds appropriated under the heading “International Organizations and Programs” in this Act that are available for UNFPA, that are not made available for UNFPA because of the operation of any provision of law, shall be transferred to the “Global Health and Child Survival” account and shall be made available for family planning, maternal, and reproductive health activities, subject to the regular notification procedures of the Committees on Appropriations.

(c) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under this Act may be used by UNFPA for a country program in the People's Republic of China.

(d) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under this Act for UNFPA may not be made available to UNFPA unless—

(1) UNFPA maintains amounts made available to UNFPA under this section in an account separate from other accounts of UNFPA;

(2) UNFPA does not commingle amounts made available to UNFPA under this section with other sums; and

(3) UNFPA does not fund abortions.

(e) REPORT TO CONGRESS AND DOLLAR-FOR-DOLLAR WITHHOLDING OF FUNDS.—

(1) Not later than 4 months after the date of enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations indicating the amount of funds that the UNFPA is budgeting for the year in which the report is submitted for a country program in the People's Republic of China.

(2) If a report under paragraph (1) indicates that the UNFPA plans to spend funds for a country program in the People's Republic of China in the year covered by the report, then the amount of such funds that the UNFPA plans to spend in the People's Republic of China shall be deducted from the funds made available to the UNFPA after March 1 for obligation for the remainder of the fiscal year in which the report is submitted.

(f) Nothing in this section shall be construed to limit the authority of the President to deny funds to any organization by reason of the application of another provision of this Act or any other provision of law.

COMMUNITY-BASED POLICE ASSISTANCE

SEC. 661. (a) **AUTHORITY.**—Funds made available by title III of this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict, respond to disasters, address gender-based violence, and foster improved police relations with the communities they serve.

(b) **NOTIFICATION.**—Assistance provided under subsection (a) shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 662. (a) **AUTHORITY TO REDUCE DEBT.**—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;

(2) credits extended or guarantees issued under the Arms Export Control Act; or

(3) any obligation or portion of such obligation, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89-808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95-501).

(b) **LIMITATIONS.**—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as “Paris Club Agreed Minutes”.

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as “IDA-only” countries.

(c) **CONDITIONS.**—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to the funds appropriated by this Act under the heading “Debt Restructuring”.

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for the purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 or section 321 of the International Development and Food Assistance Act of 1975.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 663. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

President.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

Notification.
President.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading “Debt Restructuring”.

BASIC EDUCATION

SEC. 664. (a) IN GENERAL.—Of the funds appropriated by title III of this Act, not less than \$700,000,000 shall be made available for assistance for developing countries for basic education, of which not less than \$190,000,000 shall be provided and implemented in countries that have an approved national education plan.

(b) COORDINATOR.—There shall be established within the Department of State in the immediate office of the Director of United States Foreign Assistance, a Coordinator of United States Government activities to provide basic education assistance in developing countries (hereinafter in this section referred to as the “Coordinator”).

Establishment.
22 USC 2651a
note.

(c) RESPONSIBILITIES.—That the Coordinator shall have primary responsibility for the oversight and coordination of all resources and international activities of the United States Government that provide assistance in developing countries for basic education. The individual serving as the Coordinator may not hold any other position in the Federal Government during the individual’s time of service as Coordinator.

(d) STRATEGY.—The President shall develop a comprehensive integrated United States Government strategy to provide assistance in developing countries for basic education within 90 days of enactment of this Act.

President.
Deadline.

(e) REPORT TO CONGRESS.—Not later than September 30, 2008, the Secretary of State shall report to the Committees on Appropriations on the implementation of United States Government assistance programs in developing countries for basic education.

(f) Funds appropriated by title II of Public Law 109–102 and provided to the Comptroller General pursuant to section 567 of that Act shall be available until expended and are also available to the Comptroller General to conduct further evaluations of basic education programs in developing countries under the direction of the Committees on Appropriations.

RECONCILIATION PROGRAMS

SEC. 665. Of the funds appropriated by title III of this Act under the heading “Economic Support Fund”, \$16,000,000 shall be made available to support reconciliation programs which bring together individuals of different ethnic, religious and political backgrounds from areas of civil conflict and war, and an additional \$9,000,000 shall be made available to support programs in the Middle East: *Provided*, That the Administrator of the United States Agency for International Development shall consult with the Committees on Appropriations, prior to the initial obligation of funds, on the most effective uses of such funds.

SUDAN

SEC. 666. (a) LIMITATION ON ASSISTANCE.—Subject to subsection

(b):

(1) Notwithstanding any other provision of law, none of the funds appropriated by this Act may be made available for assistance for the Government of Sudan.

(2) None of the funds appropriated by this Act may be made available for the cost, as defined in section 502, of the Congressional Budget Act of 1974, of modifying loans and loan guarantees held by the Government of Sudan, including the cost of selling, reducing, or canceling amounts owed to the United States, and modifying concessional loans, guarantees, and credit agreements.

Certification.

(b) Subsection (a) shall not apply if the Secretary of State determines and certifies to the Committees on Appropriations that:

(1) The Government of Sudan honors its pledges to cease attacks upon civilians and disarms and demobilizes the Janjaweed and other government-supported militias.

(2) The Government of Sudan and all government-supported militia groups are honoring their commitments made in all previous cease-fire agreements.

(3) The Government of Sudan is allowing unimpeded access to Darfur to humanitarian aid organizations, the human rights investigation and humanitarian teams of the United Nations, including protection officers, and an international monitoring team that is based in Darfur and has the support of the United States.

(c) EXCEPTIONS.—The provisions of subsection (a) shall not apply to—

(1) humanitarian assistance;

(2) assistance for the Darfur region, Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei; and

(3) assistance to support implementation of the Comprehensive Peace Agreement and the Darfur Peace Agreement or any other internationally-recognized viable peace agreement in Sudan.

(d) DEFINITIONS.—For the purposes of this Act, the term “Government of Sudan” shall not include the Government of Southern Sudan.

(e) Notwithstanding any other law, assistance in this Act may be made available to the Government of Southern Sudan to provide non-lethal military assistance, military education and training, and

defense services controlled under the International Traffic in Arms Regulations (22 CFR 120.1 et seq.) if the Secretary of State—

(1) determines that the provision of such items is in the national interest of the United States; and

(2) not later than 15 days before the provision of any such assistance, notifies the Committees on Appropriations and the Committee on Foreign Relations in the Senate and the Committee on Foreign Affairs in the House of Representatives of such determination.

Deadline.
Notification.

(f) CHAD.—Notwithstanding any other provision of law, of the funds appropriated by this Act for assistance for Sudan, up to \$5,000,000 shall be made available for administrative and other expenses of the United States Agency for International Development in Chad.

TRADE CAPACITY BUILDING

SEC. 667. Of the funds appropriated by this Act, under the headings “Development Assistance”, “Assistance for Eastern Europe and the Baltic States”, “Economic Support Fund”, “Andean Counterdrug Programs”, and “Assistance for the Independent States of the Former Soviet Union”, not less than \$550,000,000 should be made available for trade capacity building assistance.

TRANSPARENCY AND ACCOUNTABILITY

SEC. 668. (a) PUBLIC DISCLOSURE.—Ten percent of the funds appropriated in this Act under the heading “International Organizations and Programs” for a contribution to any United Nations agency may be withheld from disbursement if the Secretary of State reports to the Committees on Appropriations that such agency does not have or is not implementing a policy of posting on a publicly available website information such as: (1) audits, budget reports, and information related to procurement activities; (2) procedures for protecting whistleblowers; and (3) efforts to ensure the independence of internal oversight bodies, adopt international public sector accounting standards, and limit administrative costs.

Reports.
Website.

(b) UNITED NATIONS DEVELOPMENT PROGRAM.—Twenty percent of the funds appropriated by this Act under the heading “International Organizations and Programs” for a United States contribution to the United Nations Development Program (UNDP) shall be withheld from disbursement until the Secretary of State reports to the Committees on Appropriations that UNDP is—

(1) giving adequate access to information to the Department of State regarding UNDP’s programs and activities as requested, including in North Korea and Burma;

(2) conducting oversight of UNDP programs and activities globally; and

(3) implementing a whistleblower protection policy equivalent to that recommended by the United Nations Secretary General on December 3, 2007.

(c)(1) WORLD BANK.—Ten percent of the funds appropriated by this Act under the heading “International Development Association” shall be withheld from disbursement until the Secretary of the Treasury reports to the Committees on Appropriations that—

Reports.

(A) the World Bank has made publicly available, in an appropriate manner, financial disclosure forms of senior World

Bank personnel, including those at the level of managing director, vice president, and above;

(B) the World Bank has established a plan and maintains a schedule for conducting regular, independent audits of internal management controls and procedures for meeting operational objectives, and is making reports describing the scope and findings of such audits available to the public;

(C) the World Bank is adequately staffing and sufficiently funding the Department of Institutional Integrity;

Public
information.

(D) the World Bank has made publicly available the reports of the Department of Institutional Integrity, and any subsequent review of corrective actions for such reports, including, but not limited to, the November 23, 2005 “Report of Investigation into Reproductive and Child Health I Project Credit N0180 India”, and the May 2006 report on Credit Number 3703 DRC, Grant number H193 DRC, and Grant number H010 DRC; and

(E) the World Bank is implementing the recommendations of the “Volcker Panel” report in a timely manner.

Reports.

(2) ANTICORRUPTION PROVISIONS.—In addition to the funds withheld in subsection (b)(1), 10 percent of the funds appropriated by this Act under the heading “International Development Association” shall be withheld from disbursement until the Secretary of the Treasury reports to the Committees on Appropriations on the extent to which the World Bank has completed the following:

(A) World Bank procurement guidelines, including the World Bank’s Standard Bidding Documents, have been applied to all procurement financed in whole or in part by a loan from the World Bank or a credit agreement or grant from the International Development Association (IDA);

(B) the World Bank maintains a strong central procurement office staffed with senior experts who are designated to address commercial concerns, questions, and complaints regarding procurement procedures and payments under IDA and World Bank projects;

(C) thresholds for international competitive bidding have been established to maximize international competitive bidding in accordance with sound procurement practices, including transparency, competition, and cost-effective results for the Borrowers;

(D) the World Bank is consulting with the appropriate private and public sector representatives regarding implementation of the country procurement pilots outlined in the June 2007 report to the Board; and

(E) all countries selected for the procurement pilot program must adhere to all World Bank anti-fraud and anti-corruption policies and must demonstrate a strong anti-fraud enforcement record.

(d) REPORT.—

(1)(A) The Comptroller General of the United States shall conduct an assessment of the programs and activities funded under the heading “Millennium Challenge Corporation” (MCC) in this Act and prior Acts making appropriations for foreign operations, export financing, and related programs to include a review of the financial controls and procurement practices of the Corporation and its accountable entities, and the results achieved by MCC’s compacts.

(B) Of the funds appropriated under the heading “Millennium Challenge Corporation” in this Act, up to \$250,000 shall be made available to the Comptroller for the requirements of subsection (1)(A).

(2)(A) The Comptroller General of the United States shall conduct an assessment of the HIV/AIDS programs and activities funded under the headings “Child Survival and Health Programs Fund”, “Global HIV/AIDS Initiative”, and “Global Health and Child Survival” in this Act and prior Acts making appropriations for foreign operations, export financing, and related programs to include a review of the procurement and results monitoring activities of United States bilateral HIV/AIDS programs. The assessment should also address the impact of Global HIV/AIDS Initiative funding on other United States global health programming.

HIV/AIDS.

(B) Of the funds appropriated under the heading “Global Health and Child Survival”, up to \$125,000 shall be made available to the Comptroller for the requirements of subsection (2)(A).

(e) NATIONAL BUDGET TRANSPARENCY.—

(1) None of the funds appropriated by this Act may be made available for assistance for the central government of any country that fails to make publicly available on an annual basis its national budget, to include income and expenditures.

(2) The Secretary of State may waive subsection (e)(1) if the Secretary reports to the Committees on Appropriations that to do so is in the national interests of the United States.

Waiver authority.
Reports.

(3) The reporting requirement pursuant to section 585(b) of Public Law 108–7 regarding fiscal transparency and accountability in countries whose central governments receive United States foreign assistance shall apply to this Act.

Applicability.

EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTH EUROPEAN COUNTRIES AND CERTAIN OTHER COUNTRIES

SEC. 669. Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during fiscal year 2008, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Afghanistan, Bulgaria, Croatia, Estonia, Former Yugoslavian Republic of Macedonia, Georgia, India, Iraq, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Tajikistan, Turkmenistan, and Ukraine.

GENDER-BASED VIOLENCE

SEC. 670. Programs funded under titles III and IV of this Act that provide training for foreign police, judicial, and military officials, shall include, where appropriate, programs and activities that address gender-based violence.

LIMITATION ON ECONOMIC SUPPORT FUND ASSISTANCE FOR CERTAIN
FOREIGN GOVERNMENTS THAT ARE PARTIES TO THE INTERNATIONAL
CRIMINAL COURT

SEC. 671. (a) None of the funds made available in this Act under the heading “Economic Support Fund” may be used to provide assistance to the government of a country that is a party to the International Criminal Court and has not entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

President.
Notification.
Waiver authority.
Reports.

(b) The President may, with prior notice to Congress, waive the prohibition of subsection (a) with respect to a North Atlantic Treaty Organization (NATO) member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), Taiwan, or such other country as he may determine if he determines and reports to the appropriate congressional committees that it is important to the national interests of the United States to waive such prohibition.

President.
Notification.
Waiver authority.
Reports.

(c) The President may, with prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

(d) The prohibition of this section shall not apply to countries otherwise eligible for assistance under the Millennium Challenge Act of 2003, notwithstanding section 606(a)(2)(B) of such Act.

WESTERN HEMISPHERE

SEC. 672. (a) CENTRAL AND SOUTH AMERICA.—Of the funds appropriated by this Act under the headings “Global Health and Child Survival” and “Development Assistance”, not less than the amount of funds initially allocated for each such account pursuant to section 653(a) of the Foreign Assistance Act of 1961 for fiscal year 2007 shall be made available for El Salvador, Guatemala, Nicaragua, Honduras, Ecuador, Peru, Bolivia, Brazil, Latin America and Caribbean Regional, Central America Regional, and South America Regional: *Provided*, That for the purposes of this subsection, “Global Health and Child Survival” shall mean “Child Survival and Health Programs Fund”.

(b) HAITI.—

(1) The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard.

(2) Of the funds appropriated by this Act under titles III and IV, not less than \$201,584,000 shall be available for assistance for Haiti.

Certification.

(3) None of the funds made available by this Act under the heading “International Narcotics Control and Law Enforcement” may be used to transfer excess weapons, ammunition or other lethal property of an agency of the United States Government to the Government of Haiti for use by the Haitian National Police until the Secretary of State certifies to the Committees on Appropriations that any members of the Haitian

National Police who have been credibly alleged to have committed serious crimes, including drug trafficking and human rights violations, have been suspended and the Haitian Government is cooperating in a reform and restructuring plan for the Haitian National Police and the reform of the judicial system as called for in United Nations Security Council Resolution 1608 adopted on June 22, 2005.

(c) DOMINICAN REPUBLIC.—Of the funds appropriated by this Act under the headings “Global Health and Child Survival” and “Development Assistance”, not less than \$23,000,000 shall be made available for assistance for the Dominican Republic, of which not less than \$5,000,000 shall be made available for basic health care, nutrition, sanitation, education, and shelter for migrant workers and other residents of batey communities.

(d) ASSISTANCE FOR GUATEMALA.—

(1) Of the funds appropriated by this Act under the heading “Economic Support Fund” that are available for assistance for Guatemala, not less than \$4,000,000 shall be made available for a United States contribution to the International Commission Against Impunity in Guatemala (CICIG).

(2) Funds appropriated by this Act under the heading “International Military Education and Training” (IMET) that are available for assistance for Guatemala, other than for expanded IMET, may be made available only for the Guatemalan Air Force, Navy and Army Corps of Engineers: *Provided*, That assistance for the Guatemalan Army Corps of Engineers shall only be available for training to improve disaster response capabilities and to participate in international peacekeeping operations: *Provided further*, That such funds may be made available only if the Secretary of State certifies that the Guatemalan Air Force, Navy and Army Corps of Engineers are respecting human rights and are cooperating with civilian judicial investigations and prosecutions of current and retired military personnel who have been credibly alleged to have committed violations of human rights.

Certification.

(3) Of the funds appropriated by this Act under the heading “Foreign Military Financing Program”, not more than \$500,000 may be made available for the Guatemalan Air Force and Navy: *Provided*, That such funds may be made available only if the Secretary of State certifies that the Guatemalan Air Force and Navy are respecting human rights and are cooperating with civilian judicial investigations and prosecutions of current and retired military personnel who have been credibly alleged to have committed violations of human rights, and the Guatemalan Armed Forces are fully cooperating (including access for investigators, the provision of documents and other evidence, and testimony of witnesses) with the CICIG.

Certification.

(e) FREE TRADE AGREEMENTS.—Of the funds appropriated by this Act under the heading “Economic Support Fund”, not less than \$10,000,000 shall be made available for labor and environmental capacity building activities relating to the free trade agreements with countries of Central America and the Dominican Republic.

(f) NOTIFICATION REQUIREMENT.—Funds made available in this Act for assistance for Guatemala and Haiti under the headings referred to in this section shall be subject to the regular notification procedures of the Committees on Appropriations.

ZIMBABWE

Certification.
22 USC 2151
note.

SEC. 673. The Secretary of the Treasury shall instruct the United States executive director to each international financial institution to vote against any extension by the respective institution of any loans to the Government of Zimbabwe, except to meet basic human needs or to promote democracy, unless the Secretary of State determines and certifies to the Committees on Appropriations that the rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association.

DEVELOPMENT GRANTS PROGRAM

SEC. 674. (a) ESTABLISHMENT OF THE PROGRAM.—There is established within the United States Agency for International Development (USAID) a Development Grants Program (DGP) to provide small grants to United States and indigenous nongovernmental organizations for the purpose of carrying out the provisions of chapters 1 and 10 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961.

(b) ELIGIBILITY FOR GRANTS.—Grants from the DGP shall be made only for proposals of nongovernmental organizations.

(c) COMPETITION.—Grants made pursuant to the authority of this section shall be provided through an open, transparent and competitive process.

(d) SIZE OF PROGRAM AND INDIVIDUAL GRANTS.—

(1) Of the funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than \$50,000,000 shall be made available for purposes of this section: *Provided*, That not more than 50 percent of this amount shall be derived from funds appropriated to carry out chapter 1 of part I of such Act.

(2) No individual organization can receive grants, or grant amendments, made pursuant to this section in excess of \$2,000,000.

(e) AVAILABILITY OF OTHER FUNDS.—Funds made available under this section are in addition to other funds available for such purposes including funds designated by this Act by section 665.

(f) DEFINITION.—For purposes of this section, the term “nongovernmental organization” means a private voluntary organization, and shall not include entities owned in whole or in part by a government or governmental entity.

(g) REPORT.—Within 90 days from the date of enactment of this Act, and after consultation with the Committees on Appropriations, the Administrator of USAID shall submit a report to those Committees describing the procedures and mechanisms USAID will use to implement this section.

DISASTER ASSISTANCE AND RECOVERY

SEC. 675. Funds made available to the Comptroller General under chapter 4 of title I of the Emergency Supplemental Appropriations Act (Public Law 106-31; 113 Stat. 69) and section 593 of the Foreign Operations, Export Financing, and Programs Agencies Appropriations Act, 2001 (Public Law 106-429; 114 Stat. 1900A—

59) to monitor the provisions of assistance to address the effects of hurricanes in Central America and the Caribbean and the earthquake in Colombia, and to monitor the earthquake relief and reconstruction efforts in El Salvador under section 561 of the Foreign Operations, Export Financing, and Programs Agencies Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2162) shall also be available to the Comptroller General to monitor any other disaster assistance and recovery effort.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

SEC. 676. (a) AUTHORITY.—Up to \$81,000,000 of the funds made available in title III of this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading “Assistance for Eastern Europe and the Baltic States”, may be used by the United States Agency for International Development (USAID) to hire and employ individuals in the United States and overseas on a limited appointment basis pursuant to the authority of sections 308 and 309 of the Foreign Service Act of 1980. 22 USC 3948 note.

(b) RESTRICTIONS.—

(1) The number of individuals hired in any fiscal year pursuant to the authority contained in subsection (a) may not exceed 175.

(2) The authority to hire individuals contained in subsection (a) shall expire on September 30, 2009.

(c) CONDITIONS.—The authority of subsection (a) may only be used to the extent that an equivalent number of positions that are filled by personal services contractors or other non-direct hire employees of USAID, who are compensated with funds appropriated to carry out part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading “Assistance for Eastern Europe and the Baltic States”, are eliminated.

(d) PRIORITY SECTORS.—In exercising the authority of this section, primary emphasis shall be placed on enabling USAID to meet personnel positions in technical skill areas currently encumbered by contractor or other non-direct hire personnel.

(e) CONSULTATIONS.—The USAID Administrator shall consult with the Committees on Appropriations at least on a quarterly basis concerning the implementation of this section.

(f) PROGRAM ACCOUNT CHARGED.—The account charged for the cost of an individual hired and employed under the authority of this section shall be the account to which such individual’s responsibilities primarily relate. Funds made available to carry out this section may be transferred to and merged and consolidated with funds appropriated for “Operating Expenses of the United States Agency for International Development”.

(g) MANAGEMENT REFORM PILOT.—Of the funds made available in subsection (a), USAID may use, in addition to funds otherwise available for such purposes, up to \$15,000,000 to fund overseas support costs of members of the Foreign Service with a Foreign Service rank of four or below: *Provided*, That such authority is only used to reduce USAID’s reliance on overseas personal services contractors or other non-direct hire employees compensated with funds appropriated to carry out part I of the Foreign Assistance

Act of 1961, including funds appropriated under the heading “Assistance for Eastern Europe and the Baltic States”.

(h) DISASTER SURGE CAPACITY.—Funds appropriated under title III of this Act to carry out part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading “Assistance for Eastern Europe and the Baltic States”, may be used, in addition to funds otherwise available for such purposes, for the cost (including the support costs) of individuals detailed to or employed by the United States Agency for International Development whose primary responsibility is to carry out programs in response to natural disasters.

OPIC TRANSFER AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

President.

SEC. 677. Whenever the President determines that it is in furtherance of the purposes of the Foreign Assistance Act of 1961, up to a total of \$20,000,000 of the funds appropriated under title III of this Act may be transferred to and merged with funds appropriated by this Act for the Overseas Private Investment Corporation Program Account, to be subject to the terms and conditions of that account: *Provided*, That such funds shall not be available for administrative expenses of the Overseas Private Investment Corporation: *Provided further*, That designated funding levels in this Act shall not be transferred pursuant to this section: *Provided further*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

Notification.

REPORTING REQUIREMENT

SEC. 678. The Secretary of State shall provide the Committees on Appropriations, not later than April 1, 2008, and for each fiscal quarter, a report in writing on the uses of funds made available under the headings “Foreign Military Financing Program”, “International Military Education and Training”, and “Peacekeeping Operations”: *Provided*, That such report shall include a description of the obligation and expenditure of funds, and the specific country in receipt of, and the use or purpose of the assistance provided by such funds.

INDONESIA

SEC. 679. (a) Of the funds appropriated by this Act under the heading “Foreign Military Financing Program” up to \$15,700,000 may be made available for assistance for Indonesia as follows—

Reports.

(1) Of the amount provided in subsection (a), \$13,000,000 may be made available upon enactment of this Act.

(2) Of the amount provided in subsection (a), \$2,700,000 may not be made available until the Secretary of State reports to the Committees on Appropriations—

(A) on the steps taken by the Government of Indonesia on the following—

(i) prosecution and punishment, in a manner proportional to the crime, for members of the Armed Forces who have been credibly alleged to have committed gross violations of human rights in Timor-Leste

and elsewhere, and cooperation by the Armed Forces with civilian judicial authorities and with international efforts to resolve cases of gross violations of human rights; and

(ii) implementation by the Armed Forces of reforms to increase the transparency and accountability of their operations and financial management; and

(B) that the Government of Indonesia has written plans to effectively provide accountability for past violations of human rights by members of the Armed Forces, and is implementing plans to effectively allow public access to Papua and to pursue the criminal investigation and provide the projected timeframe for completing the investigation of the murder of Munir Said Thalib.

(b) Of the funds appropriated by this Act under the heading “Economic Support Fund” that are available for assistance for Indonesia, not less than \$250,000 should be made available for grants for capacity building of Indonesian human rights organizations, including in Papua.

LIMITATION ON BASING IN IRAQ

SEC. 680. None of the funds made available in this Act may be used by the Government of the United States to enter into a permanent basing rights agreement between the United States and Iraq.

PROHIBITION ON USE OF TORTURE

SEC. 681. None of the funds made available in this Act shall be used in any way whatsoever to support or justify the use of torture, cruel or inhumane treatment by any official or contract employee of the United States Government.

REPORT ON INDONESIA

SEC. 682. Not later than 90 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations that describes—

(1) the steps taken by the Government of Indonesia to deny promotion, suspend from active service, and pursue prosecution of military officers indicted for serious crimes, and the extent to which past and present Indonesian military officials are cooperating with domestic inquiries into human rights abuses, including the forced disappearance and killing of student activists in 1998 and 1999;

(2) the responses of the Governments of Indonesia and Timor-Leste to the Final Report of the Commission for Reception, Truth and Reconciliation in Timor-Leste and the June 2006 report of the report to the Secretary-General of the Commission of Experts to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste in 1999; and

(3) the steps taken by the Indonesian military to divest itself of illegal businesses.

EXTRADITION

SEC. 683. (a) None of the funds appropriated in this Act for the Department of State may be used to provide assistance (other

than funds provided under the headings “International Narcotics Control and Law Enforcement”, “Migration and Refugee Assistance”, “Emergency Migration and Refugee Assistance”, and “Non-proliferation, Anti-terrorism, Demining and Related Assistance”) for the central government of a country which has notified the Department of State of its refusal to extradite to the United States any individual indicted for a criminal offense for which the maximum penalty is life imprisonment without the possibility of parole or for killing a law enforcement officer, as specified in a United States extradition request.

Applicability.

(b) Subsection (a) shall only apply to the central government of a country with which the United States maintains diplomatic relations and with which the United States has an extradition treaty and the government of that country is in violation of the terms and conditions of the treaty.

(c) The Secretary of State may waive the restriction in subsection (a) on a case-by-case basis if the Secretary certifies to the Committees on Appropriations that such waiver is important to the national interests of the United States.

ENVIRONMENT AND ENERGY PROGRAMS

SEC. 684. (a) BIODIVERSITY.—Of the funds appropriated under the heading “Development Assistance”, not less than \$195,000,000 shall be made available for programs and activities which directly protect biodiversity, including forests, in developing countries, of which not less than the amount of funds initially allocated pursuant to section 653(a) of the Foreign Assistance Act of 1961 for fiscal year 2006 shall be made available for such activities in Brazil, Colombia, Ecuador, Peru and Bolivia, and that in addition to such amounts for such countries not less than \$15,000,000 shall be made available for the United States Agency for International Development’s Amazon Basin Conservation Initiative: *Provided*, That of the funds appropriated by this Act, not less than \$2,000,000 should be made available for wildlife conservation and protected area management in the Boma-Jonglei landscape of Southern Sudan, and not less than \$17,500,000 shall be made available for the Congo Basin Forest Partnership of which not less than \$2,500,000 shall be made available to the United States Fish and Wildlife Service for great apes conservation programs in Central Africa.

(b) ENERGY.—

(1) Of the funds appropriated by this Act, not less than \$195,000,000 shall be made available to support clean energy and other climate change programs in developing countries, of which not less than \$125,000,000 should be made available to directly promote and deploy energy conservation, energy efficiency, and renewable and clean energy technologies with an emphasis on small hydro, solar and wind energy, and of which the balance should be made available to directly: (1) reduce greenhouse gas emissions; (2) increase carbon sequestration activities; and (3) support climate change mitigation and adaptation programs.

Establishment.

(2) The Secretary of State shall convene an interagency committee, including appropriate officials of the Department of State, the United States Agency for International Development, and the Environmental Protection Agency, to evaluate the specific needs of developing countries in adapting to climate

change impacts: *Provided*, That the Secretary shall submit a report to the Committees on Appropriations not later than September 1, 2008, describing such needs, on a country-by-country and regional basis, and the actions planned and being taken by the United States, including funding provided to developing countries specifically for adaptation to climate change impacts.

Reports.
Deadline.

(c) EXTRACTION OF NATURAL RESOURCES.—

(1) The Secretary of the Treasury shall inform the managements of the international financial institutions and the public that it is the policy of the United States that any assistance by such institutions (including but not limited to any loan, credit, grant, or guarantee) for the extraction and export of oil, gas, coal, timber, or other natural resource should not be provided unless the government of the country has in place functioning systems for: (A) accurately accounting for payments for companies involved in the extraction and export of natural resources; (B) the independent auditing of accounts receiving such payments and the widespread public dissemination of the findings of such audits; and (C) verifying government receipts against company payments including widespread dissemination of such payment information, and disclosing such documents as Host Government Agreements, Concession Agreements, and bidding documents, allowing in any such dissemination or disclosure for the redaction of, or exceptions for, information that is commercially proprietary or that would create competitive disadvantage.

(2) Not later than 180 days after the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committees on Appropriations describing, for each international financial institution, the amount and type of assistance provided, by country, for the extraction and export of oil, gas, coal, timber, or other natural resources since September 30, 2006, and whether each institution considered, in its proposal for such assistance, the extent to which the country has functioning systems described in paragraph (c)(1).

Deadline.
Reports.

UZBEKISTAN

SEC. 685. (a) Funds appropriated by this Act may be made available for assistance for the central Government of Uzbekistan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress—

Reports.
Human rights.

(1) in meeting its commitments under the “Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America”, including respect for human rights, establishing a genuine multi-party system, and ensuring free and fair elections, freedom of expression, and the independence of the media; and

(2) in investigating and prosecuting the individuals responsible for the deliberate killings of civilians in Andijan in May 2005.

(b) If the Secretary of State has credible evidence that any current or former official of the Government of Uzbekistan was responsible for the deliberate killings of civilians in Andijan in May 2005, or for other gross violations of human rights in

Deadline.

Uzbekistan, not later than 6 months after enactment of this Act any person identified by the Secretary pursuant to this subsection shall be ineligible for admission to the United States.

(c) The restriction in subsection (b) shall cease to apply if the Secretary determines and reports to the Committees on Appropriations that the Government of Uzbekistan has taken concrete and measurable steps to improve respect for internationally recognized human rights, including allowing peaceful political and religious expression, releasing imprisoned human rights defenders, and implementing recommendations made by the United Nations on torture.

Waiver authority.

(d) The Secretary may waive the application of subsection (b) if the Secretary determines that admission to the United States is necessary to attend the United Nations or to further United States law enforcement objectives.

(e) For the purpose of this section “assistance” shall include excess defense articles.

REPRESSION IN THE RUSSIAN FEDERATION

Deadline.
President.
Certification.

SEC. 686. (a) None of the funds appropriated for assistance under this Act may be made available for the Government of the Russian Federation, after 180 days from the date of the enactment of this Act, unless the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation: (1) has implemented no statute, Executive order, regulation or similar government action that would discriminate, or which has as its principal effect discrimination, against religious groups or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party; and (2) is (A) honoring its international obligations regarding freedom of expression, assembly, and press, as well as due process; (B) investigating and prosecuting law enforcement personnel credibly alleged to have committed human rights abuses against political leaders, activists and journalists; and (C) immediately releasing political leaders, activists and journalists who remain in detention.

Waiver authority.

(b) The Secretary of State may waive the requirements of subsection (a) if the Secretary determines that to do so is important to the national interests of the United States.

WAR CRIMES IN AFRICA

SEC. 687. (a) The Congress reaffirms its support for the efforts of the International Criminal Tribunal for Rwanda (ICTR) and the Special Court for Sierra Leone (SCSL) to bring to justice individuals responsible for war crimes and crimes against humanity in a timely manner.

(b) Funds appropriated by this Act, including funds for debt restructuring, may be made available for assistance to the central government of a country in which individuals indicted by ICTR and SCSL are credibly alleged to be living, if the Secretary of State determines and reports to the Committees on Appropriations that such government is cooperating with ICTR and SCSL, including the surrender and transfer of indictees in a timely manner: *Provided*, That this subsection shall not apply to assistance provided under section 551 of the Foreign Assistance Act of 1961

or to project assistance under title II of this Act: *Provided further*, That the United States shall use its voice and vote in the United Nations Security Council to fully support efforts by ICTR and SCSL to bring to justice individuals indicted by such tribunals in a timely manner.

(c) The prohibition in subsection (b) may be waived on a country by country basis if the President determines that doing so is in the national security interest of the United States: *Provided*, That prior to exercising such waiver authority, the President shall submit a report to the Committees on Appropriations, in classified form if necessary, on—

Waiver authority.
President.
Reports.

(1) the steps being taken to obtain the cooperation of the government in surrendering the indictee in question to the court of jurisdiction;

(2) a strategy, including a timeline, for bringing the indictee before such court; and

(3) the justification for exercising the waiver authority.

COMBATTING PIRACY OF UNITED STATES COPYRIGHTED MATERIALS

SEC. 688. (a) PROGRAM AUTHORIZED.—The Secretary of State may carry out a program of activities to combat piracy in countries that are not members of the Organization for Economic Cooperation and Development, including activities as follows:

(1) The provision of equipment and training for law enforcement, including in the interpretation of intellectual property laws.

(2) The provision of training for judges and prosecutors, including in the interpretation of intellectual property laws.

(3) The provision of assistance in complying with obligations under applicable international treaties and agreements on copyright and intellectual property.

(b) CONSULTATION WITH WORLD INTELLECTUAL PROPERTY ORGANIZATION.—In carrying out the program authorized by subsection (a), the Secretary shall, to the maximum extent practicable, consult with and provide assistance to the World Intellectual Property Organization in order to promote the integration of countries described in subsection (a) into the global intellectual property system.

(c) FUNDING.—Of the amount appropriated or otherwise made available under the heading “International Narcotics Control and Law Enforcement”, \$5,000,000 may be made available in fiscal year 2008 for the program authorized by subsection (a).

NEGLECTED TROPICAL DISEASES

SEC. 689. Of the funds appropriated under the heading “Global Health and Child Survival”, not less than \$15,000,000 shall be made available to support the United States Agency for International Development’s ongoing program to implement an integrated response to the control of neglected diseases including intestinal parasites, schistosomiasis, lymphatic filariasis, onchocerciasis, trachoma and leprosy: *Provided*, That the Administrator of the United States Agency for International Development shall consult with the Committees on Appropriations, representatives from the relevant international technical and nongovernmental organizations addressing the specific diseases, recipient countries, donor countries, the private sector, UNICEF and the World Health

Notification.

Organization: (1) on the most effective uses of such funds to demonstrate the health and economic benefits of such an approach; and (2) to develop a multilateral, integrated initiative to control these diseases that will enhance coordination and effectiveness and maximize the leverage of United States contributions with those of other donors: *Provided further*, That funds made available pursuant to this section shall be subject to the regular notification procedures of the Committees on Appropriations.

EGYPT

SEC. 690. (a) Of the funds appropriated by this Act under the heading “Foreign Military Financing Program” or under the heading “Economic Support Fund” that are available for assistance for Egypt, \$100,000,000 shall not be made available for obligation until the Secretary of State certifies and reports to the Committees on Appropriations that the Government of Egypt has taken concrete and measurable steps to—

(1) adopt and implement judicial reforms that protect the independence of the judiciary;

(2) review criminal procedures and train police leadership in modern policing to curb police abuses; and

(3) detect and destroy the smuggling network and tunnels that lead from Egypt to Gaza.

Effective date.

Waiver authority.

Reports.

(b) Not less than 45 days after enactment of this Act, the Secretary may waive subsection (a) if the Secretary determines and reports to the Committees on Appropriations that such waiver is in the national security interest of the United States.

RELIEF FOR IRAQI, MONTAGNARDS, HMONG AND OTHER REFUGEES
WHO DO NOT POSE A THREAT TO THE UNITED STATES

SEC. 691. (a) AMENDMENT TO AUTHORITY TO DETERMINE THE BAR TO ADMISSION INAPPLICABLE.—Section 212(d)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)(B)(i)) is amended to read as follows:

“The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Secretary of Homeland Security, after consultation with the Secretary of State and the Attorney General, may determine in such Secretary’s sole unreviewable discretion that subsection (a)(3)(B) shall not apply with respect to an alien within the scope of that subsection or that subsection (a)(3)(B)(vi)(III) shall not apply to a group within the scope of that subsection, except that no such waiver may be extended to an alien who is within the scope of subsection (a)(3)(B)(i)(II), no such waiver may be extended to an alien who is a member or representative of, has voluntarily and knowingly engaged in or endorsed or espoused or persuaded others to endorse or espouse or support terrorist activity on behalf of, or has voluntarily and knowingly received military-type training from a terrorist organization that is described in subclause (I) or (II) of subsection (a)(3)(B)(vi), and no such waiver may be extended to a group that has engaged terrorist activity against the United States or another democratic country or that has purposefully engaged in a pattern or practice of terrorist activity that is directed at civilians. Such a determination shall neither prejudice the ability of the United States Government to commence criminal or civil proceedings involving a beneficiary of such a determination or any other person,

nor create any substantive or procedural right or benefit for a beneficiary of such a determination or any other person. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review such a determination or revocation except in a proceeding for review of a final order of removal pursuant to section 1252 of this title, and review shall be limited to the extent provided in section 1252(a)(2)(D). The Secretary of State may not exercise the discretion provided in this clause with respect to an alien at any time during which the alien is the subject of pending removal proceedings under section 1229a of this title.”.

(b) **AUTOMATIC RELIEF FOR THE HMONG AND OTHER GROUPS THAT DO NOT POSE A THREAT TO THE UNITED STATES.**—For purposes of section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), the Karen National Union/Karen Liberation Army (KNU/KNLA), the Chin National Front/Chin National Army (CNF/CNA), the Chin National League for Democracy (CNLD), the Kayan New Land Party (KNLP), the Arakan Liberation Party (ALP), the Mustangs, the Alzados, the Karenni National Progressive Party, and appropriate groups affiliated with the Hmong and the Montagnards shall not be considered to be a terrorist organization on the basis of any act or event occurring before the date of enactment of this section. Nothing in this subsection may be construed to alter or limit the authority of the Secretary of State or the Secretary of Homeland Security to exercise his discretionary authority pursuant to section 212(d)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)(B)(i)).

(c) **TECHNICAL CORRECTION.**—Section 212(a)(3)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(ii)) is amended by striking “Subclause (VII)” and inserting “Subclause (IX)”.

(d) **DESIGNATION OF THE TALIBAN AS A TERRORIST ORGANIZATION.**—For purposes of section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), the Taliban shall be considered to be a terrorist organization described in subclause (I) of clause (vi) of that section.

(e) **REPORT ON DURESS WAIVERS.**—The Secretary of Homeland Security shall provide to the Committees on the Judiciary of the United States Senate and House of Representatives a report, not less than 180 days after the enactment of this Act and every year thereafter, which may include a classified annex, if appropriate, describing—

8 USC 1182 note.

(1) the number of individuals subject to removal from the United States for having provided material support to a terrorist group who allege that such support was provided under duress;

(2) a breakdown of the types of terrorist organizations to which the individuals described in paragraph (1) have provided material support;

(3) a description of the factors that the Department of Homeland Security considers when evaluating duress waivers; and

(4) any other information that the Secretary believes that the Congress should consider while overseeing the Department’s application of duress waivers.

8 USC 1182 note.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this section, and these amendments and sections 212(a)(3)(B) and 212(d)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B) and 1182(d)(3)(B)), as amended by these sections, shall apply to—

(1) removal proceedings instituted before, on, or after the date of enactment of this section; and

(2) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

REPORT ON ANTI-CORRUPTION ACTIVITIES

SEC. 692. Not later than August 1, 2008, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development and the Chief Executive Officer of the Millennium Challenge Corporation, shall submit to the Committees on Appropriations a report on the level of corruption in each country that receives development assistance appropriated in this Act.

DEMOCRACY, THE RULE OF LAW, AND GOVERNANCE IN IRAN

SEC. 693. Of the funds appropriated in this Act, \$60,000,000 should be made available for programs to promote democracy, the rule of law, and governance in Iran.

DENIAL OF VISAS RELATED TO REMOVAL OF ALIENS

SEC. 694. None of the funds made available in this Act may be expended in violation of section 243(d) of the Immigration and Nationality Act (8 U.S.C. 1253(d)) (relating to discontinuing granting visas to nationals of countries that are denying or delaying accepting aliens removed from the United States).

UNITED NATIONS HUMAN RIGHTS COUNCIL

SEC. 695. (a) None of the funds appropriated by this Act may be made available for a United States contribution to the United Nations Human Rights Council.

(b) The prohibition under subsection (a) shall not apply if—

(1) the Secretary of State certifies to the Committees on Appropriations that the provision of funds to support the United Nations Human Rights Council is in the national interest of the United States; or

(2) the United States is a member of the Human Rights Council.

Certification.

ATTENDANCE AT INTERNATIONAL CONFERENCES

SEC. 696. None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 employees of agencies or departments of the United States Government who are stationed in the United States, at any single international conference occurring outside the United States, unless the Secretary of State determines that such attendance is in the national interest: *Provided*, That for purposes of this section the term “international conference” shall mean a conference attended

by representatives of the United States Government and representatives of foreign governments, international organizations, or non-governmental organizations.

SAUDI ARABIA

SEC. 697. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance any assistance to Saudi Arabia: *Provided*, That the President may waive the prohibition of this section if the President certifies to the Committees on Appropriations, 15 days prior to the obligation of funds for assistance for Saudi Arabia, that Saudi Arabia is cooperating with efforts to combat international terrorism and that the proposed assistance will help facilitate that effort.

President.
Waiver authority.
Certification.
Deadline.

CENTRAL ASIA

SEC. 698. (a) Funds appropriated by this Act may be made available for assistance for the Government of Kazakhstan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Kazakhstan has made significant improvements in the protection of human rights and civil liberties during the preceding 6 month period, including by fulfilling obligations recommended by the Organization for Security and Cooperation in Europe (OSCE) in the areas of election procedures, media freedom, freedom of religion, free assembly and minority rights, and by meeting the commitments it made in connection with its assumption of the Chairmanship of the OSCE in 2010.

Kazakhstan.
Reports.
Human rights.

(b) The Secretary of State may waive subsection (a) if the Secretary determines and reports to the Committees on Appropriations that such a waiver is important to the national security of the United States.

Waiver authority.

(c) Not later than October 1, 2008, the Secretary of State shall submit a report to the Committees on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives describing the following:

Deadline.

(1) The defense articles, defense services, and financial assistance provided by the United States to the countries of Central Asia during the 12-month period ending 30 days prior to submission of such report.

(2) The use during such period of defense articles, defense services, and financial assistance provided by the United States by units of the armed forces, border guards, or other security forces of such countries.

(d) For purposes of this section, the term “countries of Central Asia” means Uzbekistan, Kazakhstan, Kyrgyz Republic, Tajikistan, and Turkmenistan.

DISABILITY PROGRAMS

SEC. 699. (a) Of the funds appropriated by this Act under the heading “Economic Support Fund”, not less than \$4,000,000 shall be made available for programs and activities administered by the United States Agency for International Development (USAID) to address the needs and protect the rights of people with disabilities in developing countries, of which \$1,500,000 should

be made available to disability advocacy organizations that have expertise in working to protect the rights and increasing the independence and full participation of people with disabilities: *Provided*, That funds for disability advocacy organizations should be used for training and technical assistance for foreign disabled persons organizations in such areas as advocacy, education, independent living, and transportation, with the goal of promoting equal participation of people with disabilities in developing countries: *Provided further*, That USAID should seek to disburse at least 25 percent of the funds made available pursuant to this subsection in the form of small grants.

(b) Funds appropriated under the heading “Operating Expenses of the United States Agency for International Development” shall be made available to develop and implement training for staff in overseas USAID missions to promote the full inclusion and equal participation of people with disabilities in developing countries.

(c) The Secretary of State, the Secretary of the Treasury, and the Administrator of USAID shall seek to ensure that, where appropriate, construction projects funded by this Act are accessible to people with disabilities and in compliance with the USAID Policy on Standards for Accessibility for the Disabled, or other similar accessibility standards.

(d) Of the funds made available pursuant to subsection (a), not more than 7 percent may be for management, oversight and technical support.

(e) Not later than 180 days after the date of enactment of this Act, and 180 days thereafter, the Administrator of USAID shall submit a report describing the programs, activities, and organizations funded pursuant to this section.

Deadline.
Reports.

ORPHANS, DISPLACED AND ABANDONED CHILDREN

SEC. 699A. Of the funds appropriated under title III of this Act, \$3,000,000 should be made available for activities to improve the capacity of foreign government agencies and nongovernmental organizations to prevent child abandonment, address the needs of orphans, displaced and abandoned children and provide permanent homes through family reunification, guardianship and domestic adoptions: *Provided*, That funds made available under title III of this Act should be made available, as appropriate, consistent with—

(1) the goal of enabling children to remain in the care of their family of origin, but when not possible, placing children in permanent homes through adoption;

(2) the principle that such placements should be based on informed consent which has not been induced by payment or compensation;

(3) the view that long-term foster care or institutionalization are not permanent options and should be used when no other suitable permanent options are available; and

(4) the recognition that programs that protect and support families can reduce the abandonment and exploitation of children.

ADVISOR FOR ACTIVITIES RELATING TO INDIGENOUS PEOPLES
INTERNATIONALLY

SEC. 699B. (a) ADVISOR.—After consultation with the Committees on Appropriations and not later than 90 days after the enactment of this Act, there shall be established within the Department of State in the immediate office of the Director of United States Foreign Assistance an Advisor for Activities Relating to Indigenous Peoples Internationally (hereinafter in this section referred to as the “Advisor”), who shall be appointed by the Director. The Advisor shall report directly to the Director.

Deadline.
Establishment.
22 USC 2651a
note.

(b) RESPONSIBILITIES.—The Advisor shall:

(1) Advise the Director of United States Foreign Assistance and the Administrator of the United States Agency for International Development on matters relating to the rights and needs of indigenous peoples internationally and should represent the United States Government on such matters in meetings with foreign governments and multilateral institutions.

(2) Provide for the oversight and coordination of all resources, programs, projects, and activities of the United States Government to protect the rights and address the needs of indigenous peoples internationally.

(3) Develop and coordinate assistance strategies with specific goals, guidelines, benchmarks, and impact assessments (including support for local indigenous peoples’ organizations).

(c) FUNDS.—Of the funds appropriated by this Act under the heading “Diplomatic and Consular Programs”, not less than \$250,000 shall be made available for implementing the provisions of this section.

(d) REPORT.—Not later than one year after the enactment of this Act, the Secretary shall submit a report to the Committees on Appropriations describing progress made in implementing this section.

CHILD SOLDIERS

SEC. 699C. (a) None of the funds appropriated or otherwise made available for foreign military financing, foreign military sales, direct commercial sales, or excess Defense articles by this Act or any other Act making appropriations for foreign operations, export financing, and related programs may be obligated or otherwise made available to the government of a country that is identified by the Department of State in the Department of State’s most recent Country Reports on Human Rights Practices as having governmental armed forces or government supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit or use child soldiers.

(b) The Secretary of State may provide assistance or defense articles otherwise prohibited under subsection (a) to a country upon certifying to the Committees on Appropriations that the government of such country has implemented effective measures to demobilize children from its forces or from government-supported armed groups and prohibit and prevent the future recruitment or use of child soldiers.

Waiver authority.
Reports.

(c) The Secretary of State may waive the application to a country of the prohibition in subsection (a) if the Secretary determines and reports to the Committees on Appropriations that such waiver is important to the national interest of the United States.

FUNDING FOR SERBIA

President.
Certification.

SEC. 699D. (a) Funds appropriated by this Act may be made available for assistance for the central Government of Serbia after May 31, 2008, if the President has made the determination and certification contained in subsection (c).

(b) After May 31, 2008, the Secretary of the Treasury should instruct the United States executive directors to the international financial institutions to support loans and assistance to the Government of Serbia subject to the conditions in subsection (c).

(c) The determination and certification referred to in subsection (a) is a determination by the President and a certification to the Committees on Appropriations that the Government of Serbia is—

(1) cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, timely information on the location, movement, and sources of financial support of indictees, and the surrender and transfer of indictees or assistance in their apprehension, including Ratko Mladic and Radovan Karadzic;

(2) taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

(3) taking steps to implement policies which reflect a respect for minority rights and the rule of law.

(d) This section shall not apply to Kosovo, humanitarian assistance or assistance to promote democracy.

PHILIPPINES

Reports.

SEC. 699E. Of the funds appropriated by this Act under the heading “Foreign Military Financing Program”, not to exceed \$30,000,000 may be made available for assistance for the Philippines, of which \$2,000,000 may only be made available after the Secretary of State reports to the Committees on Appropriations that—

(1) the Philippine Government is implementing the recommendations of the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions;

(2) the Philippine Government is implementing a policy of promoting military personnel who demonstrate professionalism and respect for human rights, and is investigating and prosecuting military personnel and others who have been credibly alleged to have committed extrajudicial executions or other violations of human rights; and

(3) the Philippine military is not engaging in acts of intimidation or violence against members of legal organizations who advocate for human rights.

PAKISTAN

SEC. 699F. (a) Of the funds appropriated by this Act under the heading “Foreign Military Financing Program”, up to

\$300,000,000 may be made available for assistance for Pakistan as follows:

(b) Of the amount provided in subsection (a), \$250,000,000 may be made available immediately for counter-terrorism and law enforcement activities directed against Al Qaeda and the Taliban and associated terrorist groups, and \$50,000,000 may be made available for such purposes after the Secretary of State reports to the Committees on Appropriations that the Government of Pakistan—

Reports.

(1) is making concerted efforts to prevent Al Qaeda and associated terrorist groups from operating in the territory of Pakistan, including by eliminating terrorist training camps or facilities, arresting members of Al Qaeda and associated terrorist groups, and countering recruitment efforts;

(2) is making concerted efforts to prevent the Taliban from using the territory of Pakistan as a sanctuary from which to launch attacks within Afghanistan, including by arresting Taliban leaders, stopping cross-border incursions, and countering recruitment efforts; and

(3) is implementing democratic reforms, including—

(A) restoring the Constitution of Pakistan and ensuring freedoms of expression and assembly and other civil liberties guaranteed by the Constitution;

(B) releasing political detainees and allowing inclusive democratic elections;

(C) ending harassment and detention of journalists, human rights defenders and government critics by security and intelligence forces; and

(D) restoring an independent judiciary and ending interference in the judicial process.

(c) Of the funds appropriated by this Act under the heading “Economic Support Fund” for assistance for Pakistan, up to \$5,000,000 may be used for administrative expenses of the United States Agency for International Development: *Provided*, That none of the funds appropriated by this Act may be made available for cash transfer assistance for Pakistan.

SRI LANKA

SEC. 699G. (a) None of the funds appropriated by this Act under the heading “Foreign Military Financing Program” may be made available for assistance for Sri Lanka, no defense export license may be issued, and no military equipment or technology shall be sold or transferred to Sri Lanka pursuant to the authorities contained in this Act or any other Act, unless the Secretary of State certifies to the Committee on Appropriations that—

Certification.

(1) the Sri Lankan military is suspending and the Sri Lankan Government is bringing to justice members of the military who have been credibly alleged to have committed gross violations of human rights or international humanitarian law, including complicity in the recruitment of child soldiers;

(2) the Sri Lankan Government is providing access to humanitarian organizations and journalists throughout the country consistent with international humanitarian law; and

(3) the Sri Lankan Government has agreed to the establishment of a field presence of the Office of the United Nations

High Commissioner for Human Rights in Sri Lanka with sufficient staff and mandate to conduct full and unfettered monitoring throughout the country and to publicize its findings.

(b) Subsection (a) shall not apply to technology or equipment made available for the limited purposes of maritime and air surveillance and communications.

MULTILATERAL DEVELOPMENT BANKS

SEC. 699H. (a) WORLD BANK INSPECTION PANEL.—The Secretary of the Treasury shall instruct the United States Executive Director to the World Bank to inform the Bank of, and use the voice and vote of the United States to achieve transparency reforms of the selection process for members of the World Bank Inspection Panel, including—

(1) posting Inspection Panel position vacancy announcements on the Inspection Panel’s website and in publications that have wide circulation in member countries;

(2) making public official procedures for the selection of Inspection Panel vacancies; and

(3) posting on the Inspection Panel’s website the names of the members of the selection committee and the name or names of the individuals proposed by the selection committee to the President of the World Bank.

(b) AUTHORIZATIONS.—

(1) Section 501(i) of title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113, as amended by section 591(b) of division D of Public Law 108–447, is further amended by striking “fiscal” and all that follows through “which” and inserting in lieu thereof “fiscal years 2000–2010, which”.

(2) Section 801(b)(1)(ii) of Public Law 106–429, as amended by section 591(a)(2) of division D of Public Law 108–447, is further amended by striking “fiscal years 2004–2006” and by inserting in lieu thereof “fiscal years 2004–2010”.

22 USC 2395a
note.

114 Stat. 1900A–
64.

MILLENNIUM CHALLENGE CORPORATION

SEC. 699I. (a) Section 607(b) of the Millennium Challenge Act of 2003 (22 U.S.C. 7706) is amended—

(1) in paragraph (2)(B) by striking “and the sustainable management of natural resources”; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking “and”;

(B) in subparagraph (B), by striking the period and inserting “; and”; and

(C) by adding the following subparagraph:

“(C) promote the protection of biodiversity and the transparent and sustainable management and use of natural resources.”

(b)(1) The Chief Executive Officer of the Millennium Challenge Corporation shall, not later than 30 days following enactment of this Act, submit to the Committees on Appropriations a report on the proposed uses, on a country-by-country basis, of all funds appropriated under the heading “Millennium Challenge Corporation” in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs projected to

Deadline.
Reports.

be obligated and expended in fiscal year 2008 and subsequent fiscal years.

(2) The report required in paragraph (1) shall include, at a minimum, a description of—

(A) compacts in development, including the status of negotiations and the approximate range of value of the proposed compact;

(B) compacts in implementation, including the projected expenditure and disbursement of compact funds during fiscal year 2008 and subsequent fiscal years as determined by the country compact;

(C) threshold country programs in development, including the approximate range of value of the threshold country agreement;

(D) threshold country programs in implementation;

(E) use of administrative funds.

(3) The Chief Executive Officer of the Millennium Challenge Corporation shall notify the Committees on Appropriations not later than 15 days prior to signing any new country compact or new threshold country program; terminating or suspending any country compact or threshold country program; or commencing negotiations for any new compact or threshold country program.

Notification.
Deadline.

(4) The report required in paragraph (1) shall be updated on a quarterly basis.

Reports.
Deadline.

CARRY FORWARD OF UNUSED SPECIAL IMMIGRANT VISAS

SEC. 699J. Section 1059(c) of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note) is amended by adding at the end the following:

“(3) CARRY FORWARD.—If the numerical limitation described in paragraph (1) is not reached during a given fiscal year, the numerical limitation for the following fiscal year shall be increased by a number equal to the difference between the number of visas authorized for the given fiscal year and the number of aliens provided special immigrant status during the given fiscal year.”.

IRAQ

SEC. 699K. (a) None of the funds appropriated or otherwise made available by this Act may be made available for assistance for Iraq.

(b) Subsection (a) shall not apply to funds appropriated by this Act under the heading “Economic Support Fund” that are made available to rescue Iraqi scholars and for the fund established by section 2108 of Public Law 109-13, to funds made available under the heading “Nonproliferation, Anti-Terrorism, Demining and Related Programs” for the removal and disposal of land mines and other unexploded ordnance, small arms and light weapons in Iraq, or for assistance for refugees and internally displaced persons.

ANTI-KLEPTOCRACY

SEC. 699L. (a) In furtherance of the National Strategy to Internationalize Efforts Against Kleptocracy and Presidential Proclamation 7750, the Secretary of State shall compile and maintain a

Records.
8 USC 1182 note.

list of officials of foreign governments and their immediate family members who the Secretary determines there is credible evidence to believe have been involved in corruption relating to the extraction of natural resources in their countries.

(b) Any individual on the list submitted under subsection (a) shall be ineligible for admission to the United States.

Waiver authority.

(c) The Secretary may waive the application of subsection (a) if the Secretary determines that admission to the United States is necessary to attend the United Nations or to further United States law enforcement objectives, or that the circumstances which caused the individual to be included on the list have changed sufficiently to justify the removal of the individual from the list.

Deadline.
Reports.

(d) Not later than 90 days after enactment of this Act and 180 days thereafter, the Secretary of State shall submit a report, in classified form if necessary, to the Committees on Appropriations describing the evidence considered in determining involvement pursuant to subsection (a).

COMPREHENSIVE NUCLEAR THREAT REDUCTION AND SECURITY PLAN

Deadline.
President.

SEC. 699M. (a) Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a comprehensive nuclear threat reduction and security plan, in classified and unclassified forms—

(1) for ensuring that all nuclear weapons and weapons-usable material at vulnerable sites are secure by 2012 against the threats that terrorists have shown they can pose; and

(2) for working with other countries to ensure adequate accounting and security for such materials on an ongoing basis thereafter.

(b) For each element of the accounting and security effort described under subsection (a)(2), the plan shall—

(1) clearly designate agency and departmental responsibility and accountability;

(2) specify program goals, with metrics for measuring progress, estimated schedules, and specified milestones to be achieved;

(3) provide estimates of the program budget requirements and resources to meet the goals for each year; and

(4) provide the strategy for diplomacy and related tools and authority to accomplish the program element;

(5) provide a strategy for expanding the financial support and other assistance provided by other countries, particularly Russia, the European Union and its member states, China, and Japan, for the purposes of securing nuclear weapons and weapons-usable material worldwide; and

(6) outline the progress in and impediments to securing agreement from all countries that possess nuclear weapons or weapons-usable material on a set of global nuclear security standards, consistent with their obligation to comply with United Nations Security Council Resolution 1540.

PROHIBITION ON PROMOTION OF TOBACCO

SEC. 699N. None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products,

except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

UNOBLIGATED FUNDS RESCISSIONS

SEC. 699O. (a) Of the funds appropriated under the heading “Subsidy Appropriation” for the Export-Import Bank of the United States that are available for tied-aid grants in title I of Public Law 107–115 and under such heading in prior Acts making appropriations for foreign operations, export financing, and related programs, \$25,000,000 are rescinded.

(b) Of the funds appropriated under the heading “Economic Support Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs, \$133,000,000 are rescinded.

ACROSS-THE-BOARD RESCISSION

SEC. 699P. (a) BILL-WIDE RESCISSIONS.—There is hereby rescinded an amount equal to .81 percent of the budget authority provided for fiscal year 2008 for any discretionary account in this Act.

(b) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in subsection (a); and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying explanatory statements for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President’s budget).

(c) OMB REPORT.—Within 30 days after the date of the enactment of this section, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations a report specifying the account and amount of each rescission made pursuant to this section.

(d) EXCEPTION.—The rescission in subsection (a) shall not apply to funds provided in this Act designated as described in section 5 (in the matter preceding division A of this consolidated Act).

This division may be cited as the “Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008”.

DIVISION K—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, \$91,782,000, of which not to exceed \$2,310,000 shall be available for the immediate Office of the Secretary; not to exceed \$730,000

Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008. Department of Transportation Appropriations Act, 2008.

Notification.

shall be available for the immediate Office of the Deputy Secretary; not to exceed \$18,720,000 shall be available for the Office of the General Counsel; not to exceed \$9,874,000 shall be available for the Office of the Under Secretary of Transportation for Policy; not to exceed \$9,417,000 shall be available for the Office of the Assistant Secretary for Budget and Programs; not to exceed \$2,383,000 shall be available for the Office of the Assistant Secretary for Governmental Affairs; not to exceed \$23,750,000 shall be available for the Office of the Assistant Secretary for Administration; not to exceed \$1,986,000 shall be available for the Office of Public Affairs; not to exceed \$1,516,000 shall be available for the Office of the Executive Secretariat; not to exceed \$1,335,000 shall be available for the Office of Small and Disadvantaged Business Utilization; not to exceed \$7,874,000 for the Office of Intelligence, Security, and Emergency Response; and not to exceed \$11,887,000 shall be available for the Office of the Chief Information Officer: *Provided*, That the Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided further*, That no appropriation for any office shall be increased or decreased by more than 5 percent by all such transfers: *Provided further*, That notice of any change in funding greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That not to exceed \$60,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine: *Provided further*, That notwithstanding any other provision of law, excluding fees authorized in Public Law 107-71, there may be credited to this appropriation up to \$2,500,000 in funds received in user fees: *Provided further*, That none of the funds provided in this Act shall be available for the position of Assistant Secretary for Public Affairs.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, \$9,140,900.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, \$13,883,900.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Working Capital Fund, not to exceed \$128,094,000, shall be paid from appropriations made available to the Department of Transportation: *Provided*, That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further*, That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further*, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency modal administrator: *Provided further*, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the

House and Senate Committees on Appropriations and are approved by such Committees.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of guaranteed loans, \$370,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$18,367,000. In addition, for administrative expenses to carry out the guaranteed loan program, \$523,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, \$2,970,000, to remain available until September 30, 2009: *Provided*, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

In addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, \$60,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That, in determining between or among carriers competing to provide service to a community, the Secretary may consider the relative subsidy requirements of the carriers: *Provided further*, That, if the funds under this heading are insufficient to meet the costs of the essential air service program in the current fiscal year, the Secretary shall transfer such sums as may be necessary to carry out the essential air service program from any available amounts appropriated to or directly administered by the Office of the Secretary for such fiscal year.

COMPENSATION FOR AIR CARRIERS

(RESCISSION)

Of the remaining unobligated balances under section 101(a)(2) of Public Law 107–42, \$22,000,000 are rescinded.

ADMINISTRATIVE PROVISIONS—OFFICE OF THE SECRETARY OF
TRANSPORTATION

SEC. 101. The Secretary of Transportation is authorized to transfer the unexpended balances available for the bonding assistance program from “Office of the Secretary, Salaries and expenses” to “Minority Business Outreach”.

SEC. 102. None of the funds made available in this Act to the Department of Transportation may be obligated for the Office of the Secretary of Transportation to approve assessments or reimbursable agreements pertaining to funds appropriated to the

modal administrations in this Act, except for activities underway on the date of enactment of this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification.

SEC. 103. None of the funds made available under this Act may be obligated or expended to establish or implement a program under which essential air service communities are required to assume subsidy costs commonly referred to as the EAS local participation program.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 108-176, \$8,740,000,000, of which \$6,397,060,900 shall be derived from the Airport and Airway Trust Fund, of which not to exceed \$6,969,638,000 shall be available for air traffic organization activities; not to exceed \$1,082,602,000 shall be available for aviation safety activities; not to exceed \$12,549,000 shall be available for commercial space transportation activities; not to exceed \$100,593,000 shall be available for financial services activities; not to exceed \$91,214,000 shall be available for human resources program activities; not to exceed \$286,848,000 shall be available for region and center operations and regional coordination activities; not to exceed \$162,351,000 shall be available for staff offices; and not to exceed \$38,650,000 shall be available for information services: *Provided*, That not to exceed 2 percent of any budget activity, except for aviation safety budget activity, may be transferred to any budget activity under this heading: *Provided further*, That no transfer may increase or decrease any appropriation by more than 2 percent: *Provided further*, That any transfer in excess of 2 percent shall be treated as a reprogramming of funds under section 405 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That the Secretary utilize not less than \$6,000,000 of the funds provided for aviation safety activities to pay for staff increases in the Office of Aviation Flight Standards and the Office of Aircraft Certification: *Provided further*, That not later than March 31 of each fiscal year hereafter, the Administrator of the Federal Aviation Administration shall transmit to Congress an annual update to the report submitted to Congress in December 2004 pursuant to section 221 of Public Law 108-176: *Provided further*, That the amount herein appropriated shall be reduced by \$100,000 for each day after March 31 that such report has not been submitted to the Congress: *Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further*, That none

Deadlines.
Reports.
49 USC 44506
note.

of the funds in this Act shall be available for new applicants for the second career training program: *Provided further*, That none of the funds in this Act shall be available for the Federal Aviation Administration to finalize or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of the enactment of this Act: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further*, That of the funds appropriated under this heading, not less than \$8,500,000 shall be for the contract tower cost-sharing program: *Provided further*, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further*, That none of the funds in this Act for aeronautical charting and cartography are available for activities conducted by, or coordinated through, the Working Capital Fund: *Provided further*, That none of the funds in this Act may be obligated or expended for an employee of the Federal Aviation Administration to purchase a store gift card or gift certificate through use of a Government-issued credit card.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, technical support services, improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment, as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this heading, including aircraft for aviation regulation and certification; to be derived from the Airport and Airway Trust Fund, \$2,513,611,000, of which \$2,053,638,000 shall remain available until September 30, 2010, and of which \$459,973,000 shall remain available until September 30, 2008: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That upon initial submission to the Congress of the fiscal year 2009 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the Federal Aviation Administration which includes funding for each budget line item for fiscal years 2009

Investment plan.

through 2013, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, \$146,828,100, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2010: *Provided*, That there may be credited to this appropriation as offsetting collections, funds received from States, counties, municipalities, other public authorities, and private sources, which shall be available for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations; for procurement, installation, and commissioning of runway incursion prevention devices and systems at airports of such title; for grants authorized under section 41743 of title 49, United States Code; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under section 44706 of title 49, United States Code, \$4,399,000,000 to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds under this heading shall be available for the planning or execution of programs the obligations for which are in excess of \$3,514,500,000 in fiscal year 2008, notwithstanding section 47117(g) of title 49, United States Code: *Provided further*, That none of the funds under this heading shall be available for the replacement of baggage conveyor systems, reconfiguration of terminal baggage areas, or other airport improvements that are necessary to install bulk explosive detection systems: *Provided further*, That notwithstanding any other provision of law, of funds limited under this heading, not more than \$80,676,000 shall be obligated for administration, not less than \$10,000,000 shall be available for the airport cooperative research program, not less than \$18,712,000 shall be for Airport Technology Research and \$10,000,000, to remain available until expended, shall be available and transferred to “Office of the Secretary, Salaries and Expenses” to carry out the Small Community Air Service Development Program.

(RESCISSION)

Of the amounts authorized under sections 48103 and 48112 of title 49, United States Code, \$185,500,000 is rescinded from amounts authorized for the fiscal year ending September 30, 2007, and prior years; and \$85,000,000 is rescinded from amounts authorized for the fiscal year ending September 30, 2008.

ADMINISTRATIVE PROVISIONS—FEDERAL AVIATION ADMINISTRATION

SEC. 110. None of the funds in this Act may be used to compensate in excess of 425 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 2008.

SEC. 111. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation, or weather reporting: *Provided*, That the prohibition of funds in this section does not apply to negotiations between the agency and airport sponsors to achieve agreement on “below-market” rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for air traffic control facilities.

SEC. 112. The Administrator of the Federal Aviation Administration may reimburse amounts made available to satisfy 49 U.S.C. 41742(a)(1) from fees credited under 49 U.S.C. 45303: *Provided*, That during fiscal year 2008, 49 U.S.C. 41742(b) shall not apply, and any amount remaining in such account at the close of that fiscal year may be made available to satisfy section 41742(a)(1) for the subsequent fiscal year.

SEC. 113. Amounts collected under section 40113(e) of title 49, United States Code, shall be credited to the appropriation current at the time of collection, to be merged with and available for the same purposes of such appropriation.

SEC. 114. (a) Section 44302(f)(1) of title 49, United States Code, is amended by striking “2006,” each place it appears and inserting “2008,”.

(b) Section 44303(b) of such title is amended by striking “2006,” and inserting “2008,”.

SEC. 115. None of the funds appropriated or limited by this Act may be used to change weight restrictions or prior permission rules at Teterboro airport in Teterboro, New Jersey.

SEC. 116. EXTENSION OF TAXES AND EXPENDITURE AUTHORITY RELATING TO AIRPORT AND AIRWAY TRUST FUND. (a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) of the Internal Revenue Code of 1986 is amended by striking “September 30, 2007” and inserting “February 29, 2008”. 26 USC 4081.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) of such Code is amended by striking “September 30, 2007” and inserting “February 29, 2008”.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) of such Code is amended by striking “September 30, 2007” and inserting “February 29, 2008”.

(c) AIRPORT AND AIRWAY TRUST FUND EXPENDITURE
AUTHORITY.—

26 USC 9502.

(1) IN GENERAL.—Paragraph (1) of section 9502(d) of such Code is amended—

(A) by striking “October 1, 2007” and inserting “March 1, 2008”, and

(B) by inserting “or the Department of Transportation Appropriations Act, 2008” in subparagraph (A) before the semicolon at the end.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(f) of such Code is amended by striking “October 1, 2007” and inserting “March 1, 2008”.

26 USC 4081
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007.

Applicability.
49 USC 42112
note.

SEC. 117. LABOR INTEGRATION. (a) LABOR INTEGRATION.—With respect to any covered transaction involving two or more covered air carriers that results in the combination of crafts or classes that are subject to the Railway Labor Act (45 U.S.C. 151 et seq.), sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 C.A.B. 45) shall apply to the integration of covered employees of the covered air carriers; except that—

(1) if the same collective bargaining agent represents the combining crafts or classes at each of the covered air carriers, that collective bargaining agent’s internal policies regarding integration, if any, will not be affected by and will supersede the requirements of this section; and

(2) the requirements of any collective bargaining agreement that may be applicable to the terms of integration involving covered employees of a covered air carrier shall not be affected by the requirements of this section as to the employees covered by that agreement, so long as those provisions allow for the protections afforded by sections 3 and 13 of the Allegheny-Mohawk provisions.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) AIR CARRIER.—The term “air carrier” means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) COVERED AIR CARRIER.—The term “covered air carrier” means an air carrier that is involved in a covered transaction.

(3) COVERED EMPLOYEE.—The term “covered employee” means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(4) COVERED TRANSACTION.—The term “covered transaction” means—

(A) a transaction for the combination of multiple air carriers into a single air carrier; and which

(B) involves the transfer of ownership or control of—
(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier.

(c) APPLICATION.—This section shall not apply to any covered transaction involving a covered air carrier that took place before the date of enactment of this Act.

(d) EFFECTIVENESS OF PROVISION.—This section shall become effective on the date of enactment of this Act and shall continue in effect in fiscal years after fiscal year 2008.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$377,556,000, together with advances and reimbursements received by the Federal Highway Administration, shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration for necessary expenses for administration and operation.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of \$40,216,051,359 for Federal-aid highways and highway safety construction programs for fiscal year 2008: *Provided*, That within the \$40,216,051,359 obligation limitation on Federal-aid highways and highway safety construction programs, not more than \$429,800,000 shall be available for the implementation or execution of programs for transportation research (chapter 5 of title 23, United States Code; sections 111, 5505, and 5506 of title 49, United States Code; and title 5 of Public Law 109–59) for fiscal year 2008: *Provided further*, That this limitation on transportation research programs shall not apply to any authority previously made available for obligation: *Provided further*, That the Secretary may, as authorized by section 605(b) of title 23, United States Code, collect and spend fees to cover the costs of services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments and all or a portion of the costs to the Federal Government of servicing such credit instruments: *Provided further*, That such fees are available until expended to pay for such costs: *Provided further*, That such amounts are in addition to administrative expenses that are also available for such purpose, and are not subject to any obligation limitation or the limitation on administrative expenses under section 608 of title 23, United States Code.

23 USC 104 note.

(ADDITIONAL OBLIGATION LIMITATION)

(HIGHWAY TRUST FUND)

For an additional amount of obligation limitation to be distributed for the purpose of section 144(e) of title 23, United States Code, \$1,000,000,000: *Provided*, That such obligation limitation shall be used only for a purpose eligible for obligation with funds apportioned under such section and shall be distributed in accordance with the formula in such section: *Provided further*, That such

obligation limitation shall remain available for a period of three fiscal years and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years: *Provided further*, That in distributing obligation authority under this paragraph, the Secretary shall ensure that such obligation limitation shall supplement and not supplant each State's planned obligations for such purposes.

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, \$41,955,051,359 or so much thereof as may be available in and derived from the Highway Trust Fund (other than the Mass Transit Account), to remain available until expended.

(RESCISSION)

(HIGHWAY TRUST FUND)

Of the unobligated balances of funds apportioned to each State under chapter 1 of title 23, United States Code, \$3,150,000,000 are rescinded: *Provided*, That such rescission shall not apply to the funds distributed in accordance with sections 130(f) and 104(b)(5) of title 23, United States Code; sections 133(d)(1) and 163 of such title, as in effect on the day before the date of enactment of Public Law 109–59; and the first sentence of section 133(d)(3)(A) of such title.

I–35W BRIDGE REPAIR AND RECONSTRUCTION

For necessary expenses to carry out the project for repair and reconstruction of the Interstate 35W bridge located in Minneapolis, Minnesota, that collapsed on August 1, 2007, as authorized under section 1(c) of Public Law 110–56, up to \$195,000,000, as documented by the Minnesota Department of Transportation to remain available until expended: *Provided*, That the amount provided under this heading is designated as described in section 5 (in the matter preceding division A of this consolidated Act): *Provided further*, That the Federal share of the costs of any project funded using amounts made available under this section shall be 100 percent in accordance with section 1(b) of Public Law 110–56.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

For necessary expenses for West Virginia corridor H of the Appalachian Development Highway System as authorized under section 1069(y) of Public Law 102–240, as amended, \$15,680,000, to remain available until expended.

DELTA REGIONAL TRANSPORTATION DEVELOPMENT PROGRAM

For necessary expenses for the Delta Regional Transportation Development Program as authorized under section 1308 of Public Law 109–59, \$14,014,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS—FEDERAL HIGHWAY ADMINISTRATION

(INCLUDING RESCISSIONS)

SEC. 120. (a) For fiscal year 2008, the Secretary of Transportation shall— 23 USC 104 note.

(1) not distribute from the obligation limitation for Federal-aid highways amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code; programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code (as in effect on the date before the date of enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users); the highway use tax evasion program; the programs, projects and activities funded by the set aside authorized by section 129 of this Act; the Bureau of Transportation Statistics; and additional obligation limitation provided in this Act for the purpose of section 144(e) of title 23, United States Code;

(2) not distribute an amount from the obligation limitation for Federal-aid highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid highways, less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for such fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

(4)(A) distribute the obligation limitation for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2), for sections 1301, 1302, and 1934 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users; sections 117 (but individually for each project numbered 1 through 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users) and 144(g) of title 23, United States Code; and section 14501 of title 40, United States Code, so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for that section for the fiscal year; and

(B) distribute \$2,000,000,000 for section 105 of title 23, United States Code;

(5) distribute the obligation limitation provided for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4), for each of the programs that are allocated by the

Secretary under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and title 23, United States Code (other than to programs to which paragraphs (1) and (4) apply), by multiplying the ratio determined under paragraph (3) by the amounts authorized to be appropriated for each such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5), for Federal-aid highways and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than \$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the amounts authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) **EXCEPTIONS FROM OBLIGATION LIMITATION.**—The obligation limitation for Federal-aid highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982; (5) under subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century; (8) under section 105 of title 23, United States Code, as in effect for fiscal years 1998 through 2004, but only in an amount equal to \$639,000,000 for each of those fiscal years; (9) for Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used; (10) under section 105 of title 23, United States Code, but only in an amount equal to \$639,000,000 for each of fiscal years 2005 through 2008; and (11) under section 1603 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

(c) **REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.**—Notwithstanding subsection (a), the Secretary shall, after August 1 of such fiscal year, revise a distribution of the obligation limitation made available under subsection (a) if the amount distributed cannot be obligated during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition

to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(d) **APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.**—The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and title V (research title) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(e) **REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.**—

(1) **IN GENERAL.**—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds that—

Deadline.

(A) are authorized to be appropriated for such fiscal year for Federal-aid highways programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year.

(2) **RATIO.**—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (a)(6).

(3) **AVAILABILITY.**—Funds distributed under paragraph (1) shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) **SPECIAL LIMITATION CHARACTERISTICS.**—Obligation limitation distributed for a fiscal year under subsection (a)(4) for the provision specified in subsection (a)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(g) **HIGH PRIORITY PROJECT FLEXIBILITY.**—

(1) **IN GENERAL.**—Subject to paragraph (2), obligation authority distributed for such fiscal year under subsection (a)(4) for each project numbered 1 through 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users may be obligated for any other project in such section in the same State.

(2) **RESTORATION.**—Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for the next fiscal year following obligation under paragraph (1).

(h) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to limit the distribution of obligation authority under subsection (a)(4)(A) for each of the individual projects numbered greater than 3676 listed in the table contained

in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

SEC. 121. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such funds shall be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 122. Of the unobligated balances made available under sections 1103, 1104, 1105, 1106(a), 1106(b), 1107, and 1108 of Public Law 102-240, \$1,292,287.73 are rescinded.

SEC. 123. Of the unobligated balances made available under section 1602 of Public Law 105-178, \$5,987,345.70 are rescinded.

SEC. 124. Of the unobligated balances made available under section 188(a)(1) of title 23, United States Code, as in effect on the day before the date of enactment of Public Law 109-59, and under section 608(a)(1) of such title, \$256,806,000 are rescinded.

SEC. 125. Of the amounts made available under section 104(a) of title 23, United States Code, \$43,358,601 are rescinded.

SEC. 126. Of the unobligated balances of funds made available in fiscal year 2005 and prior fiscal years for the implementation or execution of programs for transportation research, training and education, and technology deployment including intelligent transportation systems, \$239,801,603 are rescinded.

SEC. 127. Of the amounts made available for "Highway Related Safety Grants" by section 402 of title 23, United States Code, and administered by the Federal Highway Administration, \$11,314 in unobligated balances are rescinded.

SEC. 128. Of the unobligated balances made available under Public Law 101-516, Public Law 102-143, Public Law 103-331, Public Law 106-346, Public Law 107-87, and Public Law 108-7, \$4,753,687.26 are rescinded.

SEC. 129. Notwithstanding any other provision of law, the Secretary of Transportation shall set aside from revenue aligned budget authority authorized for fiscal year 2008 under section 110 of title 23, United States Code, such sums as may be necessary for the programs, projects and activities at the level of 98 percent of the corresponding amounts identified under this section in the explanatory statement accompanying this Act: *Provided*, That funds set aside by this section, at the request of a State, shall be transferred by the Secretary to another Federal agency: *Provided further*, That the Federal share payable on account of any program, project, or activity carried out with funds set aside by this section shall be 100 percent: *Provided further*, That the sums set aside by this section shall remain available until expended: *Provided further*, That all funds set aside by this section shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs set forth in this Act or any other Act: *Provided further*, That the obligation limitation made available for the programs, projects, and activities for which funds are set aside by this section shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years: *Provided further*, That amounts authorized for fiscal year 2008 for revenue aligned budget authority

under such section in excess of the amount set aside by the first clause of this section are rescinded.

SEC. 130. Not less than 15 days prior to waiving, under her statutory authority, any Buy America requirement for Federal-aid highway projects, the Secretary of Transportation shall make an informal public notice and comment opportunity on the intent to issue such waiver and the reasons therefor: *Provided*, That the Secretary shall provide an annual report to the Appropriations Committees of the Congress on any waivers granted under the Buy America requirements.

Deadline.
Notice.
Public comments.
23 USC 313 note.
Reports.

SEC. 131. Notwithstanding any other provision of law, amounts authorized for fiscal year 2008 for programs under sections 1305 and 1502 of Public Law 109–59 and section 503(b) of title 23, United States Code, are rescinded.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY OPERATIONS AND PROGRAMS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION)

For payment of obligations incurred for administration of motor carrier safety operations and programs pursuant to section 31104(i) of title 49, United States Code, and sections 4127 and 4134 of Public Law 109–59, \$229,654,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account), together with advances and reimbursements received by the Federal Motor Carrier Safety Administration, the sum of which shall remain available until expended: *Provided*, That none of the funds derived from the Highway Trust Fund in this Act shall be available for the implementation, execution or administration of programs, the obligations for which are in excess of \$229,654,000, for “Motor Carrier Safety Operations and Programs”, of which \$8,900,000, to remain available for obligation until September 30, 2010, is for the research and technology program and \$1,000,000 shall be available for commercial motor vehicle operator’s grants to carry out section 4134 of Public Law 109–59: *Provided further*, That notwithstanding any other provision of law, none of the funds under this heading for outreach and education shall be available for transfer: *Provided further*, That \$1,815,553 in unobligated balances are rescinded.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION)

For payment of obligations incurred in carrying out sections 31102, 31104(a), 31106, 31107, 31109, 31309, 31313 of title 49,

United States Code, and sections 4126 and 4128 of Public Law 109–59, \$300,000,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account) and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of \$300,000,000, for “Motor Carrier Safety Grants”; of which \$202,000,000 shall be available for the motor carrier safety assistance program to carry out sections 31102 and 31104(a) of title 49, United States Code; \$25,000,000 shall be available for the commercial driver’s license improvements program to carry out section 31313 of title 49, United States Code; \$32,000,000 shall be available for the border enforcement grants program to carry out section 31107 of title 49, United States Code; \$5,000,000 shall be available for the performance and registration information system management program to carry out sections 31106(b) and 31109 of title 49, United States Code; \$25,000,000 shall be available for the commercial vehicle information systems and networks deployment program to carry out section 4126 of Public Law 109–59; \$3,000,000 shall be available for the safety data improvement program to carry out section 4128 of Public Law 109–59; and \$8,000,000 shall be available for the commercial driver’s license information system modernization program to carry out section 31309(e) of title 49, United States Code: *Provided further*, That of the funds made available for the motor carrier safety assistance program, \$29,000,000 shall be available for audits of new entrant motor carriers: *Provided further*, That \$11,260,214 in unobligated balances are rescinded.

MOTOR CARRIER SAFETY

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the amounts made available under this heading in prior appropriations Acts, \$32,187,720 in unobligated balances are rescinded.

NATIONAL MOTOR CARRIER SAFETY PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the amounts made available under this heading in prior appropriations Act, \$5,212,858 in unobligated balances are rescinded.

ADMINISTRATIVE PROVISIONS—FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION

Reports.

SEC. 135. Funds appropriated or limited in this Act shall be subject to the terms and conditions stipulated in section 350 of Public Law 107–87 and section 6901 of Public Law 110–28, including that the Secretary submit a report to the House and Senate Appropriations Committees annually on the safety and security of transportation into the United States by Mexico-domiciled motor carriers.

SEC. 136. None of the funds made available under this Act may be used to establish a cross-border motor carrier demonstration program to allow Mexico-domiciled motor carriers to operate beyond the commercial zones along the international border between the United States and Mexico.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under subtitle C of title X of Public Law 109–59, chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, \$126,572,000, of which \$26,156,000 shall remain available until September 30, 2010: *Provided*, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, \$107,750,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account) and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2008, are in excess of \$107,750,000 for programs authorized under 23 U.S.C. 403.

NATIONAL DRIVER REGISTER

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out chapter 303 of title 49, United States Code, \$4,000,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account) and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the total obligations for which, in fiscal year 2008, are in excess of \$4,000,000 for the National Driver Register authorized under such chapter.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 406, 408, and 410 and sections 2001(a)(11), 2009, 2010, and 2011 of Public Law 109–59, to remain available until expended, \$599,250,000 to be derived from the Highway Trust Fund (other than the Mass Transit Account): *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2008, are in excess of \$599,250,000 for programs authorized under 23 U.S.C. 402, 405, 406, 408, and 410 and sections 2001(a)(11), 2009, 2010, and 2011 of Public Law 109–59, of which \$225,000,000 shall be for “Highway Safety Programs” under 23 U.S.C. 402; \$25,000,000 shall be for “Occupant Protection Incentive Grants” under 23 U.S.C. 405; \$124,500,000 shall be for “Safety Belt Performance Grants” under 23 U.S.C. 406; \$34,500,000 shall be for “State Traffic Safety Information System Improvements” under 23 U.S.C. 408; \$131,000,000 shall be for “Alcohol-Impaired Driving Countermeasures Incentive Grant Program” under 23 U.S.C. 410; \$18,250,000 shall be for “Administrative Expenses” under section 2001(a)(11) of Public Law 109–59; \$29,000,000 shall be for “High Visibility Enforcement Program” under section 2009 of Public Law 109–59; \$6,000,000 shall be for “Motorcyclist Safety” under section 2010 of Public Law 109–59; and \$6,000,000 shall be for “Child Safety and Child Booster Seat Safety Incentive Grants” under section 2011 of Public Law 109–59: *Provided further*, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local or private buildings or structures: *Provided further*, That not to exceed \$500,000 of the funds made available for section 410 “Alcohol-Impaired Driving Countermeasures Grants” shall be available for technical assistance to the States: *Provided further*, That not to exceed \$750,000 of the funds made available for the “High Visibility Enforcement Program” shall be available for the evaluation required under section 2009(f) of Public Law 109–59.

ADMINISTRATIVE PROVISIONS—NATIONAL HIGHWAY

TRAFFIC SAFETY ADMINISTRATION

(INCLUDING RESCISSIONS)

SEC. 140. Notwithstanding any other provision of law or limitation on the use of funds made available under section 403 of title 23, United States Code, an additional \$130,000 shall be made available to the National Highway Traffic Safety Administration, out of the amount limited for section 402 of title 23, United States Code, to pay for travel and related expenses for State management reviews and to pay for core competency development training and related expenses for highway safety staff.

SEC. 141. Of the amounts made available under the heading “Operations and Research (Liquidation of Contract Authorization)

(Limitation on Obligations) (Highway Trust Fund)” in prior appropriations Acts, \$12,197,113.60 in unobligated balances are rescinded.

SEC. 142. Of the amounts made available under the heading “National Driver Register (Liquidation of Contract Authorization) (Limitation on Obligations) (Highway Trust Fund)” in prior appropriations Acts, \$119,914.61 in unobligated balances are rescinded.

SEC. 143. Of the amounts made available under the heading “Highway Traffic Safety Grants (Liquidation of Contract Authorization) (Limitation on Obligations) (Highway Trust Fund)” in prior appropriations Acts, \$10,528,958 in unobligated balances are rescinded.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, \$150,193,499, of which \$12,268,890 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, \$35,964,400, to remain available until expended.

CAPITAL ASSISTANCE TO STATES—INTERCITY

PASSENGER RAIL SERVICE

To enable the Federal Railroad Administrator to make grants to States for the capital costs of improving existing intercity passenger rail service and providing new intercity passenger rail service, \$30,000,000, to remain available until expended: *Provided*, That grants shall be provided to a State only on a reimbursable basis: *Provided further*, That grants cover no more than 50 percent of the total capital cost of a project selected for funding: *Provided further*, That no more than 10 percent of funds made available under this program may be used for planning activities that lead directly to the development of a passenger rail corridor investment plan consistent with the requirements established by the Administrator: *Provided further*, That no later than eight months following enactment of this Act, the Secretary shall establish and publish criteria for project selection, set a deadline for grant applications, and provide a schedule for project selection: *Provided further*, That to be eligible for this assistance, States must include intercity passenger rail service as an integral part of statewide transportation planning as required under section 135 of title 23, United States Code: *Provided further*, That to be eligible for capital assistance the specific project must be on the Statewide Transportation Improvement Plan at the time of the application to qualify: *Provided further*, That the Secretary give priority to capital and planning applications for projects that improve the safety and reliability of intercity passenger trains, involve a commitment by freight railroads to an enforceable on-time performance of passenger trains of 80 percent or greater, involve a commitment by freight railroads of financial resources commensurate with the benefit expected to their operations, improve or extend service on a route that requires little or no Federal assistance for its operations, and involve a

Grants.

Deadline.
Criteria.
Publication.

commitment by States or railroads of financial resources to improve the safety of highway/rail grade crossings over which the passenger service operates.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 2008.

RAIL LINE RELOCATION AND IMPROVEMENT PROGRAM

For necessary expenses of carrying out section 20154 of title 49, United States Code, as authorized by section 9002 of Public Law 109-59, \$20,145,000, to remain available until expended.

OPERATING GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make quarterly grants to the National Railroad Passenger Corporation for operation of intercity passenger rail, \$475,000,000 to remain available until expended: *Provided*, That the Secretary of Transportation shall approve funding to cover operating losses for the Corporation only after receiving and reviewing a grant request for each specific train route: *Provided further*, That each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure projection justifying the Federal support to the Secretary's satisfaction: *Provided further*, That the Corporation is directed to achieve savings through operating efficiencies including, but not limited to, modifications to food and beverage service and first class service: *Provided further*, That the Inspector General of the Department of Transportation shall report to the House and Senate Committees on Appropriations beginning 3 months after the date of the enactment of this Act and quarterly thereafter with estimates of the savings accrued as a result of all operational reforms instituted by the Corporation: *Provided further*, That not later than 120 days after enactment of this Act, the Corporation shall transmit to the House and Senate Committees on Appropriations the status of its plan to improve the financial performance of food and beverage service and its plan to improve the financial performance of first class service (including sleeping car service): *Provided further*, That the Corporation shall report quarterly to the House and Senate Committees on Appropriations on its progress against the milestones and target dates contained in the plan provided in fiscal year 2007 and quantify savings realized to date on a monthly basis compared to those projected in the plan, identify any changes in the plan or delays in implementing these plans, and identify the causes of delay and proposed

Reports.
Deadlines.

Deadline.
Plan.

Reports.
Deadline.

corrective measures: *Provided further*, That not later than 90 days after enactment of this Act, the Corporation shall transmit, in electronic format, to the Secretary, the House and Senate Committees on Appropriations, the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation a comprehensive business plan approved by the Board of Directors for fiscal year 2008 under section 24104(a) of title 49, United States Code: *Provided further*, That the business plan shall include, as applicable, targets for ridership, revenues, and capital and operating expenses: *Provided further*, That the plan shall also include a separate accounting of such targets for the Northeast Corridor; commuter service; long-distance Amtrak service; State-supported service; each intercity train route, including Autotrain; and commercial activities including contract operations: *Provided further*, That the business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by this business plan: *Provided further*, That the Corporation shall continue to provide monthly reports in electronic format regarding the pending business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes, and shall identify all sole source contract awards which shall be accompanied by a justification as to why said contract was awarded on a sole source basis: *Provided further*, That the Corporation's business plan and all subsequent supplemental plans shall be displayed on the Corporation's website within a reasonable timeframe following their submission to the appropriate entities: *Provided further*, That none of the funds under this heading may be obligated or expended until the Corporation agrees to continue abiding by the provisions of paragraphs 1, 2, 5, 9, and 11 of the summary of conditions for the direct loan agreement of June 28, 2002, in the same manner as in effect on the date of enactment of this Act: *Provided further*, That none of the funds provided in this Act may be used after March 1, 2006, to support any route on which Amtrak offers a discounted fare of more than 50 percent off the normal, peak fare: *Provided further*, That the preceding proviso does not apply to routes where the operating loss as a result of the discount is covered by a State and the State participates in the setting of fares: *Provided further*, That of the amounts made available under this heading not less than \$18,500,000 shall be available for the Amtrak Office of Inspector General.

Deadline.

Business plan.

Reports.

CAPITAL AND DEBT SERVICE GRANTS TO THE NATIONAL RAILROAD
PASSENGER CORPORATION

To enable the Secretary of Transportation to make quarterly grants to the National Railroad Passenger Corporation for the maintenance and repair of capital infrastructure owned by the Corporation, including railroad equipment, rolling stock, legal mandates and other services, \$850,000,000, to remain available until expended, of which not to exceed \$285,000,000 shall be for debt service obligations: *Provided*, That the Secretary may retain up to one-quarter of 1 percent of the funds under this heading to fund the oversight by the Federal Railroad Administration of the design and implementation of capital projects funded by grants made under this heading: *Provided further*, That the Secretary shall approve funding for capital expenditures, including advance

purchase orders of materials, for the Corporation only after receiving and reviewing a grant request for each specific capital grant justifying the Federal support to the Secretary's satisfaction: *Provided further*, That none of the funds under this heading may be used to subsidize operating losses of the Corporation: *Provided further*, That none of the funds under this heading may be used for capital projects not approved by the Secretary of Transportation or on the Corporation's fiscal year 2008 business plan: *Provided further*, That \$35,000,000 of amounts made available under this heading shall be available until expended for capital improvements if the Corporation demonstrates to the Secretary's satisfaction that the Corporation has achieved operational savings and met ridership and revenue targets as defined in the Corporation's business plan: *Provided further*, That of the funds provided under this section, not less than \$5,000,000 shall be expended for the development and implementation of a managerial cost accounting system, which includes average and marginal unit cost capability: *Provided further*, That within 90 days of enactment, the Department of Transportation Inspector General shall review and comment to the Secretary of Transportation and the House and Senate Committees on Appropriations upon the strengths and weaknesses of the system being developed by the Corporation and how it best can be implemented to improve decision making by the Board of Directors and management of the Corporation: *Provided further*, That not later than 180 days after the enactment of this Act, the Secretary, in consultation with the Corporation and the States on the Northeast Corridor, shall establish a common definition of what is determined to be a "state of good repair" on the Northeast Corridor and report its findings, including definitional areas of disagreement, to the House and Senate Committees on Appropriations, the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.

Deadline.

Deadline.

ADMINISTRATIVE PROVISIONS—FEDERAL RAILROAD ADMINISTRATION

SEC. 150. Notwithstanding any other provision of this Act, funds provided in this Act for the National Railroad Passenger Corporation shall immediately cease to be available to said Corporation in the event that the Corporation contracts to have services provided at or from any location outside the United States. For purposes of this section, the word "services" shall mean any service that was, as of July 1, 2006, performed by a full-time or part-time Amtrak employee whose base of employment is located within the United States.

Deadlines.
Reports.

SEC. 151. Not later than January 1, 2008, the Federal Railroad Administrator shall submit a report, and quarterly reports thereafter, to the House and Senate Committees on Appropriations detailing the Administrator's efforts at improving the on-time performance of Amtrak intercity rail service operating on non-Amtrak owned property. Such reports shall compare the most recent actual on-time performance data to pre-established on-time performance goals that the Administrator shall set for each rail service, identified by route. Such reports shall also include whatever other information and data regarding the on-time performance of Amtrak trains the Administrator deems to be appropriate.

SEC. 152. The Secretary may purchase promotional items of nominal value for use in public outreach activities to accomplish

the purposes of 49 U.S.C. 20134: *Provided*, That the Secretary shall prescribe guidelines for the administration of such purchases and use. Guidelines.

SEC. 153. The Secretary of Transportation may receive and expend cash, or receive and utilize spare parts and similar items, from non-United States Government sources to repair damages to or replace United States Government owned automated track inspection cars and equipment as a result of third party liability for such damages, and any amounts collected under this subsection shall be credited directly to the Safety and Operations account of the Federal Railroad Administration, and shall remain available until expended for the repair, operation and maintenance of automated track inspection cars and equipment in connection with the automated track inspection program.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, \$89,300,000: *Provided*, That of the funds available under this heading, not to exceed \$1,504,000 shall be available for travel and not to exceed \$20,719,000 shall be available for the central account: *Provided further*, That any funding transferred from the central account shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That none of the funds provided or limited in this Act may be used to create a permanent office of transit security under this heading: *Provided further*, That of the funds in this Act available for the execution of contracts under section 5327(c) of title 49, United States Code, \$2,000,000 shall be reimbursed to the Department of Transportation's Office of Inspector General for costs associated with audits and investigations of transit-related issues, including reviews of new fixed guideway systems: *Provided further*, That upon submission to the Congress of the fiscal year 2009 President's budget, the Secretary of Transportation shall transmit to Congress the annual report on new starts, including proposed allocations of funds for fiscal year 2009. Reports.

FORMULA AND BUS GRANTS

(LIQUIDATION OF CONTRACT AUTHORITY)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION)

For payment of obligations incurred in carrying out the provisions of 49 U.S.C. 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 and section 3038 of Public Law 105–178, as amended, \$6,855,000,000, to be derived from the Mass Transit Account of the Highway Trust Fund and to remain available until expended: *Provided*, That funds available for the implementation or execution of programs authorized under 49 U.S.C. 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 and section 3038 of Public Law 105–178, as amended, shall

not exceed total obligations of \$7,767,887,062 in fiscal year 2008: *Provided further*, That of the funds available to carry out the bus program under section 5309 of title 49, United States Code, which are not otherwise allocated under this act or under SAFETEA-LU (Public Law 109-59), not more than 10 percent may be expended in furtherance of the Department of Transportation's "National Strategy to Reduce Congestion on America's Transportation Network" issued May, 2006 by Secretary of Transportation, the Honorable Norman Mineta; also known as the "Congestion Initiative" or any other new highway congestion initiative: *Provided further*, That \$28,660,920 in unobligated balances are rescinded.

RESEARCH AND UNIVERSITY RESEARCH CENTERS

For necessary expenses to carry out 49 U.S.C. 5306, 5312-5315, 5322, and 5506, \$65,362,900, to remain available until expended: *Provided*, That \$9,300,000 is available to carry out the transit cooperative research program under section 5313 of title 49, United States Code, \$4,300,000 is available for the National Transit Institute under section 5315 of title 49, United States Code, and \$7,000,000 is available for university transportation centers program under section 5506 of title 49, United States Code: *Provided further*, That \$44,762,900 is available to carry out national research programs under sections 5312, 5313, 5314, and 5322 of title 49, United States Code.

CAPITAL INVESTMENT GRANTS

For necessary expenses to carry out section 5309 of title 49, United States Code, \$1,569,091,997, to remain available until expended: *Provided*, That of the funds available under this heading, amounts are to be made available as follows:

AC Transit BRT Corridor—Alameda County, California, \$490,000.

Alaska and Hawaii ferry projects, \$15,000,000.

Bus Rapid Transit, Cumberland County, Pennsylvania, \$294,000.

Central Corridor Light Rail, Minnesota, \$10,192,000.

Central Link Initial Segment, Washington, \$68,600,000.

Central LRT Double-Track—Largo Extension, Maryland, \$34,300,000.

Central Phoenix/East Valley Light Rail, Arizona, \$88,200,000.

Charlotte Rapid Transit, North Carolina, \$1,960,000.

CORRIDORone Regional Rail Project, Pennsylvania, \$10,976,000.

DCTA Fixed Guideway/Engineering, Lewisville, Texas, \$245,000.

Denali Commission, Alaska, \$5,000,000.

Dulles Corridor Metrorail Project, Virginia, \$34,300,000.

Galveston Rail Trolley, Texas, \$1,960,000.

Honolulu High Capacity Transit Corridor, Hawaii, \$15,190,000.

Hudson-Bergen MOS-2, New Jersey, \$54,089,135.

I-205/Portland Mall Light Rail, Oregon, \$78,400,000.

I-69 HOV/BRT, Mississippi, \$7,546,000.

JTA Bus Rapid Transit, Jacksonville, Florida, \$9,329,600.

Lane Transit District, Pioneer Parkway EmX Corridor, Oregon, \$14,504,000.
Long Island Rail Road East Side Access, New York, \$210,700,000.
MARC Commuter Rail Improvements and Rolling Stock, Maryland, \$9,800,000.
MBTA Fitchburg to Boston Rail Corridor Project, Massachusetts, \$5,880,000.
METRA Connects Southeast Service, Illinois, \$7,227,500.
METRA Star Line, Illinois, \$7,227,500.
METRA Union Pacific Northwest Line, Illinois, \$7,227,500.
METRA Union Pacific West Line, Illinois, \$7,227,500.
Metro Gold Line Eastside Extension, California, \$78,400,000.
Metrorail Orange Line Expansion, Florida, \$1,960,000.
Metro Rapid Bus System Gap Closure, Los Angeles, California, \$16,347,380.
Mid-Jordan Light Rail Extension, Utah, \$19,600,000.
Monmouth-Ocean-Middlesex County Passenger Rail, New Jersey, \$980,000.
New Britain-Hartford Busway, Connecticut, \$3,271,632.
Norfolk Light Rail Project, Virginia, \$23,030,000.
North Corridor, Houston and Southeast Corridor, Texas, \$19,600,000.
North Shore Corridor & Blue Line, Massachusetts, \$1,960,000.
NorthStar Commuter, Minnesota, \$53,900,000.
Northern Indiana Commuter Transit District Recapitalization, Indiana, \$4,900,000.
North Shore LRT Connector, Pennsylvania, \$32,846,115.
Northwest NJ-Northeast PA, Pennsylvania, \$2,940,000.
NW/SE LRT MOS, Texas, \$84,525,000.
Pacific Highway South BRT, King County, Washington, \$13,794,480.
Perris Valley Line Metrolink Extension, California, \$1,960,000.
Pawtucket/Central Falls Commuter Rail Station, Rhode Island, \$1,960,000.
Planning and Design, Bus Rapid Transit-State Avenue Corridor, Wyandotte County, Kansas, \$1,470,000.
Provo Orem Bus Rapid Transit, Utah, \$4,018,000.
Rapid Transit (BRT) project, Livermore, California, \$2,940,000.
Ravenswood Line Extension, Illinois, \$39,200,000.
Route 1 Bus Rapid Transit, Potomac Yard-Crystal City, Alexandria and Arlington, Virginia, \$980,000.
Second Avenue Subway Phase 1, New York, \$167,810,300.
SMART EIS and PE, California, \$1,960,000.
South County Commuter Rail Wickford Junction Station, Rhode Island, \$12,269,449.
Southeast Corridor LRT, Colorado, \$50,529,274.
South Sacramento Corridor Phase 2, California, \$4,410,000.
Telegraph Avenue-International Boulevard-East 14th Street Bus Rapid Transit Corridor Improvements, California, \$1,960,000.
Third Street Light Rail, San Francisco, California, \$11,760,000.

Trans-Hudson Midtown Corridor, New Jersey, \$14,700,000.
Troost Corridor Bus Rapid Transit, Missouri, \$6,134,800.
West Corridor Light Rail Project, Colorado, \$39,200,000.
University Link LRT, Washington, \$19,600,000.
VIA Bus Rapid Transit Corridor Project, San Antonio,
Texas, \$4,900,000.
Virginia Railway Express Extension—Gainesville/
Haymarket, Virginia, \$490,000.
VRE Rolling Stock, Virginia, \$3,920,000.
Weber County to Salt Lake City, Utah, \$78,400,000.

ADMINISTRATIVE PROVISIONS—FEDERAL TRANSIT ADMINISTRATION

SEC. 160. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 161. Notwithstanding any other provision of law, funds made available by this Act under “Federal Transit Administration, Capital investment grants” and bus and bus facilities under “Federal Transit Administration, Formula and bus grants” for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2010, and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 162. Notwithstanding any other provision of law, any funds appropriated before October 1, 2007, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure, may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 163. Notwithstanding any other provision of law, unobligated funds made available for a new fixed guideway systems projects under the heading “Federal Transit Administration, Capital Investment Grants” in any appropriations Act prior to this Act may be used during this fiscal year to satisfy expenses incurred for such projects.

SEC. 164. During fiscal year 2008, each Federal Transit Administration grant for a project that involves the acquisition or rehabilitation of a bus to be used in public transportation shall be funded for 90 percent of the net capital costs of a biodiesel bus or a factory-installed or retrofitted hybrid electric propulsion system and any equipment related to such a system: *Provided*, That the Secretary shall have the discretion to determine, through practicable administrative procedures, the costs attributable to the system and related equipment.

SEC. 165. Notwithstanding any other provision of law, in regard to the Central Link Initial Segment Project, to the extent that Federal funds remain available within the current budget for the project, the Secretary shall, immediately upon the date of enactment of this Act, amend the Full Funding Grant Agreement for said project to allow remaining Federal funds to be used to support completion of the Airport Link extension of said project.

SEC. 166. Amounts provided for a high capacity fixed guideway light rail and mass transit project for the City of Albuquerque, New Mexico, in Public Laws 106-69, 106-346 and 107-87 shall be available for bus and bus facilities.

SEC. 167. Any unobligated amounts made available for the Commuter Rail, Albuquerque to Santa Fe, New Mexico under the heading “Capital Investment Grants” under the heading “Federal

Transit Administration” in title I of division A of the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (Public Law 109-115; 119 Stat. 2418) shall be made available for public transportation buses, equipment and facilities related to such buses, and intermodal terminal in Albuquerque and Santa Fe, New Mexico, subject to the requirements under section 5309 of title 49, United States Code.

SEC. 168. Notwithstanding any other provision of law, funds made available for the Las Vegas Resort Corridor Fixed Guideway Project under the Federal Transit Administration Capital Investment Grants Account in any previous Appropriations Act, including Public Laws 108-7, 108-199, 108-447, and any unexpended funds in Federal Transit Administration grant number NV-03-0019 may hereafter be made available until expended to the Regional Transportation Commission of Southern Nevada for bus rapid transit projects and bus and bus-related projects: *Provided*, That funds made available for a project in accordance with this section shall be administered under the terms and conditions set forth in 49 U.S.C. 5307, to the extent applicable.

SEC. 169. The second sentence of section 321 of the Department of Transportation and Related Agencies Appropriations Act, 1986 (99 Stat. 1287) is repealed.

SEC. 170. None of the funds provided or limited under this Act may be used to issue a final regulation under section 5309 of title 49, United States Code, except that the Federal Transit Administration may continue to review comments received on the proposed rule (Docket No. FTA-2006-25737).

SEC. 171. Funds made available to the Putnam County, Florida, for Ride Solutions buses and bus facilities in Public Laws 108-199, 108-447 and 109-115 that remain unobligated may be available to Putnam County under the conditions of 49 U.S.C. 5312 to research, develop, fabricate, test, demonstrate, deploy and evaluate a low floor bus to meet the needs of Ride Solution in particular, and small urban and rural operators in general.

SEC. 172. Of the balances available for this fiscal year to carry out 49 U.S.C. 5309(b) left to the discretion of the Secretary of Transportation, \$104,697,038 are rescinded.

SEC. 173. Of the balances available for this fiscal year to carry out 49 U.S.C. 5339 left to the discretion of the Secretary of Transportation, \$308,900 are rescinded.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, \$17,392,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

MARITIME ADMINISTRATION

MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$156,000,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, \$121,992,000, of which \$25,720,000 shall remain available until September 30, 2008, for salaries and benefits of employees of the United States Merchant Marine Academy; of which \$14,139,000 shall remain available until expended for capital improvements at the United States Merchant Marine Academy; and of which \$10,500,000 shall remain available until expended for maintenance and repair of Schoolships at State Maritime Schools.

SHIP DISPOSAL

For necessary expenses related to the disposal of obsolete vessels in the National Defense Reserve Fleet of the Maritime Administration, \$17,000,000, to remain available until expended.

ASSISTANCE TO SMALL SHIPYARDS

Deadline.

Grants.
Deadline.

To make grants for capital improvements and related infrastructure improvements at qualified shipyards that will facilitate the efficiency, cost-effectiveness, and quality of domestic ship construction for commercial and Federal Government use as authorized under section 3506 of Public Law 109–163, \$10,000,000, to remain available until expended: *Provided*, That to be considered for assistance, a qualified shipyard shall submit an application for assistance no later than 60 days after enactment of this Act: *Provided further*, That from applications submitted under the previous proviso, the Secretary of Transportation shall make grants no later than 120 days after enactment of this Act in such amounts as the Secretary determines: *Provided further*, That not to exceed 2 percent of the funds appropriated under this heading shall be available for necessary costs of grant administration.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, as authorized, \$8,408,000, of which \$5,000,000 shall remain available until expended: *Provided*, That such costs, including the cost of modifying such loans,

shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That not to exceed \$3,408,000 shall be available for administrative expenses to carry out the guaranteed loan program, which shall be transferred to and merged with the appropriation for “Operations and Training”, Maritime Administration.

SHIP CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, \$6,673,000 are rescinded.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

SEC. 175. Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

SEC. 176. No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936 (46 U.S.C. 53101 note (cfs)), or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriations Act.

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Pipeline and Hazardous Materials Safety Administration, \$18,130,000, of which \$639,000 shall be derived from the Pipeline Safety Fund.

HAZARDOUS MATERIALS SAFETY

For expenses necessary to discharge the hazardous materials safety functions of the Pipeline and Hazardous Materials Safety Administration, \$28,000,000, of which \$1,761,000 shall remain available until September 30, 2010: *Provided*, That up to \$1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, \$79,828,000, of which \$18,810,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2010; of which \$61,018,000 shall be derived from the Pipeline Safety Fund, of which \$32,242,000 shall remain available until September 30, 2010: *Provided*, That not less than \$1,043,000 of the funds provided under this heading shall be for the one-call State grant program.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5128(b), \$188,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2009: *Provided*, That not more than \$28,318,000 shall be made available for obligation in fiscal year 2008 from amounts made available by 49 U.S.C. 5116(i) and 5128(b)–(c): *Provided further*, That none of the funds made available by 49 U.S.C. 5116(i), 5128(b), or 5128(c) shall be made available for obligation by individuals other than the Secretary of Transportation, or her designee.

RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses of the Research and Innovative Technology Administration, \$12,000,000, of which \$6,036,000 shall remain available until September 30, 2010: *Provided*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, \$66,400,000: *Provided*, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3), to investigate allegations of fraud, including false statements to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department: *Provided further*, That the funds made available under this heading shall be used to investigate, pursuant to section 41712 of title 49, United States Code: (1) unfair or deceptive practices and unfair methods of competition by domestic and foreign air carriers and ticket agents;

and (2) the compliance of domestic and foreign air carriers with respect to item (1) of this proviso.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, \$26,324,500: *Provided*, That notwithstanding any other provision of law, not to exceed \$1,250,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2008, to result in a final appropriation from the general fund estimated at no more than \$25,074,500.

GENERAL PROVISIONS—DEPARTMENT OF TRANSPORTATION

(INCLUDING TRANSFERS OF FUNDS)

(INCLUDING RESCISSIONS)

SEC. 180. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 181. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 182. None of the funds in this Act shall be available for salaries and expenses of more than 110 political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 183. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 184. (a) No recipient of funds made available in this Act shall disseminate personal information (as defined in 18 U.S.C. 2725(3)) obtained by a State department of motor vehicles in connection with a motor vehicle record as defined in 18 U.S.C. 2725(1), except as provided in 18 U.S.C. 2721 for a use permitted under 18 U.S.C. 2721.

(b) Notwithstanding subsection (a), the Secretary shall not withhold funds provided in this Act for any grantee if a State is in noncompliance with this provision.

SEC. 185. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Federal-Aid Highways" account, the Federal Transit

Administration's "Research and University Research Centers" account, and to the Federal Railroad Administration's "Safety and Operations" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 186. Funds provided or limited in this Act under the appropriate accounts within the Federal Highway Administration, the Federal Railroad Administration and the Federal Transit Administration shall be made available for the eligible programs, projects and activities at the level of 98 percent of the corresponding amounts identified in the explanatory statement accompanying this Act for the "Delta Regional Transportation Development Program", "Ferry Boats and Ferry Terminal Facilities", "Federal Lands", "Interstate Maintenance Discretionary", "Transportation, Community and System Preservation Program", "Rail Line Relocation and Improvement Program", "Rail-highway crossing hazard eliminations", "Alternatives analysis", and "Bus and bus facilities": *Provided*, That amounts authorized within the Federal Highway Administration for fiscal year 2008 for the Interstate Maintenance Discretionary program under section 118(c) of title 23, United States Code, the Ferry Boats and Ferry Terminal Facilities program under section 147 of title 23, United States Code (excluding the set-aside for projects on the National Highway System authorized by section 147(b) of such title), the Public Lands Highways Discretionary program under section 202(b)(1)(A) of title 23, United States Code, and the Transportation, Community and System Preservation program under section 1117 of Public Law 109-59 in excess of the amounts so set aside by the first clause of this section for such programs, projects and activities in the explanatory statement accompanying this Act are rescinded: *Provided further*, That amounts authorized within the Federal Railroad Administration for fiscal year 2008 for Rail-highway Crossing Hazard Eliminations under section 104(d)(2)(A) of title 23, United States Code (excluding the set-aside for certain improvements authorized by section 104(d)(2)(E) of such title), in excess of the amounts so set aside by the first clause of this section for such programs, projects and activities in the explanatory statement accompanying this Act are rescinded.

SEC. 187. Notwithstanding any other provisions of law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

SEC. 188. None of the funds in this Act to the Department of Transportation may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than 3 full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling \$500,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration including the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs: *Provided*, That the Secretary gives concurrent notification to the House and Senate Committees

Notification.
Deadline.

Notification.

on Appropriations for any “quick release” of funds from the emergency relief program: *Provided further*, That no notification shall involve funds that are not available for obligation.

SEC. 189. Rebates, refunds, incentive payments, minor fees and other funds received by the Department of Transportation from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department of Transportation and allocated to elements of the Department of Transportation using fair and equitable criteria and such funds shall be available until expended.

SEC. 190. Amounts made available in this or any other Act that the Secretary determines represent improper payments by the Department of Transportation to a third party contractor under a financial assistance award, which are recovered pursuant to law, shall be available—

(1) to reimburse the actual expenses incurred by the Department of Transportation in recovering improper payments; and

(2) to pay contractors for services provided in recovering improper payments or contractor support in the implementation of the Improper Payments Information Act of 2002: *Provided*, That amounts in excess of that required for paragraphs (1) and (2)—

(A) shall be credited to and merged with the appropriation from which the improper payments were made, and shall be available for the purposes and period for which such appropriations are available; or

(B) if no such appropriation remains available, shall be deposited in the Treasury as miscellaneous receipts: *Provided*, That prior to the transfer of any such recovery to an appropriations account, the Secretary shall notify the House and Senate Committees on Appropriations of the amount and reasons for such transfer: *Provided further*, That for purposes of this section, the term “improper payments”, has the same meaning as that provided in section 2(d)(2) of Public Law 107-300.

Notification.

SEC. 191. (a) Funds provided in Public Law 102-143 in the item relating to “Highway Bypass Demonstration Project” shall be available for the improvement of Route 101 in the vicinity of Prunedale, Monterey County, California.

(b) Funds provided under section 378 of the Department of Transportation and Related Agencies Appropriations Act, 2001 (Public Law 106-346, 114 Stat. 1356, 1356A-41), for the reconstruction of School Road East in Marlboro Township, New Jersey, shall be available for the Spring Valley Road Project in Marlboro Township, New Jersey.

(c) Notwithstanding any other provision of law, of the unexpended balance of funds made available in title I, chapter III, of Public Law 97-216 (96 Stat. 180, 187) under the heading “Federal-aid Highway Program” to execute contracts to replace or rehabilitate highway bridges, as designated on page 19 of House Report 97-632, \$5,000,000 shall be made available for East Chicago Road Reconstruction, East Chicago, Indiana, and the remaining unexpended funds shall be made available for Calumet Avenue Grade Separation, Munster, Indiana.

(d) Of the unobligated balance appropriated under the heading “Highway Demonstration Projects” in title I of Public Law 102-143 (105 Stat. 929) that was allocated for Routes 70/38 Circle Elimination, New Jersey, \$1,500,000 shall be transferred to, and made available for, the Delaware Street Bridge Replacement Project, (CR640) Bridge over Mathews Branch in West Deptford Township, New Jersey.

SEC. 192. Notwithstanding any other provision of law, if any funds provided in or limited by this Act are subject to a reprogramming action that requires notice to be provided to the House and Senate Committees on Appropriations, said reprogramming action shall be approved or denied solely by the Committees on Appropriations: *Provided*, That the Secretary may provide notice to other congressional committees of the action of the Committees on Appropriations on such reprogramming but not sooner than 30 days following the date on which the reprogramming action has been approved or denied by the House and Senate Committees on Appropriations.

SEC. 193. (a) None of the funds appropriated or otherwise made available under this Act to the Surface Transportation Board of the Department of Transportation may be used to take any action to allow any activity described in subsection (b) in a case, matter, or declaratory order involving a railroad, or an entity claiming or seeking authority to operate as a railroad, unless the Board receives written assurance from the Governor, or the Governor’s designee, of the State in which such activity will occur that such railroad or entity has agreed to comply with State and local regulations that establish public health, safety, and environmental standards for the activities described in subsection (b), other than zoning laws or regulations.

(b) Activities referred to in subsection (a) are activities that occur at a solid waste rail transfer facility involving—

(1) the collection, storage, or transfer of solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) outside of original shipping containers; or

(2) the separation or processing of solid waste (including baling, crushing, compacting, and shredding).

SEC. 194. None of the funds appropriated or otherwise made available under this Act may be used by the Surface Transportation Board of the Department of Transportation to charge or collect any filing fee for rate complaints filed with the Board in an amount in excess of the amount authorized for district court civil suit filing fees under section 1914 of title 28, United States Code.

SEC. 195. Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall establish and maintain on the homepage of the Internet website of the Department of Transportation—

(1) a direct link to the Internet website of the Office of Inspector General of the Department of Transportation; and

(2) a mechanism by which individuals may anonymously report cases of waste, fraud, or abuse with respect to the Department of Transportation.

SEC. 196. None of the funds appropriated or otherwise made available by this Act may be obligated or expended by the Administrator of the Federal Aviation Administration to displace, reassign, reduce the salary of, or subject to a reduction in force any employee at the Academy or discontinue the use of the FAA Academy as

Deadline.
Website.
5 USC app. 6
note.

the primary training facility for air traffic controller training as a result of implementing the Air Traffic Control Optimum Training Solution in its entirety, prior to September 30, 2008.

SEC. 197. PROHIBITION ON IMPOSITION AND COLLECTION OF TOLLS ON CERTAIN HIGHWAYS CONSTRUCTED USING FEDERAL FUNDS. (a) DEFINITIONS.—In this section:

(1) FEDERAL HIGHWAY FACILITY.—

(A) IN GENERAL.—The term “Federal highway facility” means—

(i) any highway, bridge, or tunnel on the Interstate System that is constructed using Federal funds; or

(ii) any United States highway.

(B) EXCLUSION.—The term “Federal highway facility” does not include any right-of-way for any highway, bridge, or tunnel described in subparagraph (A).

(2) TOLLING PROVISION.—The term “tolling provision” means section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212);

(b) PROHIBITION.—

(1) IN GENERAL.—None of the funds made available by this Act shall be used to consider or approve an application to permit the imposition or collection of any toll on any portion of a Federal highway facility in the State of Texas—

(A)(i) that is in existence on the date of enactment of this Act; and

(ii) on which no toll is imposed or collected under a tolling provision on that date of enactment; or

(B) that would result in the Federal highway facility having fewer non-toll lanes than before the date on which the toll was first imposed or collected.

(2) EXEMPTION.—Paragraph (1) shall not apply to the imposition or collection of a toll on a Federal highway facility—

(A) on which a toll is imposed or collected under a tolling provision on the date of enactment of this Act; or

(B) that is constructed, under construction, or the subject of an application for construction submitted to the Secretary, after the date of enactment of this Act.

(c) STATE BUY-BACK.—None of the funds made available by this Act shall be used to impose or collect a toll on a Federal highway facility in the State of Texas that is purchased by the State of Texas on or after the date of enactment of this Act.

SEC. 198. Notwithstanding any other provision of law, the funding made available for the Schuylkill Valley Metro project through the Department of Transportation Appropriations Acts for Federal Fiscal Years 2004 and 2005 shall remain available for that project during fiscal year 2008.

This title may be cited as the “Department of Transportation Appropriations Act, 2008”.

Department of
Housing and
Urban
Development
Appropriations
Act, 2008.

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

EXECUTIVE DIRECTION

Notification.

Notification.

Notification.

For necessary salaries and expenses for Executive Direction, \$24,980,000, of which not to exceed \$3,930,000 shall be available for the immediate Office of the Secretary and Deputy Secretary; not to exceed \$1,580,000 shall be available for the Office of Hearings and Appeals; not to exceed \$510,000 shall be available for the Office of Small and Disadvantaged Business Utilization, not to exceed \$725,000 shall be available for the immediate Office of the Chief Financial Officer; not to exceed \$1,155,000 shall be available for the immediate Office of the General Counsel; not to exceed \$2,670,000 shall be available to the Office of the Assistant Secretary for Congressional and Intergovernmental Relations; not to exceed \$2,520,000 shall be for the Office of the Assistant Secretary for Public Affairs; not to exceed \$1,630,000 shall be available for the Office of the Assistant Secretary for Administration; not to exceed \$1,620,000 shall be available to the Office of the Assistant Secretary for Public and Indian Housing; not to exceed \$1,520,000 shall be available to the Office of the Assistant Secretary for Community Planning and Development; not to exceed \$3,600,000 shall be available to the Office of the Assistant Secretary for Housing, Federal Housing Commissioner; not to exceed \$1,570,000 shall be available to the Office of the Assistant Secretary for Policy Development and Research; and not to exceed \$1,950,000 shall be available to the Office of the Assistant Secretary for Fair Housing and Equal Opportunity: *Provided*, That the Secretary of the Department of Housing and Urban Development is authorized to transfer funds appropriated for any office funded under this heading to any other office funded under this heading following the written notification to the House and Senate Committees on Appropriations: *Provided further*, That no appropriation for any office shall be increased or decreased by more than 5 percent by all such transfers: *Provided further*, That notice of any change in funding greater than 5 percent shall be submitted for prior approval to the House and Senate Committees on Appropriations: *Provided further*, That the Secretary shall provide the Committees on Appropriations quarterly written notification regarding the status of pending congressional reports: *Provided further*, That not to exceed \$25,000 of the amount made available under this paragraph for the immediate Office of the Secretary shall be available for official reception and representation expenses as the Secretary may determine.

ADMINISTRATION, OPERATIONS AND MANAGEMENT

For necessary salaries and expenses for administration, operations and management for the Department of Housing and Urban Development, \$493,630,000, of which not to exceed \$69,070,000 shall be available for the personnel compensation and benefits of the Office of Administration; not to exceed \$10,630,000 shall be available for the personnel compensation and benefits of the Office of Departmental Operations and Coordination; not to exceed \$51,300,000 shall be available for the personnel compensation and benefits of the Office of Field Policy and Management; not to exceed \$12,370,000 shall be available for the personnel compensation and

benefits of the Office of the Chief Procurement Officer; not to exceed \$31,600,000 shall be available for the personnel compensation and benefits of the remaining staff in the Office of the Chief Financial Officer; not to exceed \$80,670,000 shall be available for the personnel compensation and benefits of the remaining staff of the Office of the General Counsel; not to exceed \$2,810,000 shall be available for the personnel compensation and benefits of the Office of Departmental Equal Employment Opportunity; not to exceed \$1,160,000 shall be available for the personnel compensation and benefits for the Center for Faith-Based and Community Initiatives; not to exceed \$234,020,000 shall be available for non-personnel expenses of the Department of Housing and Urban Development: *Provided*, That, funds provided under the heading may be used for necessary administrative and non-administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109: *Provided further*, That notwithstanding any other provision of law, funds appropriated under this heading may be used for advertising and promotional activities that support the housing mission area: *Provided further*, That the Secretary of Housing and Urban Development is authorized to transfer funds appropriated for any office included in Administration, Operations and Management to any other office included in Administration, Operations and Management only after such transfer has been submitted to, and received prior written approval by, the House and Senate Committees on Appropriations: *Provided further*, That no appropriation for any office shall be increased or decreased by more than 10 percent by all such transfers.

PUBLIC AND INDIAN HOUSING PERSONNEL COMPENSATION AND
BENEFITS

For necessary personnel compensation and benefits expenses of the Office of Public and Indian Housing, \$173,310,000.

COMMUNITY PLANNING AND DEVELOPMENT PERSONNEL
COMPENSATION AND BENEFITS

For necessary personnel compensation and benefits expenses of the Office of Community Planning and Development mission area, \$90,310,000.

HOUSING PERSONNEL COMPENSATION AND BENEFITS

For necessary personnel compensation and benefits expenses of the Office of Housing, \$334,450,000.

OFFICE OF THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

PERSONNEL COMPENSATION AND BENEFITS

For necessary personnel compensation and benefits expenses of the Office of the Government National Mortgage Association, \$8,250,000.

POLICY DEVELOPMENT AND RESEARCH PERSONNEL COMPENSATION
AND BENEFITS

For necessary personnel compensation and benefits expenses of the Office of Policy Development and Research, \$16,950,000.

FAIR HOUSING AND EQUAL OPPORTUNITY PERSONNEL COMPENSATION
AND BENEFITS

For necessary personnel compensation and benefits expenses of the Office of Fair Housing and Equal Opportunity, \$63,140,000.

OFFICE OF HEALTHY HOMES AND LEAD HAZARD CONTROL

PERSONNEL COMPENSATION AND BENEFITS

For necessary personnel compensation and benefits expenses of the Office of Healthy Homes and Lead Hazard Control, \$6,980,000.

PUBLIC AND INDIAN HOUSING

TENANT-BASED RENTAL ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For activities and assistance for the provision of tenant-based rental assistance authorized under the United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.) (“the Act” herein), not otherwise provided for, \$16,391,000,000, to remain available until expended, of which \$12,233,000,000 shall be available on October 1, 2007, and \$4,158,000,000 shall be available on October 1, 2008: *Provided*, That the amounts made available under this heading are provided as follows:

(1) \$14,694,506,000 for renewals of expiring section 8 tenant-based annual contributions contracts (including renewals of enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the Act): *Provided*, That notwithstanding any other provision of law, from amounts provided under this paragraph and any carryover, the Secretary for the calendar year 2008 funding cycle shall provide renewal funding for each public housing agency based on voucher management system (VMS) leasing and cost data for the most recent Federal fiscal year and by applying the 2008 Annual Adjustment Factor as established by the Secretary, and by making any necessary adjustments for the costs associated with deposits to family self-sufficiency program escrow accounts or the first-time renewal of tenant protection or HOPE VI vouchers or vouchers that were not in use during the 12-month period in order to be available to meet a commitment pursuant to section 8(o)(13) of the Act: *Provided further*, That notwithstanding the first proviso, except for applying the 2008 Annual Adjustment Factor and making any other specified adjustments, public housing agencies specified in category 1 below shall receive funding for calendar year 2008 based on the higher of the amounts the agencies would receive under the first proviso or the amounts the agencies received in calendar year 2007, and public housing agencies specified in categories 2 and 3 below shall receive funding for calendar year

2008 equal to the amounts the agencies received in calendar year 2007, except that public housing agencies specified in categories 1 and 2 below shall receive funding under this proviso only if, and to the extent that, any such public housing agency submits a plan, approved by the Secretary, that demonstrates that the agency can effectively use within 12 months the funding that the agency would receive under this proviso that is in addition to the funding that the agency would receive under the first proviso: (1) public housing agencies that are eligible for assistance under section 901 in Public Law 109-148 (119 Stat. 2781) or are located in the same counties as those eligible under section 901 and operate voucher programs under section 8(o) of the United States Housing Act of 1937 but do not operate public housing under section 9 of such Act, and any public housing agency that otherwise qualifies under this category must demonstrate that they have experienced a loss of rental housing stock as a result of the 2005 hurricanes; (2) public housing agencies that would receive less funding under the first proviso than they would receive under this proviso and that have been placed in receivership within the 24 months preceding the date of enactment of this Act; and (3) public housing agencies that spent more in calendar year 2007 than the total of the amounts of any such public housing agency's allocation amount for calendar year 2007 and the amount of any such public housing agency's available housing assistance payments undesignated funds balance from calendar year 2006 and the amount of any such public housing agency's available administrative fees undesignated funds balance through calendar year 2007: *Provided further*, That notwithstanding the first two provisos under this paragraph, the amount of calendar year 2008 renewal funding for any agency otherwise authorized under such provisos shall be reduced by the amount of any unusable amount (as determined by the Secretary, due to limits in this paragraph with respect to an agency's authorized level of units under contract) in such agency's net restricted assets account, in accordance with the most recent VMS data in calendar year 2007 that is verifiable and complete, which exceeds 7 percent of the amount of renewal funding allocated to the agency for the calendar year 2007 funding cycle pursuant to section 21033 of Public Law 110-5, as amended by section 4802 of Public Law 110-28: *Provided further*, That up to \$50,000,000 shall be available only: (1) to adjust the allocations for public housing agencies, after application for an adjustment by a public housing agency that experienced a significant increase, as determined by the Secretary, in renewal costs from portability under section 8(r) of the Act of tenant-based rental assistance; and (2) for adjustments for public housing agencies with voucher leasing rates at the end of the calendar year that exceed the average leasing for the 12-month period used to establish the allocation: *Provided further*, That none of the funds provided under this paragraph may be used to support a total number of unit months under lease which exceeds a public housing agency's authorized level of units under contract: *Provided further*, That the Secretary shall, to the extent necessary to stay within the amount specified under this paragraph, after subtracting \$723,257,000 from such amount, pro rate each public housing

Notification.
Deadline.

agency's allocation otherwise established pursuant to this paragraph: *Provided further*, That except as provided in the last proviso, the entire amount specified under this paragraph, except for \$723,257,000 shall be obligated to the public housing agencies based on the allocation and pro rata method described above and the Secretary shall notify public housing agencies of their annual budget not later than 60 days after enactment of this Act: *Provided further*, That the Secretary may extend the 60 day notification period with the written approval of the House and Senate Committees on Appropriations: *Provided further*, That public housing agencies participating in the Moving to Work demonstration shall be funded pursuant to their Moving to Work agreements and shall be subject to the same pro rata adjustments under the previous proviso.

Vouchers.

(2) \$200,000,000 for section 8 rental assistance for relocation and replacement of housing units that are demolished or disposed of pursuant to the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134), conversion of section 23 projects to assistance under section 8, the family unification program under section 8(x) of the Act, relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency, enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the Act, HOPE VI vouchers, mandatory and voluntary conversions, and tenant protection assistance including replacement and relocation assistance: *Provided*, That the Secretary shall provide replacement vouchers for all units that were occupied within the previous 24 months that cease to be available as assisted housing due to demolition, disposition, or conversion, subject only to the availability of funds.

(3) \$49,000,000 for family self-sufficiency coordinators under section 23 of the Act.

(4) up to \$6,494,000 may be transferred to the Working Capital Fund.

(5) \$1,351,000,000 for administrative and other expenses of public housing agencies in administering the section 8 tenant-based rental assistance program and which up to \$35,000,000 shall be available to the Secretary to allocate to public housing agencies that need additional funds to administer their section 8 programs, with up to \$30,000,000 to be for fees associated with section 8 tenant protection rental assistance: *Provided*, That no less than \$1,316,000,000 of the amount provided in this paragraph shall be allocated for the calendar year 2008 funding cycle on a basis to public housing agencies as provided in section 8(q) of the Act as in effect immediately before the enactment of the Quality Housing and Work Responsibility Act of 1998 (Public Law 105-276).

(6) \$20,000,000 for incremental voucher assistance through the Family Unification Program.

(7) \$75,000,000 for incremental rental voucher assistance for use through a supported housing program administered in conjunction with the Department of Veterans Affairs as authorized under section 8(o)(19) of the United States Housing Act of 1937: *Provided*, That the Secretary of Housing and Urban Development shall make such funding available, notwithstanding section 204 (competition provision) of this title,

to public housing agencies that partner with eligible VA Medical Centers or other entities as designated by the Secretary of the Department of Veterans Affairs, based on geographical need for such assistance as identified by the Secretary of the Department of Veterans Affairs, public housing agency administrative performance, and other factors as specified by the Secretary of Housing and Urban Development in consultation with the Secretary of the Department of Veterans Affairs: *Provided further*, That the Secretary of Housing and Urban Development may waive, or specify alternative requirements for (in consultation with the Secretary of the Department of Veterans Affairs), any provision of any statute or regulation that the Secretary of Housing and Urban Development administers in connection with the use of funds made available under this paragraph (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective delivery and administration of such voucher assistance: *Provided further*, That assistance made available under this paragraph shall continue to remain available for homeless veterans upon turn-over.

Waiver authority.

(8) \$30,000,000 for incremental vouchers under section 8 of the Act for nonelderly disabled families affected by the designation of a public housing development under section 7 of the Act, the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992 (42 U.S.C. 13611), or the restriction of occupancy to elderly families in accordance with section 658 of such Act (42 U.S.C. 13618), and to the extent the Secretary determines that such amount is not needed to fund applications for such affected families, for other nonelderly disabled families.

HOUSING CERTIFICATE FUND

(RESCISSION)

Of the unobligated balances, including recaptures and carry-over, remaining from funds appropriated to the Department of Housing and Urban Development under this heading, the heading “Annual Contributions for Assisted Housing”, the heading “Tenant-Based Rental Assistance”, and the heading “Project-Based Rental Assistance”, for fiscal year 2007 and prior years, \$1,250,000,000 are rescinded, to be effected by the Secretary of Housing and Urban Development no later than September 30, 2008: *Provided*, That if insufficient funds exist under these headings, the remaining balance may be derived from any other heading under this title: *Provided further*, That the Secretary shall notify the Committees on Appropriations 30 days in advance of the rescission of any funds derived from the headings specified above: *Provided further*, That any such balances governed by reallocation provisions under the statute authorizing the program for which the funds were originally appropriated shall be available for the rescission: *Provided further*, That any obligated balances of contract authority from fiscal year 1974 and prior that have been terminated shall be cancelled.

Deadline.

Notification.
Deadline.

PROJECT-BASED RENTAL ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For activities and assistance for the provision of project-based subsidy contracts under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) (“the Act”), not otherwise provided for, \$6,381,810,000, to remain available until expended: *Provided*, That the amounts made available under this heading are provided as follows:

(1) Up to \$6,139,122,000 for expiring or terminating section 8 project-based subsidy contracts (including section 8 moderate rehabilitation contracts), for amendments to section 8 project-based subsidy contracts (including section 8 moderate rehabilitation contracts), for contracts entered into pursuant to section 441 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11401), for renewal of section 8 contracts for units in projects that are subject to approved plans of action under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990, and for administrative and other expenses associated with project-based activities and assistance funded under this paragraph.

(2) Not less than \$238,728,000 but not to exceed \$286,230,000 for performance-based contract administrators for section 8 project-based assistance: *Provided*, That the Secretary of Housing and Urban Development may also use such amounts for performance-based contract administrators for: interest reduction payments pursuant to section 236(a) of the National Housing Act (12 U.S.C. 1715z–1(a)); rent supplement payments pursuant to section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); section 236(f)(2) rental assistance payments (12 U.S.C. 1715z–1(f)(2)); project rental assistance contracts for the elderly under section 202(c)(2) of the Housing Act of 1959 (12 U.S.C. 1701q); project rental assistance contracts for supportive housing for persons with disabilities under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(d)(2)); project assistance contracts pursuant to section 202(h) of the Housing Act of 1959 (Public Law 86–372; 73 Stat. 667); and loans under section 202 of the Housing Act of 1959 (Public Law 86–372; 73 Stat. 667).

(3) Not to exceed \$3,960,000 may be transferred to the Working Capital Fund.

(4) Amounts recaptured under this heading, the heading “Annual Contributions for Assisted Housing”, or the heading “Housing Certificate Fund” may be used for renewals of or amendments to section 8 project-based contracts or for performance-based contract administrators, notwithstanding the purposes for which such amounts were appropriated.

PUBLIC HOUSING CAPITAL FUND

(INCLUDING TRANSFER OF FUNDS)

For the Public Housing Capital Fund Program to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of

1937 (42 U.S.C. 1437g) (the “Act”) \$2,438,964,000, to remain available until September 30, 2011: *Provided*, That notwithstanding any other provision of law or regulation, during fiscal year 2008 the Secretary of Housing and Urban Development may not delegate to any Department official other than the Deputy Secretary and the Assistant Secretary for Public and Indian Housing any authority under paragraph (2) of section 9(j) regarding the extension of the time periods under such section: *Provided further*, That for purposes of such section 9(j), the term “obligate” means, with respect to amounts, that the amounts are subject to a binding agreement that will result in outlays, immediately or in the future: *Provided further*, That of the total amount provided under this heading, up to \$12,000,000 shall be for carrying out activities under section 9(h) of such Act; not to exceed \$16,847,000 may be transferred to the Working Capital Fund; and up to \$15,345,000 shall be to support the ongoing Public Housing Financial and Physical Assessment activities of the Real Estate Assessment Center (REAC): *Provided further*, That no funds may be used under this heading for the purposes specified in section 9(k) of the Act: *Provided further*, That of the total amount provided under this heading, not to exceed \$18,500,000 shall be available for the Secretary to make grants, notwithstanding section 204 of this Act, to public housing agencies for emergency capital needs resulting from unforeseen or unpreventable emergencies and natural disasters occurring in fiscal year 2008: *Provided further*, That of the total amount provided under this heading, \$40,000,000 shall be for supportive services, service coordinators and congregate services as authorized by section 34 of the Act (42 U.S.C. 1437z-6) and the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.): *Provided further*, That of the total amount provided under this heading up to \$8,820,000 is to support the costs of administrative and judicial receiverships: *Provided further*, That from the funds made available under this heading, the Secretary shall provide bonus awards in fiscal year 2008 to public housing agencies that are designated high performers.

PUBLIC HOUSING OPERATING FUND

For 2008 payments to public housing agencies for the operation and management of public housing, as authorized by section 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(e)), \$4,200,000,000; of which \$5,940,000 shall be for competitive grants and contracts to third parties for the provision of technical assistance to public housing agencies related to the transition and implementation of asset-based management in public housing: *Provided*, That, in fiscal year 2008 and all fiscal years hereafter, no amounts under this heading in any appropriations Act may be used for payments to public housing agencies for the costs of operation and management of public housing for any year prior to the current year of such Act: *Provided further*, That no funds may be used under this heading for the purposes specified in section 9(k) of the United States Housing Act of 1937.

42 USC 1437g
note.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

For grants to public housing agencies for demolition, site revitalization, replacement housing, and tenant-based assistance grants to projects as authorized by section 24 of the United States

Housing Act of 1937 (42 U.S.C. 1437v), \$100,000,000, to remain available until September 30, 2008, of which the Secretary of Housing and Urban Development shall use \$2,400,000 for technical assistance and contract expertise, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the department and of public housing agencies and to residents: *Provided*, That none of such funds shall be used directly or indirectly by granting competitive advantage in awards to settle litigation or pay judgments, unless expressly permitted herein.

NATIVE AMERICAN HOUSING BLOCK GRANTS

For the Native American Housing Block Grants program, as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4111 et seq.), \$630,000,000, to remain available until expended: *Provided*, That, notwithstanding the Native American Housing Assistance and Self-Determination Act of 1996, to determine the amount of the allocation under title I of such Act for each Indian tribe, the Secretary shall apply the formula under section 302 of such Act with the need component based on single-race Census data and with the need component based on multi-race Census data, and the amount of the allocation for each Indian tribe shall be the greater of the two resulting allocation amounts: *Provided further*, That of the amounts made available under this heading, \$2,000,000 shall be contracted for assistance for a national organization representing Native American Housing interests for providing training and technical assistance to Indian Housing authorities and tribally designated housing entities as authorized under NAHASDA; and \$4,250,000 shall be to support the inspection of Indian housing units, contract expertise, training, and technical assistance in the training, oversight, and management of such Indian housing and tenant-based assistance, including up to \$300,000 for related travel: *Provided further*, That of the amount provided under this heading, \$1,980,000 shall be made available for the cost of guaranteed notes and other obligations, as authorized by title VI of NAHASDA: *Provided further*, That such costs, including the costs of modifying such notes and other obligations, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize the total principal amount of any notes and other obligations, any part of which is to be guaranteed, not to exceed \$17,000,000.

NATIVE HAWAIIAN HOUSING BLOCK GRANT

For the Native Hawaiian Housing Block Grant program, as authorized under title VIII of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111 et seq.), \$9,000,000, to remain available until expended, of which \$300,000 shall be for training and technical assistance activities.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a), \$7,450,000, to remain available until expended:

Provided, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, up to \$367,000,000.

NATIVE HAWAIIAN HOUSING LOAN GUARANTEE FUND PROGRAM
ACCOUNT

For the cost of guaranteed loans, as authorized by section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13b), \$1,044,000, to remain available until expended: *Provided*, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$41,504,255.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Housing Opportunities for Persons with AIDS program, as authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901 et seq.), \$300,100,000, to remain available until September 30, 2009, except that amounts allocated pursuant to section 854(c)(3) of such Act shall remain available until September 30, 2010: *Provided*, That the Secretary shall renew all expiring contracts for permanent supportive housing that were funded under section 854(c)(3) of such Act that meet all program requirements before awarding funds for new contracts and activities authorized under this section: *Provided further*, That the Secretary may use not to exceed \$1,485,000 of the funds under this heading for training, oversight, and technical assistance activities; and not to exceed \$1,485,000 may be transferred to the Working Capital Fund.

RURAL HOUSING AND ECONOMIC DEVELOPMENT

For the Office of Rural Housing and Economic Development in the Department of Housing and Urban Development, \$17,000,000, to remain available until expended, which amount shall be competitively awarded by September 1, 2008, to Indian tribes, State housing finance agencies, State community and/or economic development agencies, local rural nonprofits and community development corporations to support innovative housing and economic development activities in rural areas.

COMMUNITY DEVELOPMENT FUND

(INCLUDING TRANSFER OF FUNDS)

For assistance to units of State and local government, and to other entities, for economic and community development activities, and for other purposes, \$3,865,800,000, to remain available until September 30, 2010, unless otherwise specified: *Provided*, That of the amount provided, \$3,593,430,000 is for carrying out

the community development block grant program under title I of the Housing and Community Development Act of 1974, as amended (the “Act” herein) (42 U.S.C. 5301 et seq.): *Provided further*, That unless explicitly provided for under this heading (except for planning grants provided in the second paragraph and amounts made available under the third paragraph), not to exceed 20 percent of any grant made with funds appropriated under this heading shall be expended for planning and management development and administration: *Provided further*, That not to exceed \$1,570,000 may be transferred to the Working Capital Fund: *Provided further*, That \$3,000,000 is for technical assistance as authorized by section 107(b)(4) of such Act: *Provided further*, That \$62,000,000 shall be for grants to Indian tribes notwithstanding section 106(a)(1) of such Act, of which, notwithstanding any other provision of law (including section 305 of this Act), up to \$3,960,000 may be used for emergencies that constitute imminent threats to health and safety.

Of the amount made available under this heading, \$179,830,000 shall be available for grants for the Economic Development Initiative (EDI) to finance a variety of targeted economic investments in accordance with the terms and conditions specified in the explanatory statement accompanying this Act: *Provided*, That the amount made available for each grant shall be at the level of 98 percent of the corresponding amount cited in said explanatory statement: *Provided further*, That none of the funds provided under this paragraph may be used for program operations: *Provided further*, That, for fiscal years 2006, 2007, and 2008, no unobligated funds for EDI grants may be used for any purpose except acquisition, planning, design, purchase of equipment, revitalization, redevelopment or construction.

Of the amount made available under this heading, \$25,970,000 shall be available for neighborhood initiatives that are utilized to improve the conditions of distressed and blighted areas and neighborhoods, to stimulate investment, economic diversification, and community revitalization in areas with population outmigration or a stagnating or declining economic base, or to determine whether housing benefits can be integrated more effectively with welfare reform initiatives: *Provided*, That amounts made available under this paragraph shall be provided in accordance with the terms and conditions specified in the explanatory statement accompanying this Act: *Provided further*, That the amount made available for each initiative shall be at the level of 98 percent of the corresponding amount cited in said explanatory statement.

The statement of managers correction referenced in the second paragraph under this heading in title III of division A of Public Law 109-115 is deemed to be amended with respect to item number 846 by striking “Mahonoy City, Pennsylvania for improvements to West Market Street” and inserting “Mahanoy City, Pennsylvania for improvements to Centre Street”.

The statement of managers correction referenced in the second paragraph under this heading in title III of division A of Public Law 109-115 is deemed to be amended with respect to item number 250 by striking “for renovation and construction of a resource center” and inserting “for construction of a homeless shelter”.

The statement of managers correction referenced in the second paragraph under this heading in title III of division A of Public Law 109-115 is deemed to be amended with respect to item number

713 by striking “for construction of a senior center” and inserting “renovation and expansion of facilities”.

The statement of managers correction referenced in the second paragraph under this heading in title III of division A of Public Law 109-115 is deemed to be amended with respect to item number 844 by striking “Liverpool Township” and inserting “Liverpool Borough”.

The referenced statement of managers under this heading in title II of division I of Public Law 108-447 is deemed to be amended with respect to item number 36 by striking “respite care facility” and inserting “rehabilitative care facility for the developmentally disabled”.

The referenced statement of managers under this heading in title II of division I of Public Law 108-7 is deemed to be amended with respect to item number 608 by striking “construct” and inserting “purchase and make improvements to facilities for”.

The referenced statement of managers under this heading in title II of division I of Public Law 108-447 is deemed to be amended with respect to item number 521 by striking “Missouri” and inserting “Metropolitan Statistical Area”.

The referenced statement of managers under the heading “Community Development Fund” in title II of Public Law 108-447 is deemed to be amended with respect to item number 203 by striking “equipment” and inserting “renovation and construction”.

The referenced statement of managers under the heading “Community Development Fund” in title III of division A of Public Law 109-115 is deemed to be amended with respect to item number 696 by striking “a Small Business Development Center” and inserting “for revitalization costs at the College of Agriculture Biotechnology and Natural Resources”.

The referenced statement of managers under the heading “Community Development Fund” in title III of division A of Public Law 109-115 is deemed to be amended with respect to item number 460 by striking “Maine-Mawoshen One Country, Two Worlds Project” and inserting “Sharing Maine’s Maritime Heritage Project—Construction and access to exhibits”.

The referenced statement of managers under the heading “Community Development Fund” in title III of division A of Public Law 109-115 is deemed to be amended with respect to item number 914 by striking “the Pastime Theatre in Bristol, Rhode Island for building improvements” and inserting “the Institute for the Study and Practice of Nonviolence in Providence, Rhode Island for building renovations”.

The referenced statement of managers under the heading “Community Development Fund” in title III of division A of Public Law 109-115 is deemed to be amended with respect to item number 918 by striking “South Kingstown” and inserting “Washington County”.

The referenced statement of managers under the heading “Community Development Fund” in title III of division A of Public Law 109-115 is deemed to be amended with respect to item number 624 by striking “for the construction of a new technology building” and inserting “for renovations to the Wheeler Community Center”.

The referenced statement of the managers under this heading in Public Law 109-115 is deemed to be amended with respect to item number 1065 by inserting “South” prior to “Burlington”.

The referenced statement of managers under the heading “Community Development Fund” in title III of division A of Public Law 109–115 is deemed to be amended with respect to item number 102 by striking “for preservation of the CA Mining and Mineral Museum” and inserting “for planning, design, and construction of the CA Mining and Mineral Museum” in its place.

COMMUNITY DEVELOPMENT LOAN GUARANTEES PROGRAM ACCOUNT

For the cost of guaranteed loans, \$4,500,000, to remain available until September 30, 2009, as authorized by section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$205,000,000, notwithstanding any aggregate limitation on outstanding obligations guaranteed in section 108(k) of the Housing and Community Development Act of 1974, as amended.

BROWNFIELDS REDEVELOPMENT

For competitive economic development grants, as authorized by section 108(q) of the Housing and Community Development Act of 1974, as amended, for Brownfields redevelopment projects, \$10,000,000, to remain available until September 30, 2009: *Provided*, That no funds made available under this heading may be used to establish loan loss reserves for the section 108 Community Development Loan Guarantee program.

HOME INVESTMENT PARTNERSHIPS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, \$1,704,000,000, to remain available until September 30, 2010, of which not to exceed \$3,465,000 may be transferred to the Working Capital Fund: *Provided*, That up to \$12,500,000 shall be available for technical assistance: *Provided further*, That of the total amount provided in this paragraph, up to \$50,000,000 shall be available for housing counseling under section 106 of the Housing and Urban Development Act of 1968: *Provided further*, That, from amounts appropriated or otherwise made available under this heading, \$10,000,000 may be made available to promote broader participation in homeownership through the American Dream Downpayment Initiative, as such initiative is set forth under section 271 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12821).

SELF-HELP AND ASSISTED HOMEOWNERSHIP OPPORTUNITY PROGRAM

For the Self-Help and Assisted Homeownership Opportunity Program, as authorized under section 11 of the Housing Opportunity Program Extension Act of 1996, as amended, \$60,000,000, to remain available until September 30, 2010: *Provided*, That of the total amount provided under this heading, \$26,500,000 shall be made available to the Self-Help and Assisted Homeownership Opportunity

Program as authorized under section 11 of the Housing Opportunity Program Extension Act of 1996, as amended: *Provided further*, That \$33,500,000 shall be made available for the first four capacity building activities authorized under section 4(a) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note), of which up to \$5,000,000 may be made available for rural capacity building activities.

HOMELESS ASSISTANCE GRANTS
(INCLUDING TRANSFER OF FUNDS)

For the emergency shelter grants program as authorized under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act, as amended; the supportive housing program as authorized under subtitle C of title IV of such Act; the section 8 moderate rehabilitation single room occupancy program as authorized under the United States Housing Act of 1937, as amended, to assist homeless individuals pursuant to section 441 of the McKinney-Vento Homeless Assistance Act; and the shelter plus care program as authorized under subtitle F of title IV of such Act, \$1,585,990,000, of which \$1,580,990,000 shall remain available until September 30, 2010, and of which \$5,000,000 shall remain available until expended for rehabilitation projects with ten-year grant terms: *Provided*, That of the amounts provided, \$25,000,000 shall be set aside to conduct a demonstration program for the rapid re-housing of homeless families: *Provided further*, That of amounts made available in the preceding proviso, not to exceed \$1,250,000 may be used to conduct an evaluation of this demonstration program: *Provided further*, That funding made available for this demonstration program shall be used by the Secretary, expressly for the purposes of providing housing and services to homeless families in order to evaluate the effectiveness of the rapid re-housing approach in addressing the needs of homeless families: *Provided further*, That not less than 30 percent of funds made available, excluding amounts provided for renewals under the shelter plus care program, shall be used for permanent housing for individuals and families: *Provided further*, That all funds awarded for services shall be matched by 25 percent in funding by each grantee: *Provided further*, That the Secretary shall renew on an annual basis expiring contracts or amendments to contracts funded under the shelter plus care program if the program is determined to be needed under the applicable continuum of care and meets appropriate program requirements and financial standards, as determined by the Secretary: *Provided further*, That all awards of assistance under this heading shall be required to coordinate and integrate homeless programs with other mainstream health, social services, and employment programs for which homeless populations may be eligible, including Medicaid, State Children's Health Insurance Program, Temporary Assistance for Needy Families, Food Stamps, and services funding through the Mental Health and Substance Abuse Block Grant, Workforce Investment Act, and the Welfare-to-Work grant program: *Provided further*, That up to \$8,000,000 of the funds appropriated under this heading shall be available for the national homeless data analysis project and technical assistance: *Provided further*, That not to exceed \$2,475,000 of the funds appropriated under this heading may be transferred to the Working Capital Fund: *Provided further*, That all balances for Shelter Plus

Contracts.

Care renewals previously funded from the Shelter Plus Care Renewal account and transferred to this account shall be available, if recaptured, for Shelter Plus Care renewals in fiscal year 2008.

HOUSING PROGRAMS

HOUSING FOR THE ELDERLY

(INCLUDING TRANSFER OF FUNDS)

For capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance for the elderly under section 202(c)(2) of such Act, including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a 1-year term, and for supportive services associated with the housing, \$735,000,000, to remain available until September 30, 2011, of which up to \$628,850,000 shall be for capital advance and project-based rental assistance awards: *Provided*, That, of the amount provided under this heading, up to \$60,000,000 shall be for service coordinators and the continuation of existing congregate service grants for residents of assisted housing projects, and of which up to \$24,750,000 shall be for grants under section 202b of the Housing Act of 1959 (12 U.S.C. 1701q–2) for conversion of eligible projects under such section to assisted living or related use and for emergency capital repairs as determined by the Secretary: *Provided further*, That of the amount made available under this heading, \$20,000,000 shall be available to the Secretary of Housing and Urban Development only for making competitive grants to private nonprofit organizations and consumer cooperatives for covering costs of architectural and engineering work, site control, and other planning relating to the development of supportive housing for the elderly that is eligible for assistance under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q): *Provided further*, That amounts under this heading shall be available for Real Estate Assessment Center inspections and inspection-related activities associated with section 202 capital advance projects: *Provided further*, That not to exceed \$1,400,000 of the total amount made available under this heading may be transferred to the Working Capital Fund: *Provided further*, That the Secretary may waive the provisions of section 202 governing the terms and conditions of project rental assistance, except that the initial contract term for such assistance shall not exceed 5 years in duration.

Waiver authority.

HOUSING FOR PERSONS WITH DISABILITIES

(INCLUDING TRANSFER OF FUNDS)

For capital advance contracts, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013), for project rental assistance for supportive housing for persons with disabilities under section 811(d)(2) of such Act, including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a 1-year term, and for supportive services associated with the housing for persons with disabilities as authorized by section 811(b)(1) of such Act, and for tenant-based rental

assistance contracts entered into pursuant to section 811 of such Act, \$237,000,000, to remain available until September 30, 2011: *Provided*, That not to exceed \$600,000 may be transferred to the Working Capital Fund: *Provided further*, That, of the amount provided under this heading, \$74,745,000 shall be for amendments or renewal of tenant-based assistance contracts entered into prior to fiscal year 2005 (only one amendment authorized for any such contract): *Provided further*, That all tenant-based assistance made available under this heading shall continue to remain available only to persons with disabilities: *Provided further*, That the Secretary may waive the provisions of section 811 governing the terms and conditions of project rental assistance and tenant-based assistance, except that the initial contract term for such assistance shall not exceed 5 years in duration: *Provided further*, That amounts made available under this heading shall be available for Real Estate Assessment Center Inspections and inspection-related activities associated with section 811 Capital Advance Projects.

Waiver authority.

OTHER ASSISTED HOUSING PROGRAMS

RENTAL HOUSING ASSISTANCE

For amendments to contracts under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) and section 236(f)(2) of the National Housing Act (12 U.S.C. 1715z–1) in State-aided, non-insured rental housing projects, \$27,600,000, to remain available until expended.

RENT SUPPLEMENT

(RESCISSION)

Of the amounts made available under the heading “Rent Supplement” in Public Law 98–63 for amendments to contracts under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) and section 236(f)(2) of the National Housing Act (12 U.S.C. 1715z–1) in State-aided, non-insured rental housing projects, \$37,600,000 are rescinded.

FLEXIBLE SUBSIDY FUND

(TRANSFER OF FUNDS)

From the Rental Housing Assistance Fund, all uncommitted balances of excess rental charges as of September 30, 2007, and any collections made during fiscal year 2008 and all subsequent fiscal years, shall be transferred to the Flexible Subsidy Fund, as authorized by section 236(g) of the National Housing Act.

12 USC 1715z–1
note.

MANUFACTURED HOUSING FEES TRUST FUND

For necessary expenses as authorized by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), up to \$16,000,000, to remain available until expended, to be derived from the Manufactured Housing Fees Trust Fund: *Provided*, That not to exceed the total amount appropriated under this heading shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund pursuant to section 620 of such Act: *Provided further*, That the amount

made available under this heading from the general fund shall be reduced as such collections are received during fiscal year 2008 so as to result in a final fiscal year 2008 appropriation from the general fund estimated at not more than \$0 and fees pursuant to such section 620 shall be modified as necessary to ensure such a final fiscal year 2008 appropriation: *Provided further*, That for the dispute resolution and installation programs, the Secretary of Housing and Urban Development may assess and collect fees from any program participant: *Provided further*, That such collections shall be deposited into the Fund, and the Secretary, as provided herein, may use such collections, as well as fees collected under section 620, for necessary expenses of such Act: *Provided further*, That notwithstanding the requirements of section 620 of such Act, the Secretary may carry out responsibilities of the Secretary under such Act through the use of approved service providers that are paid directly by the recipients of their services.

FEDERAL HOUSING ADMINISTRATION

MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 2008, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of \$185,000,000,000.

During fiscal year 2008, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed \$50,000,000: *Provided*, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under the Mutual Mortgage Insurance Fund.

For administrative contract expenses, \$77,400,000, of which not to exceed \$25,550,000 may be transferred to the Working Capital Fund, and of which up to \$5,000,000 shall be for education and outreach of FHA single family loan products: *Provided*, That to the extent guaranteed loan commitments exceed \$65,500,000,000 on or before April 1, 2008, an additional \$1,400 for administrative contract expenses shall be available for each \$1,000,000 in additional guaranteed loan commitments (including a pro rata amount for any amount below \$1,000,000), but in no case shall funds made available by this proviso exceed \$30,000,000.

GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z-3 and 1735c), including the cost of loan guarantee modifications, as that term is defined in section 502 of the Congressional Budget Act of 1974, as amended, \$8,600,000, to remain available until expended: *Provided*, That commitments to guarantee loans shall not exceed \$45,000,000,000 in total loan principal, any part of which is to be guaranteed.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238, and 519(a) of the National

Housing Act, shall not exceed \$50,000,000, of which not to exceed \$30,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed \$20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

For administrative contract expenses necessary to carry out the guaranteed and direct loan programs, \$78,111,000, of which not to exceed \$15,692,000 may be transferred to the Working Capital Fund: *Provided*, That to the extent guaranteed loan commitments exceed \$8,426,000,000 on or before April 1, 2008, an additional \$1,980 for administrative contract expenses shall be available for each \$1,000,000 in additional guaranteed loan commitments over \$8,426,000,000 (including a pro rata amount for any increment below \$1,000,000), but in no case shall funds made available by this proviso exceed \$14,400,000.

For discount sales of multifamily real property under sections 207(1) or 246 of the National Housing Act (12 U.S.C. 1713(l), 1715z-11), section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11), or section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a), and for discount loan sales under section 207(k) of the National Housing Act (12 U.S.C. 1713(k)), section 203(k) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(k)), or section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, 1997 (12 U.S.C. 1715z-11a(a)), \$5,000,000, to remain available until September 30, 2009.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

New commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed \$200,000,000,000, to remain available until September 30, 2009.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary of Housing and Urban Development under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, \$51,440,000, to remain available until September 30, 2009: *Provided*, That of the total amount provided under this heading, up to \$5,000,000 shall be for the Partnership for Advancing Technology in Housing Initiative: *Provided further*, That of the funds made available under this heading, \$23,000,000 is for grants pursuant to section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307): *Provided further*, That

activities for the Partnership for Advancing Technology in Housing Initiative shall be administered by the Office of Policy Development and Research.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

Lobbying.

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, \$50,000,000, to remain available until September 30, 2009, of which \$24,000,000 shall be to carry out activities pursuant to such section 561: *Provided*, That notwithstanding 31 U.S.C. 3302, the Secretary may assess and collect fees to cover the costs of the Fair Housing Training Academy, and may use such funds to provide such training: *Provided further*, That no funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan: *Provided further*, That of the funds made available under this heading, \$380,000 shall be available to the Secretary of Housing and Urban Development for the creation and promotion of translated materials and other programs that support the assistance of persons with limited English proficiency in utilizing the services provided by the Department of Housing and Urban Development.

OFFICE OF LEAD HAZARD CONTROL

LEAD HAZARD REDUCTION

Waiver authority.

For the Lead Hazard Reduction Program, as authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, \$145,000,000, to remain available until September 30, 2009, of which \$8,800,000 shall be for the Healthy Homes Initiative, pursuant to sections 501 and 502 of the Housing and Urban Development Act of 1970 that shall include research, studies, testing, and demonstration efforts, including education and outreach concerning lead-based paint poisoning and other housing-related diseases and hazards: *Provided*, That for purposes of environmental review, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act, a grant under the Healthy Homes Initiative, Operation Lead Elimination Action Plan (LEAP), or the Lead Technical Studies program under this heading or under prior appropriations Acts for such purposes under this heading, shall be considered to be funds for a special project for purposes of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994: *Provided further*, That of the total amount made available under this heading, \$48,000,000 shall be made available on a competitive basis for areas with the highest lead paint abatement needs: *Provided further*, That each recipient of funds provided under the second proviso shall make a matching contribution in an amount not less than 25 percent: *Provided further*, That the Secretary may waive the matching requirement cited in the preceding proviso on a case by case basis if the Secretary determines that such a waiver is necessary to advance the purposes of this program:

Provided further, That each applicant shall submit a detailed plan and strategy that demonstrates adequate capacity that is acceptable to the Secretary to carry out the proposed use of funds pursuant to a notice of funding availability: *Provided further*, That of the total amount made available under this heading, \$2,000,000 shall be available for the Big Buy Program to be managed by the Office of Healthy Homes and Lead Hazard Control. Plan.

MANAGEMENT AND ADMINISTRATION

WORKING CAPITAL FUND

For additional capital for the Working Capital Fund (42 U.S.C. 3535) for the development of, modifications to, and infrastructure for Department-wide information technology systems, for the continuing operation and maintenance of both Department-wide and program-specific information systems, and for program-related development activities, \$155,000,000, to remain available until September 30, 2009: *Provided*, That any amounts transferred to this Fund under this Act shall remain available until expended: *Provided further*, That any amounts transferred to this Fund from amounts appropriated by previously enacted appropriations Acts or from within this Act may be used only for the purposes specified under this Fund, in addition to the purposes for which such amounts were appropriated.

OFFICE OF INSPECTOR GENERAL

For necessary salaries and expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, \$112,000,000: *Provided*, That the Inspector General shall have independent authority over all personnel issues within this office.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

For carrying out the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, including not to exceed \$500 for official reception and representation expenses, \$66,000,000, to remain available until expended, to be derived from the Federal Housing Enterprises Oversight Fund: *Provided*, That the Director shall submit a spending plan for the amounts provided under this heading no later than January 15, 2008: *Provided further*, That not less than 80 percent of the total amount made available under this heading shall be used only for examination, supervision, and capital oversight of the enterprises (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502)) to ensure that the enterprises are operating in a financially safe and sound manner and complying with the capital requirements under Subtitle B of such Act: *Provided further*, That not to exceed the amount provided herein shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: *Provided further*, That the general fund amount shall be reduced as collections are received during the fiscal year so as to result in a final

Spending plan.
Deadline.

appropriation from the general fund estimated at not more than \$0.

GENERAL PROVISIONS—DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT

(INCLUDING RESCISSION OF FUNDS)

SEC. 201. Fifty percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437 note) shall be rescinded or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section. Notwithstanding the previous sentence, the Secretary may award up to 15 percent of the budget authority or cash recaptured and not rescinded or remitted to the Treasury to provide project owners with incentives to refinance their project at a lower interest rate.

SEC. 202. None of the amounts made available under this Act may be used during fiscal year 2008 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a non-frivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a Government official or entity, or a court of competent jurisdiction.

Grants.

SEC. 203. (a) Notwithstanding section 854(c)(1)(A) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)(1)(A)), from any amounts made available under this title for fiscal year 2008 that are allocated under such section, the Secretary of Housing and Urban Development shall allocate and make a grant, in the amount determined under subsection (b), for any State that—

(1) received an allocation in a prior fiscal year under clause (ii) of such section; and

(2) is not otherwise eligible for an allocation for fiscal year 2008 under such clause (ii) because the areas in the State outside of the metropolitan statistical areas that qualify under clause (i) in fiscal year 2008 do not have the number of cases of acquired immunodeficiency syndrome (AIDS) required under such clause.

(b) The amount of the allocation and grant for any State described in subsection (a) shall be an amount based on the cumulative number of AIDS cases in the areas of that State that are outside of metropolitan statistical areas that qualify under clause (i) of such section 854(c)(1)(A) in fiscal year 2008, in proportion to AIDS cases among cities and States that qualify under clauses (i) and (ii) of such section and States deemed eligible under subsection (a).

(c) Notwithstanding any other provision of law, the amount allocated for fiscal year 2008 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), to the City of New York, New York, on behalf of the New York-Wayne-White Plains,

New York-New Jersey Metropolitan Division (hereafter “metropolitan division”) of the New York-Newark-Edison, NY–NJ–PA Metropolitan Statistical Area, shall be adjusted by the Secretary of Housing and Urban Development by: (1) allocating to the City of Jersey City, New Jersey, the proportion of the metropolitan area’s or division’s amount that is based on the number of cases of AIDS reported in the portion of the metropolitan area or division that is located in Hudson County, New Jersey, and adjusting for the proportion of the metropolitan division’s high incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS; and (2) allocating to the City of Paterson, New Jersey, the proportion of the metropolitan area’s or division’s amount that is based on the number of cases of AIDS reported in the portion of the metropolitan area or division that is located in Bergen County and Passaic County, New Jersey, and adjusting for the proportion of the metropolitan division’s high incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS. The recipient cities shall use amounts allocated under this subsection to carry out eligible activities under section 855 of the AIDS Housing Opportunity Act (42 U.S.C. 12904) in their respective portions of the metropolitan division that is located in New Jersey.

(d) Notwithstanding any other provision of law, the amount allocated for fiscal year 2008 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)) to areas with a higher than average per capita incidence of AIDS, shall be adjusted by the Secretary on the basis of area incidence reported over a three year period.

SEC. 204. Except as explicitly provided in law, any grant, cooperative agreement or other assistance made pursuant to title II of this Act shall be made on a competitive basis and in accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545).

SEC. 205. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 206. Unless otherwise provided for in this Act or through a reprogramming of funds, no part of any appropriation for the Department of Housing and Urban Development shall be available for any program, project or activity in excess of amounts set forth in the budget estimates submitted to Congress.

SEC. 207. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of such Act as may be necessary in carrying out the programs set

forth in the budget for 2008 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

Budget estimate.

SEC. 208. None of the funds provided in this title for technical assistance, training, or management improvements may be obligated or expended unless the Secretary of Housing and Urban Development provides to the Committees on Appropriations a description of each proposed activity and a detailed budget estimate of the costs associated with each program, project or activity as part of the Budget Justifications. For fiscal year 2008, the Secretary shall transmit this information to the Committees by March 15, 2008 for 30 days of review.

Deadline.

Reports.
Deadline.

SEC. 209. The Secretary of Housing and Urban Development shall provide quarterly reports to the House and Senate Committees on Appropriations regarding all uncommitted, unobligated, recaptured and excess funds in each program and activity within the jurisdiction of the Department and shall submit additional, updated budget information to these Committees upon request.

SEC. 210. (a) Notwithstanding any other provision of law, the amount allocated for fiscal year 2008 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), to the City of Wilmington, Delaware, on behalf of the Wilmington, Delaware-Maryland-New Jersey Metropolitan Division (hereafter “metropolitan division”), shall be adjusted by the Secretary of Housing and Urban Development by allocating to the State of New Jersey the proportion of the metropolitan division’s amount that is based on the number of cases of AIDS reported in the portion of the metropolitan division that is located in New Jersey, and adjusting for the proportion of the metropolitan division’s high incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS. The State of New Jersey shall use amounts allocated to the State under this subsection to carry out eligible activities under section 855 of the AIDS Housing Opportunity Act (42 U.S.C. 12904) in the portion of the metropolitan division that is located in New Jersey.

(b) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall allocate to Wake County, North Carolina, the amounts that otherwise would be allocated for fiscal year 2008 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)) to the City of Raleigh, North Carolina, on behalf of the Raleigh-Cary, North Carolina Metropolitan Statistical Area. Any amounts allocated to Wake County shall be used to carry out eligible activities under section 855 of such Act (42 U.S.C. 12904) within such metropolitan statistical area.

(c) Notwithstanding section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), the Secretary of Housing and Urban Development may adjust the allocation of the amounts that otherwise would be allocated for fiscal year 2008 under section 854(c) of such Act, upon the written request of an applicant, in conjunction

with the State(s), for a formula allocation on behalf of a metropolitan statistical area, to designate the State or States in which the metropolitan statistical area is located as the eligible grantee(s) of the allocation. In the case that a metropolitan statistical area involves more than one State, such amounts allocated to each State shall be in proportion to the number of cases of AIDS reported in the portion of the metropolitan statistical area located in that State. Any amounts allocated to a State under this section shall be used to carry out eligible activities within the portion of the metropolitan statistical area located in that State.

SEC. 211. The Secretary of Housing and Urban Development shall submit an annual report no later than August 30, 2008 and annually thereafter to the House and Senate Committees on Appropriations regarding the number of Federally assisted units under lease and the per unit cost of these units to the Department of Housing and Urban Development.

Reports.
Deadline.
42 USC 1437
note.

SEC. 212. The President's formal budget request for fiscal year 2009, as well as the Department of Housing and Urban Development's congressional budget justifications to be submitted to the Committees on Appropriations of the House of Representatives and the Senate, shall use the identical account and sub-account structure provided under this Act.

SEC. 213. Amounts made available in this Act or previous appropriations Acts for tenant-based rental assistance and used for non-elderly disabled families or for the Family Unification Program shall, to the extent practicable, remain available for each such respective purpose upon turn-over.

SEC. 214. A public housing agency or such other entity that administers Federal housing assistance for the Housing Authority of the county of Los Angeles, California, the States of Alaska, Iowa, and Mississippi shall not be required to include a resident of public housing or a recipient of assistance provided under section 8 of the United States Housing Act of 1937 on the board of directors or a similar governing board of such agency or entity as required under section (2)(b) of such Act. Each public housing agency or other entity that administers Federal housing assistance under section 8 for the Housing Authority of the county of Los Angeles, California and the States of Alaska, Iowa and Mississippi shall establish an advisory board of not less than 6 residents of public housing or recipients of section 8 assistance to provide advice and comment to the public housing agency or other administering entity on issues related to public housing and section 8. Such advisory board shall meet not less than quarterly.

State listing.

SEC. 215. (a) Notwithstanding any other provision of law, subject to the conditions listed in subsection (b), for fiscal years 2008 and 2009, the Secretary of Housing and Urban Development may authorize the transfer of some or all project-based assistance, debt and statutorily required low-income and very low-income use restrictions, associated with one or more multifamily housing project to another multifamily housing project or projects.

(b) The transfer authorized in subsection (a) is subject to the following conditions:

(1) The number of low-income and very low-income units and the net dollar amount of Federal assistance provided by the transferring project shall remain the same in the receiving project or projects.

(2) The transferring project shall, as determined by the Secretary, be either physically obsolete or economically non-viable.

(3) The receiving project or projects shall meet or exceed applicable physical standards established by the Secretary.

(4) The owner or mortgagor of the transferring project shall notify and consult with the tenants residing in the transferring project and provide a certification of approval by all appropriate local governmental officials.

(5) The tenants of the transferring project who remain eligible for assistance to be provided by the receiving project or projects shall not be required to vacate their units in the transferring project or projects until new units in the receiving project are available for occupancy.

(6) The Secretary determines that this transfer is in the best interest of the tenants.

(7) If either the transferring project or the receiving project or projects meets the condition specified in subsection (c)(2)(A), any lien on the receiving project resulting from additional financing obtained by the owner shall be subordinate to any FHA-insured mortgage lien transferred to, or placed on, such project by the Secretary.

(8) If the transferring project meets the requirements of subsection (c)(2)(E), the owner or mortgagor of the receiving project or projects shall execute and record either a continuation of the existing use agreement or a new use agreement for the project where, in either case, any use restrictions in such agreement are of no lesser duration than the existing use restrictions.

(9) Any financial risk to the FHA General and Special Risk Insurance Fund, as determined by the Secretary, would be reduced as a result of a transfer completed under this section.

(10) The Secretary determines that Federal liability with regard to this project will not be increased.

(c) For purposes of this section—

(1) the terms “low-income” and “very low-income” shall have the meanings provided by the statute and/or regulations governing the program under which the project is insured or assisted;

(2) the term “multifamily housing project” means housing that meets one of the following conditions—

(A) housing that is subject to a mortgage insured under the National Housing Act;

(B) housing that has project-based assistance attached to the structure including projects undergoing market debt restructuring under the Multifamily Assisted Housing Reform and Affordability Housing Act;

(C) housing that is assisted under section 202 of the Housing Act of 1959 as amended by section 801 of the Cranston-Gonzales National Affordable Housing Act;

(D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzales National Affordable Housing Act; or

(E) housing or vacant land that is subject to a use agreement;

(3) the term “project-based assistance” means—

(A) assistance provided under section 8(b) of the United States Housing Act of 1937;

(B) assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of such Act (as such section existed immediately before October 1, 1983);

(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

(D) interest reduction payments under section 236 and/or additional assistance payments under section 236(f)(2) of the National Housing Act; and

(E) assistance payments made under section 202(c)(2) of the Housing Act of 1959;

(4) the term “receiving project or projects” means the multifamily housing project or projects to which some or all of the project-based assistance, debt, and statutorily required use low-income and very low-income restrictions are to be transferred;

(5) the term “transferring project” means the multifamily housing project which is transferring some or all of the project-based assistance, debt and the statutorily required low-income and very low-income use restrictions to the receiving project or projects; and

(6) the term “Secretary” means the Secretary of Housing and Urban Development.

SEC. 216. The funds made available for Native Alaskans under the heading “Native American Housing Block Grants” in title III of this Act shall be allocated to the same Native Alaskan housing block grant recipients that received funds in fiscal year 2005.

SEC. 217. No funds provided under this title may be used for an audit of the Government National Mortgage Association that makes applicable requirements under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

SEC. 218. (a) No assistance shall be provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) to any individual who—

(1) is enrolled as a student at an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002));

(2) is under 24 years of age;

(3) is not a veteran;

(4) is unmarried;

(5) does not have a dependent child;

(6) is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)) and was not receiving assistance under such section 8 as of November 30, 2005; and

(7) is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible, to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(b) For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from

Deadline.
Regulations.

private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.

(c) Not later than 30 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue final regulations to carry out the provisions of this section.

SEC. 219. Notwithstanding the limitation in the first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)), the Secretary of Housing and Urban Development may, until September 30, 2008, insure and enter into commitments to insure mortgages under section 255 of the National Housing Act (12 U.S.C. 1715z–20).

SEC. 220. Notwithstanding any other provision of law, in fiscal year 2008, in managing and disposing of any multifamily property that is owned or has a mortgage held by the Secretary of Housing and Urban Development, the Secretary shall maintain any rental assistance payments under section 8 of the United States Housing Act of 1937 and other programs that are attached to any dwelling units in the property. To the extent the Secretary determines, in consultation with the tenants and the local government, that such a multifamily property owned or held by the Secretary is not feasible for continued rental assistance payments under such section 8 or other programs, based on consideration of (1) the costs of rehabilitating and operating the property and all available Federal, State, and local resources, including rent adjustments under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (“MAHRAA”) and (2) environmental conditions that cannot be remedied in a cost-effective fashion, the Secretary may, in consultation with the tenants of that property, contract for project-based rental assistance payments with an owner or owners of other existing housing properties, or provide other rental assistance. The Secretary shall also take appropriate steps to ensure that project-based contracts remain in effect prior to foreclosure, subject to the exercise of contractual abatement remedies to assist relocation of tenants for imminent major threats to health and safety. After disposition of any multifamily property described under this section, the contract and allowable rent levels on such properties shall be subject to the requirements under section 524 of MAHRAA.

SEC. 221. The National Housing Act is amended—

(1) in sections 207(c)(3), 213(b)(2)(B)(i), 221(d)(3)(ii)(II), 221(d)(4)(ii)(II), 231(c)(2)(B), and 234(e)(3)(B) (12 U.S.C. 1713(c)(3), 1715e(b)(2)(B)(i), 1715l(d)(3)(ii)(II), 1715l(d)(4)(ii)(II), 1715v(c)(2)(B), and 1715y(e)(3)(B))—

(A) by striking “140 percent” each place such term appears and inserting “170 percent”; and

(B) by striking “170 percent in high cost areas” each place such term appears and inserting “215 percent in high cost areas”; and

(2) in section 220(d)(3)(B)(iii)(III) (12 U.S.C. 1715k(d)(3)(B)(iii)(III)) by striking “206A” and all that follows through “project-by-project basis” and inserting the following: “206A of this Act) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in

high cost areas, where the Secretary determines it necessary on a project-by-project basis”.

SEC. 222. During fiscal year 2008, in the provision of rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) in connection with a program to demonstrate the economy and effectiveness of providing such assistance for use in assisted living facilities that is carried out in the counties of the State of Michigan notwithstanding paragraphs (3) and (18)(B)(iii) of such section 8(o), a family residing in an assisted living facility in any such county, on behalf of which a public housing agency provides assistance pursuant to section 8(o)(18) of such Act, may be required, at the time the family initially receives such assistance, to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such a percentage or amount as the Secretary of Housing and Urban Development determines to be appropriate.

SEC. 223. Notwithstanding any other provision of law, the recipient of a grant under section 202b of the Housing Act of 1959 (12 U.S.C. 1701q-2) after December 26, 2000, in accordance with the unnumbered paragraph at the end of section 202(b) of such Act, may, at its option, establish a single-asset nonprofit entity to own the project and may lend the grant funds to such entity, which may be a private nonprofit organization described in section 831 of the American Homeownership and Economic Opportunity Act of 2000.

SEC. 224. Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended—

(1) in subsection (m)(1), by striking “2003” and inserting “2008”; and

(2) in subsection (o), by striking “September 30, 2007” and inserting “September 30, 2008”.

SEC. 225. Public housing agencies that own and operate 400 or fewer public housing units may elect to be exempt from any asset management requirement imposed by the Secretary of Housing and Urban Development in connection with the operating fund rule: *Provided*, That an agency seeking a discontinuance of a reduction of subsidy under the operating fund formula shall not be exempt from asset management requirements.

SEC. 226. With respect to the use of amounts provided in this Act and in future Acts for the operation, capital improvement and management of public housing as authorized by sections 9(d) and 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d) and (e)), the Secretary shall not impose any requirement or guideline relating to asset management that restricts or limits in any way the use of capital funds for central office costs pursuant to section 9(g)(1) or 9(g)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437g(g)(1), (2)): *Provided*, however, that a public housing agency may not use capital funds authorized under section 9(d) for activities that are eligible under section 9(e) for assistance with amounts from the operating fund in excess of the amounts permitted under section 9(g)(1) or 9(g)(2).

SEC. 227. The Secretary of Housing and Urban Development shall report quarterly to the House of Representatives and Senate Committees on Appropriations on the status of all section 8 project-based housing, including the number of all project-based units by region as well as an analysis of all federally subsidized housing being refinanced under the Mark-to-Market program. The Secretary

42 USC 1437g
note.

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shall in the report identify all existing units maintained by region as section 8 project-based units and all project-based units that have opted out of section 8 or have otherwise been eliminated as section 8 project-based units. The Secretary shall identify in detail and by project all the efforts made by the Department to preserve all section 8 project-based housing units and all the reasons for any units which opted out or otherwise were lost as section 8 project-based units. Such analysis shall include a review of the impact of the loss of any subsidized units in that housing marketplace, such as the impact of cost and the loss of available subsidized, low-income housing in areas with scarce housing resources for low-income families.

Reports.
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SEC. 228. The Secretary of Housing and Urban Development shall report quarterly to the House of Representatives and Senate Committees on Appropriations on HUD's use of all sole source contracts, including terms of the contracts, cost, and a substantive rationale for using a sole source contract.

SEC. 229. Section 9(e)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437g(e)(2)(C)) is amended by adding at the end the following:

“(iv) EXISTING CONTRACTS.—The term of a contract described in clause (i) that, as of the date of enactment of this clause, is in repayment and has a term of not more than 12 years, may be extended to a term of not more than 20 years to permit additional energy conservation improvements without requiring the reprocurement of energy performance contractors.”.

SEC. 230. The Secretary of Housing and Urban Development shall increase, pursuant to this section, the number of Moving-to-Work agencies authorized under section 204, title II, of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (Public Law 104-134; 110 Stat. 1321-281) by making individually the Alaska Housing Finance Corporation and the housing authorities of the counties of San Bernardino and Santa Clara and the city of San Jose, California, a Moving-to-Work Agency under such section 204.

SEC. 231. Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not rescind or take any adverse action with respect to the Moving-to-Work program designation for the Housing Authority of Baltimore City based on any alleged administrative or procedural errors in making such designation.

SEC. 232. Paragraph (4) of section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302) is amended by adding at the end the following new sentence: “Notwithstanding any other provision of this paragraph, with respect to any fiscal year beginning after September 30, 2007, the cities of Alton and Granite City, Illinois, shall be considered metropolitan cities for purposes of this title.”.

SEC. 233. (a) The amounts provided under the subheading “Program Account” under the heading “Community Development Loan Guarantees” may be used to guarantee, or make commitments to guarantee, notes, or other obligations issued by any State on behalf of non-entitlement communities in the State in accordance with the requirements of section 108 of the Housing and Community Development Act of 1974: *Provided*, That, any State receiving such

a guarantee or commitment shall distribute all funds subject to such guarantee to the units of general local government in non-entitlement areas that received the commitment.

(b) Not later than 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall promulgate regulations governing the administration of the funds described under subsection (a).

Deadline.
Regulations.

SEC. 234. Not later than 30 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall establish and maintain on the homepage of the Internet website of the Department of Housing and Urban Development—

Deadline.
Website.
5 USC app. 6
note.

(1) a direct link to the Internet website of the Office of Inspector General of the Department of Housing and Urban Development; and

(2) a mechanism by which individuals may anonymously report cases of waste, fraud, or abuse with respect to the Department of Housing and Urban Development.

SEC. 235. (a) REQUIRED SUBMISSIONS FOR FISCAL YEARS 2007 AND 2008.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit to the relevant authorizing committees and to the Committees on Appropriations of the Senate and the House of Representatives for fiscal years 2007 and 2008—

Deadline.

(A) a complete and accurate accounting of the actual project-based renewal costs for project-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(B) revised estimates of the funding needed to fully fund all 12 months of all project-based contracts under such section 8, including project-based contracts that expire in fiscal year 2007 and fiscal year 2008; and

(C) all sources of funding that will be used to fully fund all 12 months of the project-based contracts for fiscal years 2007 and 2008.

(2) UPDATED INFORMATION.—At any time after the expiration of the 60-day period described in paragraph (1), the Secretary may submit corrections or updates to the information required under paragraph (1), if upon completion of an audit of the project-based assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), such audit reveals additional information that may provide Congress a more complete understanding of the Secretary's implementation of the project-based assistance program under such section 8.

(b) REQUIRED SUBMISSIONS FOR FISCAL YEAR 2009.—As part of the Department of Housing and Urban Development's budget request for fiscal year 2009, the Secretary of Housing and Urban Development shall submit to the relevant authorizing committees and to the Committees on Appropriations of the Senate and the House of Representatives complete and detailed information, including a project-by-project analysis, that verifies that such budget request will fully fund all project-based contracts under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) in fiscal year 2009, including expiring project-based contracts.

Deadline.

SEC. 236. No official or employee of the Department of Housing and Urban Development shall be designated as an allotment holder unless the Office of the Chief Financial Officer has determined that such allotment holder has implemented an adequate system of funds control and has received training in funds control procedures and directives. The Chief Financial Officer shall ensure that, not later than 90 days after the date of enactment of this Act, a trained allotment holder shall be designated for each HUD sub-account under the headings “Executive Direction” and “Administration, Operations, and Management” as well as each account receiving appropriations for “personnel compensation and benefits” within the Department of Housing and Urban Development.

SEC. 237. Payment of attorney fees in program-related litigation must be paid from individual program office personnel benefits and compensation funding. The annual budget submission for program office personnel benefit and compensation funding must include program-related litigation costs for attorney fees as a separate line item request.

SEC. 238. Of the unobligated balances remaining from funds appropriated to the Department of Housing and Urban Development under the heading “Tenant-Based Rental Assistance” under section 21033 of Public Law 110-5, \$723,257,000 are rescinded from the \$4,193,000,000 which became available pursuant to such section on October 1, 2007.

This title may be cited as the “Department of Housing and Urban Development Appropriations Act, 2008”.

TITLE III

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, \$6,150,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefore, as authorized by 5 U.S.C. 5901-5902, \$22,072,000: *Provided*, That not to exceed \$2,000 shall be available for official reception and representation expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) \$84,499,000, of which \$74,063 is available for payments to remedy the violation of the Anti-deficiency Act reported by the National Transportation Safety Board on September 26, 2007, and not to exceed \$2,000 may be used for official reception and representation expenses. The amounts made available to the National Transportation Safety Board in this Act include amounts necessary to make lease payments due in fiscal year 2008 only, on an obligation incurred in fiscal year 2001 for a capital lease.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), \$119,800,000, of which \$5,000,000 shall be for a multi-family rental housing program.

For an additional amount, \$180,000,000 shall be made available until expended to the Neighborhood Reinvestment Corporation for mortgage foreclosure mitigation activities, under the following terms and conditions:

(1) The Neighborhood Reinvestment Corporation (“NRC”), shall make grants to counseling intermediaries approved by the Department of Housing and Urban Development (HUD) or the NRC (with match to be determined by the NRC based on affordability and the economic conditions of an area; a match also may be waived by the NRC based on the aforementioned conditions) to provide mortgage foreclosure mitigation assistance primarily to States and areas with high rates of defaults and foreclosures primarily in the sub prime housing market to help eliminate the default and foreclosure of mortgages of owner-occupied single-family homes that are at risk of such foreclosure. Other than areas with high rates of defaults and foreclosures, grants may also be provided to approved counseling intermediaries based on a geographic analysis of the Nation by the NRC which determines where there is a prevalence of sub prime mortgages that are risky and likely to fail, including any trends for mortgages that are likely to default and face foreclosure. A State Housing Finance Agency may also be eligible where the State Housing Finance Agency meets all the requirements under this paragraph. A HUD- or NRC-approved counseling intermediary shall meet certain mortgage foreclosure mitigation assistance counseling requirements, as determined by the NRC, and shall be approved by HUD or the NRC as meeting these requirements.

(2) Mortgage foreclosure mitigation assistance shall only be made available to homeowners of owner-occupied homes

with mortgages in default or in danger of default. These mortgages shall likely be subject to a foreclosure action and homeowners will be provided such assistance that shall consist of activities that are likely to prevent foreclosures and result in the long-term affordability of the mortgage retained pursuant to such activity or another positive outcome for the homeowner. No funds made available under this paragraph may be provided directly to lenders or homeowners to discharge outstanding mortgage balances or for any other direct debt reduction payments.

(3) The use of Mortgage Foreclosure Mitigation Assistance by approved counseling intermediaries and State Housing Finance Agencies shall involve a reasonable analysis of the borrower's financial situation, an evaluation of the current value of the property that is subject to the mortgage, counseling regarding the assumption of the mortgage by another non-Federal party, counseling regarding the possible purchase of the mortgage by a non-Federal third party, counseling and advice of all likely restructuring and refinancing strategies or the approval of a work-out strategy by all interested parties.

Grants.
Deadline.

(4) NRC shall award \$50,000,000 in mortgage foreclosure mitigation grants for States and areas with the greatest needs within 60 days of enactment. Additional funds may be awarded once the NRC certifies that HUD- or NRC-approved counseling intermediaries and State Housing Finance Agencies have the need for additional funds in States and areas with high rates of mortgage foreclosures, defaults, or related activities and the expertise to use these funds effectively. The NRC may provide up to 15 percent of the total funds under this paragraph to its own charter members with expertise in foreclosure prevention counseling, subject to a certification by the NRC that the procedures for selection do not consist of any procedures or activities that could be construed as an unacceptable conflict of interest or have the appearance of impropriety.

(5) NRC- or HUD-approved counseling entities and State Housing Finance Agencies receiving funds under this paragraph shall have demonstrated experience in successfully working with financial institutions as well as borrowers facing default, delinquency and foreclosure as well as documented counseling capacity, outreach capacity, past successful performance and positive outcomes with documented counseling plans (including post mortgage foreclosure mitigation counseling), loan workout agreements and loan modification agreements.

(6) Of the total amount made available under this paragraph, up to \$5,000,000 may be made available to build the mortgage foreclosure and default mitigation counseling capacity of counseling intermediaries through NRC training courses with HUD- or NRC-approved counseling intermediaries and their partners, except that private financial institutions that participate in NRC training shall pay market rates for such training.

(7) Of the total amount made available under this paragraph, up to 4 percent may be used for associated administrative expenses for the NRC to carry out activities provided under this section.

(8) Mortgage foreclosure mitigation assistance may include a budget for outreach and advertising, as determined by the NRC.

(9) The NRC shall report bi-annually to the House and Senate Committees on Appropriations as well as the Senate Banking Committee and House Financial Services Committee on its efforts to mitigate mortgage default. Such reports shall identify successful strategies and methods for preserving homeownership and the long-term affordability of at-risk mortgages and shall include recommended efforts that will or likely can assist in the success of this program as well as an analysis of any policy and procedures that failed to result in successful mortgage foreclosure mitigation. The report shall include an analysis of the details and use of any post mitigation counseling of assisted borrowers designed to ensure the continued long-term affordability of the mortgages which were the subject of the mortgage foreclosure mitigation assistance.

Reports.
Deadline.

UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS

OPERATING EXPENSES

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms, and the employment of experts and consultants under section 3109 of title 5, United States Code) of the United States Interagency Council on Homelessness in carrying out the functions pursuant to title II of the McKinney-Vento Homeless Assistance Act, as amended, \$2,150,000.

Title II of the McKinney-Vento Homeless Assistance Act, as amended, is amended in section 209 by striking “2007” and inserting “2008”.

42 USC 11319.

TITLE IV

GENERAL PROVISIONS THIS ACT

(INCLUDING TRANSFERS OF FUNDS)

SEC. 401. Such sums as may be necessary for fiscal year 2008 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 402. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 403. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 404. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Contracts.

SEC. 405. Except as otherwise provided in this Act, none of the funds provided in this Act, provided by previous appropriations Acts to the agencies or entities funded in this Act that remain

Deadline.
Reports.

available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury derived by the collection of fees and available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds or personnel for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose; (5) augments existing programs, projects, or activities in excess of \$5,000,000 or 10 percent, whichever is less; (6) reduces existing programs, projects, or activities by \$5,000,000 or 10 percent, whichever is less; or (7) creates, reorganizes, or restructures a branch, division, office, bureau, board, commission, agency, administration, or department different from the budget justifications submitted to the Committees on Appropriations or the table accompanying the explanatory statement accompanying this Act, whichever is more detailed, unless prior approval is received from the House and Senate Committees on Appropriations: *Provided*, That not later than 60 days after the date of enactment of this Act, each agency funded by this Act shall submit a report to the Committees on Appropriations of the Senate and of the House of Representatives to establish the baseline for application of reprogramming and transfer authorities for the current fiscal year: *Provided further*, That the report shall include: (1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level; (2) a delineation in the table for each appropriation both by object class and program, project, and activity as detailed in the budget appendix for the respective appropriation; and (3) an identification of items of special congressional interest: *Provided further*, That the amount appropriated or limited for salaries and expenses for an agency shall be reduced by \$100,000 per day for each day after the required date that the report has not been submitted to the Congress.

SEC. 406. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2008 from appropriations made available for salaries and expenses for fiscal year 2008 in this Act, shall remain available through September 30, 2009, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with reprogramming guidelines.

Reports.
Deadline.

SEC. 407. All Federal agencies and departments that are funded under this Act shall issue a report to the House and Senate Committees on Appropriations on all sole source contracts by no later than July 31, 2008. Such report shall include the contractor, the amount of the contract and the rationale for using a sole source contract.

SEC. 408. (a) None of the funds made available in this Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or “new age” belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants’ personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 409. None of the funds made available in this Act may be used to provide homeownership assistance for applicants described in 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

SEC. 410. None of the funds in this Act may be used to employ workers described in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

SEC. 411. No funds in this Act may be used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use: *Provided*, That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities: *Provided further*, That any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107-118) shall be considered a public use for purposes of eminent domain. Eminent domain.

SEC. 412. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 413. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 414. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending

the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the “Buy American Act”).

SEC. 415. No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

This division may be cited as the “Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008”.

Emergency
Supplemental
Appropriations
Act for Defense,
2008.

DIVISION L—SUPPLEMENTAL APPROPRIATIONS, DEFENSE

TITLE I—MILITARY PERSONNEL

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$782,500,000.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$95,624,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$56,050,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$138,037,000.

TITLE II—OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$35,152,370,000.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for “Operation and Maintenance, Navy”, \$3,664,000,000: *Provided*, That up to \$110,000,000 shall be transferred to the Coast Guard “Operating Expenses” account.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for “Operation and Maintenance, Marine Corps”, \$3,965,638,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$4,778,000,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$2,116,950,000, of which up to \$300,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: *Provided*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

Deadline.
Notification.

Reports.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for “Operation and Maintenance, Army Reserve”, \$77,736,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for “Operation and Maintenance, Navy Reserve”, \$41,657,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, \$46,153,000.

OPERATIONS AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for “Operation and Maintenance, Air Force Reserve”, \$12,133,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Army National Guard”, \$327,000,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Air National Guard”, \$51,634,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Iraq Freedom Fund”, \$3,747,327,000, to remain available for transfer until September 30, 2009, only to support operations in Iraq or Afghanistan: *Provided*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and working capital funds: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Deadline.
Notification.

Reports.
Deadline.

AFGHANISTAN SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the “Afghanistan Security Forces Fund”, \$1,350,000,000, to remain available until September 30, 2009: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Office of Security Cooperation–Afghanistan, or the Secretary’s designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That the Secretary shall notify the

Notification.

congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Deadline.
Notification.

Reports.
Deadline.

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the “Iraq Security Forces Fund”, \$1,500,000,000, to remain available until September 30, 2009: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command–Iraq, or the Secretary’s designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Notification.

Deadline.
Notification.

Reports.
Deadline.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

(INCLUDING TRANSFER OF FUNDS)

Deadline.
Plan.Reports.
Deadline.Deadline.
Notification.

For the “Joint Improvised Explosive Device Defeat Fund”, \$4,269,000,000, to remain available until September 30, 2010: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Director of the Joint Improvised Explosive Device Defeat Organization to investigate, develop and provide equipment, supplies, services, training, facilities, personnel and funds to assist United States forces in the defeat of improvised explosive devices: *Provided further*, That within 60 days of the enactment of this Act, a plan for the intended management and use of the Fund is provided to the congressional defense committees: *Provided further*, That the Secretary of Defense shall submit a report not later than 30 days after the end of each fiscal quarter to the congressional defense committees providing assessments of the evolving threats, individual service requirements to counter the threats, the current strategy for predeployment training of members of the Armed Forces on improvised explosive devices, and details on the execution of this Fund: *Provided further*, That the Secretary of Defense may transfer funds provided herein to appropriations for military personnel; operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon determination that all or part of the funds so transferred from this appropriation are not necessary for the purpose provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

TITLE III—PROCUREMENT

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for “Aircraft Procurement, Army”, \$943,600,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES,
ARMY

For an additional amount for “Procurement of Weapons and Tracked Combat Vehicles, Army”, \$1,429,445,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for “Procurement of Ammunition, Army”, \$154,000,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, ARMY

For an additional amount for “Other Procurement, Army”, \$2,027,800,000, to remain available for obligation until September 30, 2010.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for “Aircraft Procurement, Navy”, \$48,500,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for “Procurement of Ammunition, Navy and Marine Corps”, \$304,945,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, NAVY

For an additional amount for “Other Procurement, Navy”, \$91,481,000, to remain available for obligation until September 30, 2010.

PROCUREMENT, MARINE CORPS

For an additional amount for “Procurement, Marine Corps”, \$703,250,000, to remain available for obligation until September 30, 2010.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for “Aircraft Procurement, Air Force”, \$51,400,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$30,725,000, to remain available for obligation until September 30, 2010.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for “Procurement, Defense-Wide”, \$274,743,000, to remain available for obligation until September 30, 2010.

TITLE IV—REVOLVING AND MANAGEMENT FUNDS

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount of “Defense Working Capital Funds”, \$1,000,000,000, to remain available for obligation until September 30, 2010.

TITLE V—OTHER DEPARTMENT OF DEFENSE PROGRAMS

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$575,701,000 for Operation and maintenance.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

For an additional amount for “Drug Interdiction and Counter-Drug Activities, Defense”, \$192,601,000.

TITLE VI—GENERAL PROVISIONS

GENERAL PROVISIONS

SEC. 601. Appropriations provided in this division are available for obligation until September 30, 2008, unless otherwise so provided in this division.

SEC. 602. Notwithstanding any other provision of law or of this division, funds made available in this division are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2008.

(TRANSFER OF FUNDS)

SEC. 603. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to \$4,000,000,000 of the funds made available to the Department of Defense in this division: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense.

Notification.

SEC. 604. Funds appropriated in this division, or made available by the transfer of funds in or pursuant to this division, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 605. None of the funds provided in this division may be used to finance programs or activities denied by Congress in fiscal years 2007 or 2008 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 606. (a) AVAILABILITY OF FUNDS FOR CERP.—From funds made available in this division to the Department of Defense, not to exceed \$500,000,000 may be used, notwithstanding any other provision of law, to fund the Commander’s Emergency Response Program, for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter (beginning with the first quarter of fiscal year 2008), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

SEC. 607. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

Reports.
Deadline.

SEC. 608. During fiscal year 2008, supervision and administration costs associated with projects carried out with funds appropriated to “Afghanistan Security Forces Fund” or “Iraq Security Forces Fund” in this division may be obligated at the time a construction contract is awarded: *Provided*, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 609. (a) REPORTS ON PROGRESS TOWARD STABILITY IN IRAQ.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter through the end of fiscal year 2008, the Secretary of Defense shall set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(b) SCOPE OF REPORTS.—Each report shall include performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(c) SPECIFIC ELEMENTS.—In specific, each report shall require, at a minimum, the following:

(1) With respect to stability and security in Iraq, the following:

(A) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(B) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, and trends relating to numbers and types of ethnic and religious-based hostile encounters.

(C) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(D) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(E) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including—

- (i) unemployment levels;
- (ii) electricity, water, and oil production rates; and
- (iii) hunger and poverty levels.

(F) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(2) With respect to the training and performance of security forces in Iraq, the following:

(A) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(B) Key criteria for assessing the capabilities and readiness of the Iraqi military and other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(C) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraqi battalions that are—

(i) capable of conducting counterinsurgency operations independently;

(ii) capable of conducting counterinsurgency operations with the support of United States or coalition forces; or

(iii) not ready to conduct counterinsurgency operations.

(D) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(E) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(F) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including—

(i) the number of police recruits that have received classroom training and the duration of such instruction;

(ii) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(iii) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

(iv) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction; and

(v) attrition rates and measures of absenteeism and infiltration by insurgents.

(G) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending

the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(H) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(I) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(J) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2008.

SEC. 610. Each amount appropriated or otherwise made available in this division is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SEC. 611. None of the funds appropriated or otherwise made available by this division may be obligated or expended to provide award fees to any defense contractor for performance that does not meet the requirements of the contract.

SEC. 612. No funds appropriated or otherwise made available by this division may be used by the Government of the United States to enter into an agreement with the Government of Iraq that would subject members of the Armed Forces of the United States to the jurisdiction of Iraq criminal courts or punishment under Iraq law.

SEC. 613. Notwithstanding any other provision of law, the Secretary of the Army may reimburse a member for expenses incurred by the member or family member when such expenses are otherwise not reimbursable under law: *Provided*, That such expenses must have been incurred in good faith as a direct consequence of reasonable preparation for, or execution of, military orders: *Provided further*, That reimbursement under this section shall be allowed only in situations wherein other authorities are insufficient to remedy a hardship determined by the Secretary, and only when the Secretary determines that reimbursement of the expense is in the best interest of the member and the United States.

SEC. 614. In this division, the term “congressional defense committees” means—

- (1) the Committees on Armed Services and Appropriations of the Senate; and
- (2) the Committees on Armed Services and Appropriations of the House of Representatives.

SEC. 615. This division may be cited as the “Emergency Supplemental Appropriations Act for Defense, 2008”.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 2764:

HOUSE REPORTS: No. 110–197 (Comm. on Appropriations).

SENATE REPORTS: No. 110–128 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 20, 21, considered and passed House.

Sept. 6, considered and passed Senate, amended.

Dec. 17, House concurred in Senate amendment with amendments.

Dec. 18, Senate concurred in certain House amendments, in another with an amendment.

Dec. 19, House concurred in Senate amendment pursuant to H. Res. 893.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Dec. 26, Presidential statement.



Public Law 110–162
110th Congress

An Act

To designate the facility of the United States Postal Service located at 744 West Oglethorpe Highway in Hinesville, Georgia, as the “John Sidney ‘Sid’ Flowers Post Office Building”.

Dec. 26, 2007
[H.R. 3470]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JOHN SIDNEY “SID” FLOWERS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 744 West Oglethorpe Highway in Hinesville, Georgia, shall be known and designated as the “John Sidney ‘Sid’ Flowers Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “John Sidney ‘Sid’ Flowers Post Office Building”.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 3470:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Nov. 13, considered and passed House.

Dec. 19, considered and passed Senate.



Public Law 110–163
110th Congress

An Act

Dec. 26, 2007
[H.R. 3569]

To designate the facility of the United States Postal Service located at 16731 Santa Ana Avenue in Fontana, California, as the “Beatrice E. Watson Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BEATRICE E. WATSON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 16731 Santa Ana Avenue in Fontana, California, shall be known and designated as the “Beatrice E. Watson Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Beatrice E. Watson Post Office Building”.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 3569 (S. 2290):

CONGRESSIONAL RECORD, Vol. 153 (2007):

Nov. 13, considered and passed House.

Dec. 19, considered and passed Senate.



Public Law 110–164
110th Congress

An Act

To amend the Congressional Accountability Act of 1995 to permit individuals who have served as employees of the Office of Compliance to serve as Executive Director, Deputy Executive Director, or General Counsel of the Office, and to permit individuals appointed to such positions to serve one additional term.

Dec. 26, 2007
[H.R. 3571]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. PERMITTING FORMER OFFICE OF COMPLIANCE
EMPLOYEES TO SERVE IN APPOINTED POSITIONS WITH
OFFICE.**

Section 301(d)(2)(B) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(d)(2)(B)) is amended by striking “legislative branch,” and inserting “legislative branch (other than the Office),”.

**SEC. 2. PERMITTING ADDITIONAL TERM FOR EXECUTIVE DIRECTOR,
DEPUTY EXECUTIVE DIRECTORS, AND GENERAL COUNSEL
OF OFFICE OF COMPLIANCE.**

(a) IN GENERAL.—

(1) EXECUTIVE DIRECTOR.—Section 302(a)(3) of the Congressional Accountability Act of 1995 (2 U.S.C. 1382(a)(3)) is amended by striking “a single term” and inserting “not more than 2 terms”.

(2) DEPUTY EXECUTIVE DIRECTORS.—Section 302(b)(2) of such Act (2 U.S.C. 1382(b)(2)) is amended by striking “a single term” and inserting “not more than 2 terms”.

(3) GENERAL COUNSEL.—Section 302(c)(5) of such Act (2 U.S.C. 1382(c)(5)) is amended by striking “a single term” and inserting “not more than 2 terms”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to an individual who is first appointed to the position of Executive Director, Deputy Executive Director, or General Counsel of the Office of Compliance after the date of the enactment of this Act.

2 USC 1382 note.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 3571:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Oct. 2, considered and passed House.

Dec. 19, considered and passed Senate.



Public Law 110–165
110th Congress

An Act

Dec. 26, 2007
[H.R. 3974]

To designate the facility of the United States Postal Service located at 797 Sam Bass Road in Round Rock, Texas, as the “Marine Corps Corporal Steven P. Gill Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARINE CORPS CORPORAL STEVEN P. GILL POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 797 Sam Bass Road in Round Rock, Texas, shall be known and designated as the “Marine Corps Corporal Steven P. Gill Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Marine Corps Corporal Steven P. Gill Post Office Building”.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 3974:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Nov. 13, considered and passed House.

Dec. 19, considered and passed Senate.



Public Law 110–166
110th Congress

An Act

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions,
and for other purposes.

Dec. 26, 2007
[H.R. 3996]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Tax Increase Prevention Act
of 2007”.

Tax Increase
Prevention Act
of 2007.
26 USC 1 note.

**SEC. 2. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX
EXEMPTION AMOUNT.**

(a) IN GENERAL.—Paragraph (1) of section 55(d) of the Internal
Revenue Code of 1986 (relating to exemption amount) is amended—

26 USC 55.

(1) by striking “(\$62,550 in the case of taxable years begin-
ning in 2006)” in subparagraph (A) and inserting “(\$66,250
in the case of taxable years beginning in 2007)”, and

(2) by striking “(\$42,500 in the case of taxable years begin-
ning in 2006)” in subparagraph (B) and inserting “(\$44,350
in the case of taxable years beginning in 2007)”.

(b) EFFECTIVE DATE.—The amendments made by this section
shall apply to taxable years beginning after December 31, 2006.

26 USC 55 note.

**SEC. 3. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NON-
REFUNDABLE PERSONAL CREDITS.**

(a) IN GENERAL.—Paragraph (2) of section 26(a) of the Internal
Revenue Code of 1986 (relating to special rule for taxable years
2000 through 2006) is amended—

(1) by striking “or 2006” and inserting “2006, or 2007”,
and

(2) by striking “2006” in the heading thereof and inserting
“2007”.

(b) EFFECTIVE DATE.—The amendments made by this section
shall apply to taxable years beginning after December 31, 2006.

26 USC 26 note.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 3996:

HOUSE REPORTS: No. 110–431 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 153 (2007):

Nov. 9, considered and passed House.

Dec. 6, considered and passed Senate, amended.

Dec. 19, House concurred in Senate amendment.



Public Law 110–167
110th Congress

An Act

Dec. 26, 2007
[H.R. 4009]

To designate the facility of the United States Postal Service located at 567 West Nepessing Street in Lapeer, Michigan, as the “Turrill Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TURRILL POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 567 West Nepessing Street in Lapeer, Michigan, shall be known and designated as the “Turrill Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Turrill Post Office Building”.

Approved December 26, 2007.

LEGISLATIVE HISTORY—H.R. 4009:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 11, considered and passed House.

Dec. 19, considered and passed Senate.



Public Law 110–168
110th Congress

An Act

To authorize a major medical facility project to modernize inpatient wards at the
Department of Veterans Affairs Medical Center in Atlanta, Georgia.

Dec. 26, 2007
[S. 1396]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECT,
ATLANTA, GEORGIA.**

The Secretary of Veterans Affairs may carry out a major medical facility project for modernization of inpatient wards at the Department of Veterans Affairs Medical Center, Atlanta, Georgia, in an amount not to exceed \$20,534,000.

Approved December 26, 2007.

LEGISLATIVE HISTORY—S. 1396:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 13, considered and passed Senate.

Dec. 19, considered and passed House.



Public Law 110–169
110th Congress

An Act

Dec. 26, 2007
[S. 1896]

To designate the facility of the United States Postal Service located at 11 Central Street in Hillsborough, New Hampshire, as the “Officer Jeremy Todd Charron Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICER JEREMY TODD CHARRON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 11 Central Street in Hillsborough, New Hampshire, shall be known and designated as the “Officer Jeremy Todd Charron Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Officer Jeremy Todd Charron Post Office”.

Approved December 26, 2007.

LEGISLATIVE HISTORY—S. 1896:

CONGRESSIONAL RECORD, Vol. 153 (2007):
Aug. 3, considered and passed Senate.
Dec. 19, considered and passed House.



Public Law 110–170
110th Congress

An Act

To amend the Public Health Service Act to modify the program for the sanctuary system for surplus chimpanzees by terminating the authority for the removal of chimpanzees from the system for research purposes.

Dec. 26, 2007

[S. 1916]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Chimp Haven is Home Act”.

Chimp Haven is
Home Act.
42 USC 201 note.

SEC. 2. SANCTUARY SYSTEM FOR SURPLUS CHIMPANZEES; TERMINATION OF AUTHORITY FOR REMOVAL FROM SYSTEM FOR RESEARCH PURPOSES.

(a) IN GENERAL.—The first section 481C of the Public Health Service Act (42 U.S.C. 287a–3a) (added by section 2 of Public Law 106–551) is amended in subsection (d)—

(1) in paragraph (2), in subparagraph (J), by striking “If any chimpanzee is removed” and all that follows; and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking clause (ii); and

(ii) by striking “except as provided” in the matter preceding clause (i) and all that follows through “behavioral studies” and inserting the following: “except that the chimpanzee may be used for noninvasive behavioral studies”;

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (B); and

(D) in subparagraph (B) (as so redesignated), by striking “under subparagraphs (A) and (B)” and inserting “under subparagraph (A)”.

(b) TECHNICAL CORRECTION.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by redesignating the second section 481C (added by section 204(a) of Public Law 106–505) as section 481D.

42 USC 287a–4.

Approved December 26, 2007.

LEGISLATIVE HISTORY—S. 1916:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 13, considered and passed Senate.

Dec. 19, considered and passed House.



Public Law 110–171
110th Congress

Joint Resolution

Granting the consent of Congress to the International Emergency Management
Assistance Memorandum of Understanding.

Dec. 26, 2007
[S.J. Res. 13]

*Resolved by the Senate and House of Representatives of the
United States of America in Congress assembled,*

SECTION 1. CONGRESSIONAL CONSENT.

State listing.
Provinces.

Congress consents to the International Emergency Management Assistance Memorandum of Understanding entered into between the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut and the Provinces of Quebec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland. The compact is substantially as follows:

**“Article I—International Emergency Management Assistance
Memorandum of Understanding Purpose and
Authorities**

“The International Emergency Management Assistance Memorandum of Understanding, hereinafter referred to as the ‘compact,’ is made and entered into by and among such of the jurisdictions as shall enact or adopt this compact, hereinafter referred to as ‘party jurisdictions.’ For the purposes of this agreement, the term ‘jurisdictions’ may include any or all of the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut and the Provinces of Quebec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland, and such other states and provinces as may hereafter become a party to this compact.

“The purpose of this compact is to provide for the possibility of mutual assistance among the jurisdictions entering into this compact in managing any emergency or disaster when the affected jurisdiction or jurisdictions ask for assistance, whether arising from natural disaster, technological hazard, manmade disaster or civil emergency aspects of resources shortages.

“This compact also provides for the process of planning mechanisms among the agencies responsible and for mutual cooperation, including, if need be, emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party jurisdictions or subdivisions of party jurisdictions during emergencies, with such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of emergency forces by mutual agreement among party jurisdictions.

“Article II—General Implementation

“Each party jurisdiction entering into this compact recognizes that many emergencies may exceed the capabilities of a party jurisdiction and that intergovernmental cooperation is essential in such circumstances. Each jurisdiction further recognizes that there will be emergencies that may require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency because few, if any, individual jurisdictions have all the resources they need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

“The prompt, full, and effective utilization of resources of the participating jurisdictions, including any resources on hand or available from any other source that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster, shall be the underlying principle on which all articles of this compact are understood.

“On behalf of the party jurisdictions participating in the compact, the legally designated official who is assigned responsibility for emergency management is responsible for formulation of the appropriate inter-jurisdictional mutual aid plans and procedures necessary to implement this compact, and for recommendations to the jurisdiction concerned with respect to the amendment of any statutes, regulations, or ordinances required for that purpose.

“Article III—Party Jurisdiction Responsibilities

“(a) FORMULATE PLANS AND PROGRAMS.—It is the responsibility of each party jurisdiction to formulate procedural plans and programs for inter-jurisdictional cooperation in the performance of the responsibilities listed in this section. In formulating and implementing such plans and programs the party jurisdictions, to the extent practical, shall—

“(1) review individual jurisdiction hazards analyses that are available and, to the extent reasonably possible, determine all those potential emergencies the party jurisdictions might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster or emergency aspects of resource shortages;

“(2) initiate a process to review party jurisdictions’ individual emergency plans and develop a plan that will determine the mechanism for the inter-jurisdictional cooperation;

“(3) develop inter-jurisdictional procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

“(4) assist in warning communities adjacent to or crossing jurisdictional boundaries;

“(5) protect and ensure delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services and resources, both human and material to the extent authorized by law;

“(6) inventory and agree upon procedures for the inter-jurisdictional loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

“(7) provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances, over which the province or state has jurisdiction, that impede the implementation of the responsibilities described in this subsection.

“(b) REQUEST ASSISTANCE.—The authorized representative of a party jurisdiction may request assistance of another party jurisdiction by contacting the authorized representative of that jurisdiction. These provisions only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request must be confirmed in writing within 15 days of the verbal request. Requests must provide the following information:

“(1) A description of the emergency service function for which assistance is needed and of the mission or missions, including but not limited to fire services, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

“(2) The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed.

“(3) The specific place and time for staging of the assisting party’s response and a point of contact at the location.

“(c) CONSULTATION AMONG PARTY JURISDICTION OFFICIALS.—There shall be frequent consultation among the party jurisdiction officials who have assigned emergency management responsibilities, such officials collectively known hereinafter as the International Emergency Management Group, and other appropriate representatives of the party jurisdictions with free exchange of information, plans, and resource records relating to emergency capabilities to the extent authorized by law.

“Article IV—Limitation

“Any party jurisdiction requested to render mutual aid or conduct exercises and training for mutual aid shall undertake to respond as soon as possible, except that it is understood that the jurisdiction rendering aid may withhold or recall resources to the extent necessary to provide reasonable protection for that jurisdiction. Each party jurisdiction shall afford to the personnel of the emergency forces of any party jurisdiction, while operating within its jurisdictional limits under the terms and conditions of this compact and under the operational control of an officer of the requesting party, the same powers, duties, rights, privileges, and immunities as are afforded similar or like forces of the jurisdiction in which they are performing emergency services. Emergency forces continue under the command and control of their regular leaders, but the organizational units come under the operational control of the emergency services authorities of the jurisdiction receiving assistance. These conditions may be activated, as needed, by the jurisdiction that is to receive assistance or upon commencement of exercises or training for mutual aid and continue as long as the exercises or training for mutual aid are in progress, the emergency or disaster remains in effect or loaned resources remain in the receiving jurisdiction or jurisdictions, whichever is longer. The receiving jurisdiction is responsible for informing the assisting

jurisdictions of the specific moment when services will no longer be required.

“Article V—Licenses and Permits

“Whenever a person holds a license, certificate, or other permit issued by any jurisdiction party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party jurisdiction, such person is deemed to be licensed, certified, or permitted by the jurisdiction requesting assistance to render aid involving such skill to meet an emergency or disaster, subject to such limitations and conditions as the requesting jurisdiction prescribes by Executive order or otherwise.

“Article VI—Liability

“Any person or entity of a party jurisdiction rendering aid in another jurisdiction pursuant to this compact are considered agents of the requesting jurisdiction for tort liability and immunity purposes. Any person or entity rendering aid in another jurisdiction pursuant to this compact are not liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article does not include willful misconduct, gross negligence, or recklessness.

“Article VII—Supplementary Agreements

“Because it is probable that the pattern and detail of the machinery for mutual aid among 2 or more jurisdictions may differ from that among the jurisdictions that are party to this compact, this compact contains elements of a broad base common to all jurisdictions, and nothing in this compact precludes any jurisdiction from entering into supplementary agreements with another jurisdiction or affects any other agreements already in force among jurisdictions. Supplementary agreements may include, but are not limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, public utility, reconnaissance, welfare, transportation and communications personnel, equipment, and supplies.

“Article VIII—Workers’ Compensation and Death Benefits

“Each party jurisdiction shall provide, in accordance with its own laws, for the payment of workers’ compensation and death benefits to injured members of the emergency forces of that jurisdiction and to representatives of deceased members of those forces if the members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

“Article IX—Reimbursement

“Any party jurisdiction rendering aid in another jurisdiction pursuant to this compact shall, if requested, be reimbursed by the party jurisdiction receiving such aid for any loss or damage to, or expense incurred in, the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with those requests. An aiding party jurisdiction may assume in whole or in part any such loss,

damage, expense, or other cost or may loan such equipment or donate such services to the receiving party jurisdiction without charge or cost. Any 2 or more party jurisdictions may enter into supplementary agreements establishing a different allocation of costs among those jurisdictions. Expenses under article VIII are not reimbursable under this section.

“Article X—Evacuation

“Each party jurisdiction shall initiate a process to prepare and maintain plans to facilitate the movement of and reception of evacuees into its territory or across its territory, according to its capabilities and powers. The party jurisdiction from which the evacuees came shall assume the ultimate responsibility for the support of the evacuees, and after the termination of the emergency or disaster, for the repatriation of such evacuees.

“Article XI—Implementation

“(a) This compact is effective upon its execution or adoption by any 2 jurisdictions, and is effective as to any other jurisdiction upon its execution or adoption thereby: subject to approval or authorization by the United States Congress, if required, and subject to enactment of provincial or State legislation that may be required for the effectiveness of the Memorandum of Understanding.

“(b) Any party jurisdiction may withdraw from this compact, but the withdrawal does not take effect until 30 days after the governor or premier of the withdrawing jurisdiction has given notice in writing of such withdrawal to the governors or premiers of all other party jurisdictions. The action does not relieve the withdrawing jurisdiction from obligations assumed under this compact prior to the effective date of withdrawal.

“(c) Duly authenticated copies of this compact in the French and English languages and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party jurisdictions.

“Article XII—Severability

“This compact is construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional or the applicability of the compact to any person or circumstances is held invalid, the validity of the remainder of this compact and the applicability of the compact to other persons and circumstances are not affected.

“Article XIII—Consistency of Language

“The validity of the arrangements and agreements consented to in this compact shall not be affected by any insubstantial difference in form or language as may be adopted by the various states and provinces.

“Article XIV—Amendment

“This compact may be amended by agreement of the party jurisdictions.”.

SEC. 2. INCONSISTENCY OF LANGUAGE.

The validity of the arrangements consented to by this Act shall not be affected by any insubstantial difference in their form or language as adopted by the States and provinces.

SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved December 26, 2007.

LEGISLATIVE HISTORY—S.J. Res. 13:
CONGRESSIONAL RECORD, Vol. 153 (2007):
Oct. 2, considered and passed Senate.
Dec. 17, considered and passed House.



Public Law 110–172
110th Congress

An Act

To amend the Internal Revenue Code of 1986 to make technical corrections, and for other purposes.

Dec. 29, 2007
[H.R. 4839]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tax Technical
Corrections Act
of 2007.

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Tax Technical Corrections Act of 2007”.

26 USC 1 note.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

26 USC 1 *et seq.*

(c) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; amendment of 1986 Code; table of contents.
- Sec. 2. Amendment related to the Tax Relief and Health Care Act of 2006.
- Sec. 3. Amendments related to title XII of the Pension Protection Act of 2006.
- Sec. 4. Amendments related to the Tax Increase Prevention and Reconciliation Act of 2005.
- Sec. 5. Amendments related to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.
- Sec. 6. Amendments related to the Energy Policy Act of 2005.
- Sec. 7. Amendments related to the American Jobs Creation Act of 2004.
- Sec. 8. Amendments related to the Economic Growth and Tax Relief Reconciliation Act of 2001.
- Sec. 9. Amendments related to the Tax Relief Extension Act of 1999.
- Sec. 10. Amendment related to the Internal Revenue Service Restructuring and Reform Act of 1998.
- Sec. 11. Clerical corrections.

SEC. 2. AMENDMENT RELATED TO THE TAX RELIEF AND HEALTH CARE ACT OF 2006.

(a) **AMENDMENT RELATED TO SECTION 402 OF DIVISION A OF THE ACT.**—Subparagraph (A) of section 53(e)(2) is amended to read as follows:

26 USC 53.

“(A) **IN GENERAL.**—The term ‘AMT refundable credit amount’ means, with respect to any taxable year, the amount (not in excess of the long-term unused minimum tax credit for such taxable year) equal to the greater of—

“(i) \$5,000,

“(ii) 20 percent of the long-term unused minimum tax credit for such taxable year, or

“(iii) the amount (if any) of the AMT refundable credit amount determined under this paragraph for

the taxpayer's preceding taxable year (as determined before any reduction under subparagraph (B)).”.

26 USC 53 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect as if included in the provision of the Tax Relief and Health Care Act of 2006 to which it relates.

SEC. 3. AMENDMENTS RELATED TO TITLE XII OF THE PENSION PROTECTION ACT OF 2006.

26 USC 408.

(a) **AMENDMENT RELATED TO SECTION 1201 OF THE ACT.**—Subparagraph (D) of section 408(d)(8) is amended by striking “all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72” and inserting “all amounts in all individual retirement plans of the individual were distributed during such taxable year and all such plans were treated as 1 contract for purposes of determining under section 72 the aggregate amount which would have been so includible”.

(b) **AMENDMENT RELATED TO SECTION 1203 OF THE ACT.**—Subsection (d) of section 1366 is amended by adding at the end the following new paragraph:

“(4) **APPLICATION OF LIMITATION ON CHARITABLE CONTRIBUTIONS.**—In the case of any charitable contribution of property to which the second sentence of section 1367(a)(2) applies, paragraph (1) shall not apply to the extent of the excess (if any) of—

“(A) the shareholder's pro rata share of such contribution, over

“(B) the shareholder's pro rata share of the adjusted basis of such property.”.

(c) **AMENDMENT RELATED TO SECTION 1215 OF THE ACT.**—Subclause (I) of section 170(e)(7)(D)(i) is amended by striking “related” and inserting “substantial and related”.

(d) **AMENDMENTS RELATED TO SECTION 1218 OF THE ACT.**—

(1) Section 2055 is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(2) Subsection (e) of section 2522 is amended—

(A) by striking paragraphs (2) and (4),

(B) by redesignating paragraph (3) as paragraph (2), and

(C) by adding at the end of paragraph (2), as so redesignated, the following new subparagraph:

“(C) **INITIAL FRACTIONAL CONTRIBUTION.**—For purposes of this paragraph, the term ‘initial fractional contribution’ means, with respect to any donor, the first gift of an undivided portion of the donor's entire interest in any tangible personal property for which a deduction is allowed under subsection (a) or (b).”.

(e) **AMENDMENTS RELATED TO SECTION 1219 OF THE ACT.**—

(1) Paragraph (2) of section 6695A(a) is amended by inserting “a substantial estate or gift tax valuation understatement (within the meaning of section 6662(g)),” before “or a gross valuation misstatement”.

(2) Paragraph (1) of section 6696(d) is amended by striking “or under section 6695” and inserting “, section 6695, or 6695A”.

(f) AMENDMENT RELATED TO SECTION 1221 OF THE ACT.— Subparagraph (A) of section 4940(c)(4) is amended to read as follows: 26 USC 4940.

“(A) There shall not be taken into account any gain or loss from the sale or other disposition of property to the extent that such gain or loss is taken into account for purposes of computing the tax imposed by section 511.”.

(g) AMENDMENT RELATED TO SECTION 1225 OF THE ACT.— (1) Subsection (b) of section 6104 is amended—

(A) by striking “INFORMATION” in the heading, and

(B) by adding at the end the following: “Any annual return which is filed under section 6011 by an organization described in section 501(c)(3) and which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) shall be treated for purposes of this subsection in the same manner as if furnished under section 6033.”.

(2) Clause (ii) of section 6104(d)(1)(A) is amended to read as follows:

“(ii) any annual return which is filed under section 6011 by an organization described in section 501(c)(3) and which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations),”.

(3) Paragraph (2) of section 6104(d) is amended by striking “section 6033” and inserting “section 6011 or 6033”.

(h) AMENDMENT RELATED TO SECTION 1231 OF THE ACT.— Subsection (b) of section 4962 is amended by striking “or D” and inserting “D, or G”.

(i) AMENDMENT RELATED TO SECTION 1242 OF THE ACT.—

(1) Subclause (II) of section 4958(c)(3)(A)(i) is amended by striking “paragraph (1), (2), or (4) of section 509(a)” and inserting “subparagraph (C)(ii)”.

(2) Clause (ii) of section 4958(c)(3)(C) is amended to read as follows:

“(ii) EXCEPTION.—Such term shall not include—

“(I) any organization described in paragraph (1), (2), or (4) of section 509(a), and

“(II) any organization which is treated as described in such paragraph (2) by reason of the last sentence of section 509(a) and which is a supported organization (as defined in section 509(f)(3)) of the organization to which subparagraph (A) applies.”.

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Pension Protection Act of 2006 to which they relate. 26 USC 170 note.

SEC. 4. AMENDMENTS RELATED TO THE TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005.

(a) AMENDMENTS RELATED TO SECTION 103 OF THE ACT.—Paragraph (6) of section 954(c) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

“(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of any interest, rent, or royalty to the extent such interest, rent, or royalty creates (or increases) a deficit

which under section 952(c) may reduce the subpart F income of the payor or another controlled foreign corporation.”.

(b) AMENDMENTS RELATED TO SECTION 202 OF THE ACT.—

26 USC 355.

(1) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

“(A) it is engaged in the active conduct of a trade or business,”.

(2) Paragraph (3) of section 355(b) is amended to read as follows:

“(3) SPECIAL RULES FOR DETERMINING ACTIVE CONDUCT IN THE CASE OF AFFILIATED GROUPS.—

“(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirements of paragraph (2)(A), all members of such corporation’s separate affiliated group shall be treated as one corporation.

“(B) SEPARATE AFFILIATED GROUP.—For purposes of this paragraph, the term ‘separate affiliated group’ means, with respect to any corporation, the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

“(C) TREATMENT OF TRADE OR BUSINESS CONDUCTED BY ACQUIRED MEMBER.—If a corporation became a member of a separate affiliated group as a result of one or more transactions in which gain or loss was recognized in whole or in part, any trade or business conducted by such corporation (at the time that such corporation became such a member) shall be treated for purposes of paragraph (2) as acquired in a transaction in which gain or loss was recognized in whole or in part.

“(D) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which provide for the proper application of subparagraphs (B), (C), and (D) of paragraph (2), and modify the application of subsection (a)(3)(B), in connection with the application of this paragraph.”.

Applicability.
26 USC 355 note.

(3) The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by section 202 of the Tax Increase Prevention and Reconciliation Act of 2005 and by section 410 of division A of the Tax Relief and Health Care Act of 2006 had never been enacted.

(c) AMENDMENT RELATED TO SECTION 515 OF THE ACT.—Subsection (f) of section 911 is amended to read as follows:

“(f) DETERMINATION OF TAX LIABILITY.—

“(1) IN GENERAL.—If, for any taxable year, any amount is excluded from gross income of a taxpayer under subsection (a), then, notwithstanding sections 1 and 55—

“(A) if such taxpayer has taxable income for such taxable year, the tax imposed by section 1 for such taxable year shall be equal to the excess (if any) of—

“(i) the tax which would be imposed by section 1 for such taxable year if the taxpayer’s taxable income were increased by the amount excluded under subsection (a) for such taxable year, over

“(ii) the tax which would be imposed by section 1 for such taxable year if the taxpayer’s taxable income were equal to the amount excluded under subsection (a) for such taxable year, and

“(B) if such taxpayer has a taxable excess (as defined in section 55(b)(1)(A)(ii)) for such taxable year, the amount determined under the first sentence of section 55(b)(1)(A)(i) for such taxable year shall be equal to the excess (if any) of—

“(i) the amount which would be determined under such sentence for such taxable year (subject to the limitation of section 55(b)(3)) if the taxpayer’s taxable excess (as so defined) were increased by the amount excluded under subsection (a) for such taxable year, over

“(ii) the amount which would be determined under such sentence for such taxable year if the taxpayer’s taxable excess (as so defined) were equal to the amount excluded under subsection (a) for such taxable year.

“(2) SPECIAL RULES.—

“(A) REGULAR TAX.—In applying section 1(h) for purposes of determining the tax under paragraph (1)(A)(i) for any taxable year in which, without regard to this subsection, the taxpayer’s net capital gain exceeds taxable income (hereafter in this subparagraph referred to as the capital gain excess)—

“(i) the taxpayer’s net capital gain (determined without regard to section 1(h)(11)) shall be reduced (but not below zero) by such capital gain excess,

“(ii) the taxpayer’s qualified dividend income shall be reduced by so much of such capital gain excess as exceeds the taxpayer’s net capital gain (determined without regard to section 1(h)(11) and the reduction under clause (i)), and

“(iii) adjusted net capital gain, unrecaptured section 1250 gain, and 28-percent rate gain shall each be determined after increasing the amount described in section 1(h)(4)(B) by such capital gain excess.

“(B) ALTERNATIVE MINIMUM TAX.—In applying section 55(b)(3) for purposes of determining the tax under paragraph (1)(B)(i) for any taxable year in which, without regard to this subsection, the taxpayer’s net capital gain exceeds the taxable excess (as defined in section 55(b)(1)(A)(ii))—

Applicability.

“(i) the rules of subparagraph (A) shall apply, except that such subparagraph shall be applied by substituting ‘the taxable excess (as defined in section 55(b)(1)(A)(ii))’ for ‘taxable income’, and

“(ii) the reference in section 55(b)(3)(B) to the excess described in section 1(h)(1)(B) shall be treated as a reference to such excess as determined under the rules of subparagraph (A) for purposes of determining the tax under paragraph (1)(A)(i).

“(C) DEFINITIONS.—Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h), except that

in applying subparagraph (B) the adjustments under part VI of subchapter A shall be taken into account.”.

Applicability.
26 USC 355 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect as if included in the provisions of the Tax Increase Prevention and Reconciliation Act of 2005 to which they relate.

(2) MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by subsection (b) shall apply to distributions made after May 17, 2006.

(B) TRANSITION RULE.—The amendments made by subsection (b) shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on May 17, 2006, and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(C) ELECTION OUT OF TRANSITION RULE.—Subparagraph (B) shall not apply if the distributing corporation elects not to have such subparagraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

(D) SPECIAL RULE FOR CERTAIN PRE-ENACTMENT DISTRIBUTIONS.—For purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 of distributions made on or before May 17, 2006, as a result of an acquisition, disposition, or other restructuring after such date, such distribution shall be treated as made on the date of such acquisition, disposition, or restructuring for purposes of applying subparagraphs (A) through (C) of this paragraph. The preceding sentence shall only apply with respect to the corporation that undertakes such acquisition, disposition, or other restructuring, and only if such application results in continued qualification under section 355(b)(2)(A) of such Code.

(3) AMENDMENT RELATED TO SECTION 515 OF THE ACT.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 2006.

SEC. 5. AMENDMENTS RELATED TO THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS.

(a) AMENDMENTS RELATED TO SECTION 11113 OF THE ACT.—

26 USC 6427.

(1) Paragraph (3) of section 6427(i) is amended—

(A) by inserting “or under subsection (e)(2) by any person with respect to an alternative fuel (as defined in section 6426(d)(2))” after “section 6426” in subparagraph (A),

(B) by inserting “or (e)(2)” after “subsection (e)(1)” in subparagraphs (A)(i) and (B), and

(C) by striking “ALCOHOL FUEL AND BIODIESEL MIXTURE CREDIT” and inserting “MIXTURE CREDITS AND THE ALTERNATIVE FUEL CREDIT” in the heading thereof.

(2) Subparagraph (F) of section 6426(d)(2) is amended by striking “hydrocarbons” and inserting “fuel”. 26 USC 6426.

(3) Section 6426 is amended by adding at the end the following new subsection:

“(h) DENIAL OF DOUBLE BENEFIT.—No credit shall be determined under subsection (d) or (e) with respect to any fuel with respect to which credit may be determined under subsection (b) or (c) or under section 40 or 40A.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the SAFETEA-LU to which they relate. 26 USC 6426 note.

SEC. 6. AMENDMENTS RELATED TO THE ENERGY POLICY ACT OF 2005.

(a) AMENDMENT RELATED TO SECTION 1306 OF THE ACT.—Paragraph (2) of section 45J(b) is amended to read as follows:

“(2) AMOUNT OF NATIONAL LIMITATION.—The aggregate amount of national megawatt capacity limitation allocated by the Secretary under paragraph (3) shall not exceed 6,000 megawatts.”.

(b) AMENDMENTS RELATED TO SECTION 1342 OF THE ACT.—

(1) So much of subsection (b) of section 30C as precedes paragraph (1) thereof is amended to read as follows:

“(b) LIMITATION.—The credit allowed under subsection (a) with respect to all qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year at a location shall not exceed—”.

(2) Subsection (c) of section 30C is amended to read as follows:

“(c) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—For purposes of this section, the term ‘qualified alternative fuel vehicle refueling property’ has the same meaning as the term ‘qualified clean-fuel vehicle refueling property’ would have under section 179A if—

“(1) paragraph (1) of section 179A(d) did not apply to property installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer, and

“(2) only the following were treated as clean-burning fuels for purposes of section 179A(d):

“(A) Any fuel at least 85 percent of the volume of which consists of one or more of the following: ethanol, natural gas, compressed natural gas, liquified natural gas, liquefied petroleum gas, or hydrogen.

“(B) Any mixture—

“(i) which consists of two or more of the following: biodiesel (as defined in section 40A(d)(1)), diesel fuel (as defined in section 4083(a)(3)), or kerosene, and

“(ii) at least 20 percent of the volume of which consists of biodiesel (as so defined) determined without regard to any kerosene in such mixture.”.

(c) AMENDMENTS RELATED TO SECTION 1351 OF THE ACT.—

(1) Paragraph (3) of section 41(a) is amended by inserting “for energy research” before the period at the end.

26 USC 41.

(2) Paragraph (6) of section 41(f) is amended by adding at the end the following new subparagraph:

“(E) ENERGY RESEARCH.—The term ‘energy research’ does not include any research which is not qualified research.”.

(d) AMENDMENTS RELATED TO SECTION 1362 OF THE ACT.—

(1)(A) Paragraph (1) of section 4041(d) is amended by adding at the end the following new sentence: “No tax shall be imposed under the preceding sentence on the sale or use of any liquid if tax was imposed with respect to such liquid under section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.”.

(B) Paragraph (3) of section 4042(b) is amended to read as follows:

“(3) EXCEPTION FOR FUEL ON WHICH LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE SEPARATELY IMPOSED.—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply to the use of any fuel if tax was imposed with respect to such fuel under section 4041(d) or 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.”.

26 USC 6430
note.

(C) Notwithstanding section 6430 of the Internal Revenue Code of 1986, a refund, credit, or payment may be made under subchapter B of chapter 65 of such Code for taxes imposed with respect to any liquid after September 30, 2005, and before the date of the enactment of this Act under section 4041(d)(1) or 4042 of such Code at the Leaking Underground Storage Tank Trust Fund financing rate to the extent that tax was imposed with respect to such liquid under section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.

(2)(A) Paragraph (5) of section 4041(d) is amended—

(i) by striking “(other than with respect to any sale for export under paragraph (3) thereof)”, and

(ii) by adding at the end the following new sentence: “The preceding sentence shall not apply with respect to subsection (g)(3) and so much of subsection (g)(1) as relates to vessels (within the meaning of section 4221(d)(3)) employed in foreign trade or trade between the United States and any of its possessions.”.

(B) Section 4082 is amended—

(i) by striking “(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate imposed in all cases other than for export)” in subsection (a), and

(ii) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

“(f) EXCEPTION FOR LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—

“(1) IN GENERAL.—Subsection (a) shall not apply to the tax imposed under section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.

“(2) EXCEPTION FOR EXPORT, ETC.—Paragraph (1) shall not apply with respect to any fuel if the Secretary determines that such fuel is destined for export or for use by the purchaser as supplies for vessels (within the meaning of section 4221(d)(3))

employed in foreign trade or trade between the United States and any of its possessions.”.

(C) Subsection (e) of section 4082 is amended—

26 USC 4082.

(i) by striking “an aircraft, the rate of tax under section 4081(a)(2)(A)(iii) shall be zero.” and inserting “an aircraft—
“(1) the rate of tax under section 4081(a)(2)(A)(iii) shall be zero, and

“(2) if such aircraft is employed in foreign trade or trade between the United States and any of its possessions, the increase in such rate under section 4081(a)(2)(B) shall be zero.”; and

(ii) by moving the last sentence flush with the margin of such subsection (following the paragraph (2) added by clause (i)).

(D) Section 6430 is amended to read as follows:

“SEC. 6430. TREATMENT OF TAX IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.

“No refunds, credits, or payments shall be made under this subchapter for any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuels—

“(1) which are exempt from tax under section 4081(a) by reason of section 4082(f)(2),

“(2) which are exempt from tax under section 4041(d) by reason of the last sentence of paragraph (5) thereof, or

“(3) with respect to which the rate increase under section 4081(a)(2)(B) is zero by reason of section 4082(e)(2).”.

(3) Paragraph (5) of section 4041(d) is amended by inserting “(b)(1)(A),” after “subsections”.

(e) EFFECTIVE DATE.—

26 USC 30c note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect as if included in the provisions of the Energy Policy Act of 2005 to which they relate.

(2) NONAPPLICATION OF EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—The amendment made by subsection (d)(3) shall apply to fuel sold for use or used after the date of the enactment of this Act.

(3) AMENDMENT MADE BY THE SAFETEA-LU.—The amendment made by subsection (d)(2)(C)(ii) shall take effect as if included in section 11161 of the SAFETEA-LU.

SEC. 7. AMENDMENTS RELATED TO THE AMERICAN JOBS CREATION ACT OF 2004.

(a) AMENDMENTS RELATED TO SECTION 339 OF THE ACT.—

(1)(A) Section 45H is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(B) Subsection (d) of section 280C is amended to read as follows:

“(d) CREDIT FOR LOW SULFUR DIESEL FUEL PRODUCTION.—The deductions otherwise allowed under this chapter for the taxable year shall be reduced by the amount of the credit determined for the taxable year under section 45H(a).”.

(C) Subsection (a) of section 1016 is amended by striking paragraph (31) and by redesignating paragraphs (32) through (37) as paragraphs (31) through (36), respectively.

(2)(A) Section 45H, as amended by paragraph (1), is amended by adding at the end the following new subsection: “(g) ELECTION TO NOT TAKE CREDIT.—No credit shall be determined under subsection (a) for the taxable year if the taxpayer elects not to have subsection (a) apply to such taxable year.”.

26 USC 6501.

(B) Subsection (m) of section 6501 is amended by inserting “45H(g),” after “45C(d)(4),”.

(3)(A) Subsections (b)(1)(A), (c)(2), (e)(1), and (e)(2) of section 45H (as amended by paragraph (1)) and section 179B(a) are each amended by striking “qualified capital costs” and inserting “qualified costs”.

(B) The heading of paragraph (2) of section 45H(c) is amended by striking “CAPITAL”.

(C) Subsection (a) of section 179B is amended by inserting “and which are properly chargeable to capital account” before the period at the end.

(b) AMENDMENTS RELATED TO SECTION 710 OF THE ACT.—

(1) Clause (ii) of section 45(c)(3)(A) is amended by striking “which is segregated from other waste materials and”.

(2) Subparagraph (B) of section 45(d)(2) is amended by inserting “and” at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(c) AMENDMENTS RELATED TO SECTION 848 OF THE ACT.—

(1) Paragraph (2) of section 470(c) is amended to read as follows:

“(2) TAX-EXEMPT USE PROPERTY.—

“(A) IN GENERAL.—The term ‘tax-exempt use property’ has the meaning given to such term by section 168(h), except that such section shall be applied—

“(i) without regard to paragraphs (1)(C) and (3) thereof, and

“(ii) as if section 197 intangible property (as defined in section 197), and property described in paragraph (1)(B) or (2) of section 167(f), were tangible property.

“(B) EXCEPTION FOR PARTNERSHIPS.—Such term shall not include any property which would (but for this subparagraph) be tax-exempt use property solely by reason of section 168(h)(6).

“(C) CROSS REFERENCE.—For treatment of partnerships as leases to which section 168(h) applies, see section 7701(e).”.

(2) Subparagraph (A) of section 470(d)(1) is amended by striking “(at any time during the lease term)” and inserting “(at all times during the lease term)”.

(d) AMENDMENTS RELATED TO SECTION 888 OF THE ACT.—

(1) Subparagraph (A) of section 1092(a)(2) is amended by striking “and” at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

“(iii) if the application of clause (ii) does not result in an increase in the basis of any offsetting position in the identified straddle, the basis of each of the offsetting positions in the identified straddle shall be increased in a manner which—

Applicability.

“(I) is reasonable, consistent with the purposes of this paragraph, and consistently applied by the taxpayer, and

“(II) results in an aggregate increase in the basis of such offsetting positions which is equal to the loss described in clause (ii), and”.

(2)(A) Subparagraph (B) of section 1092(a)(2) is amended by adding at the end the following flush sentence: 26 USC 1092.

“A straddle shall be treated as clearly identified for purposes of clause (i) only if such identification includes an identification of the positions in the straddle which are offsetting with respect other positions in the straddle.”.

(B) Subparagraph (A) of section 1092(a)(2) is amended—

(i) by striking “identified positions” in clause (i) and inserting “positions”,

(ii) by striking “identified position” in clause (ii) and inserting “position”, and

(iii) by striking “identified offsetting positions” in clause (ii) and inserting “offsetting positions”.

(C) Subparagraph (B) of section 1092(a)(3) is amended by striking “identified offsetting position” and inserting “offsetting position”.

(3) Paragraph (2) of section 1092(a) is amended by redesignating subparagraph (C) as subparagraph (D) and inserting after subparagraph (B) the following new subparagraph:

“(C) APPLICATION TO LIABILITIES AND OBLIGATIONS.—

Except as otherwise provided by the Secretary, rules similar to the rules of clauses (ii) and (iii) of subparagraph (A) shall apply for purposes of this paragraph with respect to any position which is, or has been, a liability or obligation.”.

(4) Subparagraph (D) of section 1092(a)(2), as redesignated by paragraph (3), is amended by inserting “the rules for the application of this section to a position which is or has been a liability or obligation, methods of loss allocation which satisfy the requirements of subparagraph (A)(iii),” before “and the ordering rules”.

(e) EFFECTIVE DATE.—

26 USC 1092
note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

(2) IDENTIFICATION REQUIREMENT OF AMENDMENT RELATED TO SECTION 888 OF THE AMERICAN JOBS CREATION ACT OF 2004.—The amendment made by subsection (d)(2)(A) shall apply to straddles acquired after the date of the enactment of this Act.

Applicability.

SEC. 8. AMENDMENTS RELATED TO THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.

(a) AMENDMENTS RELATED TO SECTION 617 OF THE ACT.—

(1) Subclause (II) of section 402(g)(7)(A)(ii) is amended by striking “for prior taxable years” and inserting “permitted for prior taxable years by reason of this paragraph”.

(2) Subparagraph (A) of section 3121(v)(1) is amended by inserting “or consisting of designated Roth contributions (as defined in section 402A(c))” before the comma at the end.

26 USC 402 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate.

SEC. 9. AMENDMENTS RELATED TO THE TAX RELIEF EXTENSION ACT OF 1999.

26 USC 45.

(a) **AMENDMENT RELATED TO SECTION 507 OF THE ACT.**—Clause (i) of section 45(e)(7)(A) is amended by striking “placed in service by the taxpayer” and inserting “originally placed in service”.

(b) **AMENDMENT RELATED TO SECTION 542 OF THE ACT.**—Clause (ii) of section 856(d)(9)(D) is amended to read as follows:

“(ii) **LODGING FACILITY.**—The term ‘lodging facility’ means a—

“(I) hotel,

“(II) motel, or

“(III) other establishment more than one-half of the dwelling units in which are used on a transient basis.”.

26 USC 45 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the provisions of the Tax Relief Extension Act of 1999 to which they relate.

SEC. 10. AMENDMENT RELATED TO THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998.

26 USC 6110 note.

(a) **AMENDMENT RELATED TO SECTION 3509 OF THE ACT.**—Paragraph (3) of section 6110(i) is amended by inserting “and related background file documents” after “Chief Counsel advice” in the matter preceding subparagraph (A).

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect as if included in the provision of the Internal Revenue Service Restructuring and Reform Act of 1998 to which it relates.

SEC. 11. CLERICAL CORRECTIONS.

(a) **IN GENERAL.**—

(1) Paragraph (5) of section 21(e) is amended by striking “section 152(e)(3)(A)” in the flush matter after subparagraph (B) and inserting “section 152(e)(4)(A)”.

(2) Paragraph (3) of section 25C(c) is amended by striking “section 3280” and inserting “part 3280”.

(3) Paragraph (2) of section 26(b) is amended by redesignating subparagraphs (S) and (T) as subparagraphs (U) and (V), respectively, and by inserting after subparagraph (R) the following new subparagraphs:

“(S) sections 106(e)(3)(A)(ii), 223(b)(8)(B)(i)(II), and 408(d)(9)(D)(i)(II) (relating to certain failures to maintain high deductible health plan coverage),

“(T) section 170(o)(3)(B) (relating to recapture of certain deductions for fractional gifts),”.

(4) Subsection (a) of section 34 is amended—

(A) in paragraph (1), by striking “with respect to gasoline used during the taxable year on a farm for farming purposes”,

(B) in paragraph (2), by striking “with respect to gasoline used during the taxable year: (A) otherwise than as a fuel in a highway vehicle; or (B) in vehicles while engaged

in furnishing certain public passenger land transportation service”, and

(C) in paragraph (3), by striking “with respect to fuels used for nontaxable purposes or resold during the taxable year”.

(5) Paragraph (2) of section 35(d) is amended—

26 USC 35.

(A) by striking “paragraph (2) or (4) of”, and

(B) by striking “(within the meaning of section 152(e)(1))” and inserting “(as defined in section 152(e)(4)(A))”.

(6) Subsection (b) of section 38 is amended—

(A) by striking “and” each place it appears at the end of any paragraph,

(B) by striking “plus” each place it appears at the end of any paragraph, and

(C) by inserting “plus” at the end of paragraph (30).

(7) Paragraphs (2) and (3) of section 45L(c) are each amended by striking “section 3280” and inserting “part 3280”.

(8) Subsection (c) of section 48 is amended by striking “subsection” in the text preceding paragraph (1) and inserting “section”.

(9) Paragraphs (1)(B) and (2)(B) of section 48(c) are each amended by striking “paragraph (1)” and inserting “subsection (a)”.

(10) Clause (ii) of section 48A(d)(4)(B) is amended by striking “subsection” both places it appears.

(11)(A) Paragraph (9) of section 121(d) is amended by adding at the end the following new subparagraph:

“(E) TERMINATION WITH RESPECT TO EMPLOYEES OF INTELLIGENCE COMMUNITY.—Clause (iii) of subparagraph (A) shall not apply with respect to any sale or exchange after December 31, 2010.”.

(B) Subsection (e) of section 417 of division A of the Tax Relief and Health Care Act of 2006 is amended by striking “and before January 1, 2011”.

26 USC 121 note.

(12) The last sentence of section 125(b)(2) is amended by striking “last sentence” and inserting “second sentence”.

(13) Subclause (II) of section 167(g)(8)(C)(ii) is amended by striking “section 263A(j)(2)” and inserting “section 263A(i)(2)”.

(14)(A) Clause (vii) of section 170(b)(1)(A) is amended by striking “subparagraph (E)” and inserting “subparagraph (F)”.

(B) Clause (ii) of section 170(e)(1)(B) is amended by striking “subsection (b)(1)(E)” and inserting “subsection (b)(1)(F)”.

(C) Clause (i) of section 1400S(a)(2)(A) is amended by striking “subparagraph (F)” and inserting “subparagraph (G)”.

(D) Subparagraph (A) of section 4942(i)(1) is amended by striking “section 170(b)(1)(E)(ii)” and inserting “section 170(b)(1)(F)(ii)”.

(15) Subclause (II) of section 170(e)(1)(B)(i) is amended by inserting “, but without regard to clause (ii) thereof” after “paragraph (7)(C)”.

(16)(A) Subparagraph (A) of section 170(o)(1) and subparagraph (A) of section 2522(e)(1) are each amended by striking “all interest in the property is” and inserting “all interests in the property are”.

(B) Section 170(o)(3)(A)(i), and section 2522(e)(2)(A)(i) (as redesignated by section 3(d)(2)), are each amended—

(i) by striking “interest” and inserting “interests”, and

(ii) by striking “before” and inserting “on or before”.

26 USC 852.

(17)(A) Subparagraph (C) of section 852(b)(4) is amended to read as follows:

“(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, in determining the period for which the taxpayer has held any share of stock—

Applicability.

“(i) the rules of paragraphs (3) and (4) of section 246(c) shall apply, and

“(ii) there shall not be taken into account any day which is more than 6 months after the date on which such share becomes ex-dividend.”.

(B) Subparagraph (B) of section 857(b)(8) is amended to read as follows:

“(B) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, in determining the period for which the taxpayer has held any share of stock or beneficial interest—

Applicability.

“(i) the rules of paragraphs (3) and (4) of section 246(c) shall apply, and

“(ii) there shall not be taken into account any day which is more than 6 months after the date on which such share or interest becomes ex-dividend.”.

(18) Paragraph (2) of section 856(l) is amended by striking the last sentence and inserting the following: “For purposes of subparagraph (B), securities described in subsection (m)(2)(A) shall not be taken into account.”.

(19) Subparagraph (F) of section 954(c)(1) is amended to read as follows:

“(F) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS.—

“(i) IN GENERAL.—Net income from notional principal contracts.

“(ii) COORDINATION WITH OTHER CATEGORIES OF FOREIGN PERSONAL HOLDING COMPANY INCOME.—Any item of income, gain, deduction, or loss from a notional principal contract entered into for purposes of hedging any item described in any preceding subparagraph shall not be taken into account for purposes of this subparagraph but shall be taken into account under such other subparagraph.”.

(20) Paragraph (1) of section 954(c) is amended by redesignating subparagraph (I) as subparagraph (H).

(21) Paragraph (33) of section 1016(a), as redesignated by section 7(a)(1)(C), is amended by striking “section 25C(e)” and inserting “section 25C(f)”.

(22) Paragraph (36) of section 1016(a), as redesignated by section 7(a)(1)(C), is amended by striking “section 30C(f)” and inserting “section 30C(e)(1)”.

(23) Subparagraph (G) of section 1260(c)(2) is amended by adding “and” at the end.

(24)(A) Section 1297 is amended by striking subsection (d) and by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(B) Subparagraph (G) of section 1260(c)(2) is amended by striking “subsection (e)” and inserting “subsection (d)”.

(C) Subparagraph (B) of section 1298(a)(2) is amended by striking “Section 1297(e)” and inserting “Section 1297(d)”. 26 USC 1298.

(25) Paragraph (1) of section 1362(f) is amended—

(A) by striking “, section 1361(b)(3)(B)(ii), or section 1361(c)(1)(A)(ii)” and inserting “or section 1361(b)(3)(B)(ii)”, and

(B) by striking “, section 1361(b)(3)(C), or section 1361(c)(1)(D)(iii)” in subparagraph (B) and inserting “or section 1361(b)(3)(C)”.

(26) Paragraph (2) of section 1400O is amended by striking “under of” and inserting “under”.

(27) The table of sections for part II of subchapter Y of chapter 1 is amended by adding at the end the following new item:

“Sec. 1400T. Special rules for mortgage revenue bonds.”.

(28) Subsection (b) of section 4082 is amended to read as follows:

“(b) NONTAXABLE USE.—For purposes of this section, the term ‘nontaxable use’ means—

“(1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax,

“(2) any use in a train, and

“(3) any use described in section 4041(a)(1)(C)(iii)(II).

The term ‘nontaxable use’ does not include the use of kerosene in an aircraft and such term shall not include any use described in section 6421(e)(2)(C).”.

(29) Paragraph (4) of section 4101(a) (relating to registration in event of change of ownership) is redesignated as paragraph (5).

(30) Paragraph (6) of section 4965(c) is amended by striking “section 4457(e)(1)(A)” and inserting “section 457(e)(1)(A)”.

(31) Subpart C of part II of subchapter A of chapter 51 is amended by redesignating section 5432 (relating to record-keeping by wholesale dealers) as section 5121.

(32) Paragraph (2) of section 5732(c), as redesignated by section 11125(b)(20)(A) of the SAFETEA-LU, is amended by striking “this subpart” and inserting “this subchapter”.

(33) Subsection (b) of section 6046 is amended—

(A) by striking “subsection (a)(1)” and inserting “subsection (a)(1)(A)”, and

(B) by striking “paragraph (2) or (3) of subsection (a)” and inserting “subparagraph (B) or (C) of subsection (a)(1)”.

(34)(A) Subparagraph (A) of section 6103(b)(5) is amended by striking “the Canal Zone,”.

(B) Section 7651 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(35) Subparagraph (A) of section 6211(b)(4) is amended by striking “and 34” and inserting “34, and 35”.

(36) Subparagraphs (A) and (B) of section 6230(a)(3) are each amended by striking “section 6013(e)” and inserting “section 6015”.

(37) Paragraph (3) of section 6427(e) (relating to termination), as added by section 11113 of the SAFETEA-LU, is redesignated as paragraph (5) and moved after paragraph (4).

26 USC 6427.

(38) Clause (ii) of section 6427(l)(4)(A) is amended by striking “section 4081(a)(2)(iii)” and inserting “section 4081(a)(2)(A)(iii)”.

(39)(A) Section 6427, as amended by section 1343(b)(1) of the Energy Policy Act of 2005, is amended by striking subsection (p) (relating to gasohol used in noncommercial aviation) and redesignating subsection (q) as subsection (p).

Applicability.
26 USC 6427
note.

(B) The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by paragraph (2) of section 11151(a) of the SAFETEA-LU had never been enacted.

(40) Subsection (a) of section 6695A is amended by striking “then such person” in paragraph (2) and inserting the following: “then such person”.

(41) Subparagraph (C) of section 6707A(e)(2) is amended by striking “section 6662A(e)(2)(C)” and inserting “section 6662A(e)(2)(B)”.

(42)(A) Paragraph (3) of section 9002 is amended by striking “section 309(a)(1)” and inserting “section 306(a)(1)”.

(B) Paragraph (1) of section 9004(a) is amended by striking “section 320(b)(1)(B)” and inserting “section 315(b)(1)(B)”.

(C) Paragraph (3) of section 9032 is amended by striking “section 309(a)(1)” and inserting “section 306(a)(1)”.

(D) Subsection (b) of section 9034 is amended by striking “section 320(b)(1)(A)” and inserting “section 315(b)(1)(A)”.

(43) Section 9006 is amended by striking “Comptroller General” each place it appears and inserting “Commission”.

(44) Subsection (c) of section 9503 is amended by redesignating paragraph (7) (relating to transfers from the trust fund for certain aviation fuels taxes) as paragraph (6).

26 USC 45 note.

(45) Paragraph (1) of section 1301(g) of the Energy Policy Act of 2005 is amended by striking “shall take effect of the date of the enactment” and inserting “shall take effect on the date of the enactment”.

Applicability.
26 USC 9508
note.

(46) The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by section 1(a) of Public Law 109–433 had never been enacted.

(b) CLERICAL AMENDMENTS RELATED TO THE TAX RELIEF AND HEALTH CARE ACT OF 2006.—

(1) AMENDMENT RELATED TO SECTION 209 OF DIVISION A OF THE ACT.—Paragraph (3) of section 168(l) is amended by striking “enzymatic”.

(2) AMENDMENTS RELATED TO SECTION 419 OF DIVISION A OF THE ACT.—

(A) Clause (iv) of section 6724(d)(1)(B) is amended by inserting “or (h)(1)” after “section 6050H(a)”.

(B) Subparagraph (K) of section 6724(d)(2) is amended by inserting “or (h)(2)” after “section 6050H(d)”.

26 USC 168 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provision of the Tax Relief and Health Care Act of 2006 to which they relate.

(c) CLERICAL AMENDMENTS RELATED TO THE GULF OPPORTUNITY ZONE ACT OF 2005.—

(1) AMENDMENTS RELATED TO SECTION 402 OF THE ACT.—Subparagraph (B) of section 24(d)(1) is amended—

(A) by striking “the excess (if any) of” in the matter preceding clause (i) and inserting “the greater of”, and

(B) by striking “section” in clause (ii)(II) and inserting “section 32”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provisions of the Gulf Opportunity Zone Act of 2005 to which they relate.

26 USC 24 note.

(d) CLERICAL AMENDMENTS RELATED TO THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS.—

(1) AMENDMENTS RELATED TO SECTION 11163 OF THE ACT.— Subparagraph (C) of section 6416(a)(4) is amended—

26 USC 6416.

(A) by striking “ultimate vendor” and all that follows through “has certified” and inserting “ultimate vendor or credit card issuer has certified”, and

(B) by striking “all ultimate purchasers of the vendor” and all that follows through “are certified” and inserting “all ultimate purchasers of the vendor or credit card issuer are certified”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to which they relate.

26 USC 6416 note.

(e) CLERICAL AMENDMENTS RELATED TO THE ENERGY POLICY ACT OF 2005.—

(1) AMENDMENT RELATED TO SECTION 1344 OF THE ACT.— Subparagraph (B) of section 6427(e)(5), as redesignated by subsection (a)(37), is amended by striking “2006” and inserting “2008”.

(2) AMENDMENTS RELATED TO SECTION 1351 OF THE ACT.— Subparagraphs (A)(ii) and (B)(ii) of section 41(f)(1) are each amended by striking “qualified research expenses and basic research payments” and inserting “qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provisions of the Energy Policy Act of 2005 to which they relate.

26 USC 41 note.

(f) CLERICAL AMENDMENTS RELATED TO THE AMERICAN JOBS CREATION ACT OF 2004.—

(1) AMENDMENT RELATED TO SECTION 301 OF THE ACT.— Section 9502 is amended by striking subsection (e) and redesignating subsection (f) as subsection (e).

(2) AMENDMENT RELATED TO SECTION 413 OF THE ACT.— Subsection (b) of section 1298 is amended by striking paragraph (7) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(3) AMENDMENT RELATED TO SECTION 895 OF THE ACT.— Clause (iv) of section 904(f)(3)(D) is amended by striking “a controlled group” and inserting “an affiliated group”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

26 USC 904 note.

(g) CLERICAL AMENDMENTS RELATED TO THE FSC REPEAL AND EXTRATERRITORIAL INCOME EXCLUSION ACT OF 2000.—

(1) Subclause (I) of section 56(g)(4)(C)(ii) is amended by striking “921” and inserting “921 (as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)”.

26 USC 56.

(2) Clause (iv) of section 54(g)(4)(C) is amended by striking “a cooperative described in section 927(a)(4)” and inserting “an organization to which part I of subchapter T (relating to tax treatment of cooperatives) applies which is engaged in the marketing of agricultural or horticultural products”.

(3) Paragraph (4) of section 245(c) is amended by adding at the end the following new subparagraph:

“(C) FSC.—The term ‘FSC’ has the meaning given such term by section 922.”.

(4) Subsection (c) of section 245 is amended by inserting at the end the following new paragraph:

“(5) REFERENCES TO PRIOR LAW.—Any reference in this subsection to section 922, 923, or 927 shall be treated as a reference to such section as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000.”.

(5) Paragraph (4) of section 275(a) is amended by striking “if” and all that follows and inserting “if the taxpayer chooses to take to any extent the benefits of section 901.”.

(6)(A) Subsection (a) of section 291 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(B) Paragraph (1) of section 291(c) is amended by striking “subsection (a)(5)” and inserting “subsection (a)(4)”.

(7)(A) Paragraph (4) of section 441(b) is amended by striking “FSC or”.

(B) Subsection (h) of section 441 is amended—

(i) by striking “FSC or” each place it appears, and

(ii) by striking “FSC’S AND” in the heading thereof.

(8) Subparagraph (B) of section 884(d)(2) is amended by inserting before the comma “(as in effect before their repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)”.

(9) Section 901 is amended by striking subsection (h).

(10) Clause (v) of section 904(d)(2)(B) is amended—

(A) by inserting “and” at the end of subclause (I), by striking subclause (II), and by redesignating subclause (III) as subclause (II),

(B) by striking “a FSC (or a former FSC)” in subclause (II) (as so redesignated) and inserting “a former FSC (as defined in section 922)”, and

(C) by adding at the end the following:

“Any reference in subclause (II) to section 922, 923, or 927 shall be treated as a reference to such section as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000.”.

(11) Subsection (b) of section 906 is amended by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(12) Subparagraph (B) of section 936(f)(2) is amended by striking “FSC or”.

(13) Section 951 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(14) Subsection (b) of section 952 is amended by striking the second sentence.

(15)(A) Paragraph (2) of section 956(c) is amended—

(i) by striking subparagraph (I) and by redesignating subparagraphs (J) through (M) as subparagraphs (I) through (L), respectively, and

(ii) by striking “subparagraphs (J), (K), and (L)” in the flush sentence at the end and inserting “subparagraphs (I), (J), and (K)”.

(B) Clause (ii) of section 954(c)(2)(C) is amended by striking “section 956(c)(2)(J)” and inserting “section 956(c)(2)(I)”. 26 USC 954.

(16) Paragraph (1) of section 992(a) is amended by striking subparagraph (E), by inserting “and” at the end of subparagraph (C), and by striking “, and” at the end of subparagraph (D) and inserting a period.

(17) Paragraph (5) of section 1248(d) is amended—

(A) by inserting “(as defined in section 922)” after “a FSC”, and

(B) by adding at the end the following new sentence: “Any reference in this paragraph to section 922, 923, or 927 shall be treated as a reference to such section as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000.”.

(18) Subparagraph (D) of section 1297(b)(2) is amended by striking “foreign trade income of a FSC or”.

(19)(A) Paragraph (1) of section 6011(c) is amended by striking “or former DISC or a FSC or former FSC” and inserting “, former DISC, or former FSC (as defined in section 922 as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)”.

(B) Subsection (c) of section 6011 is amended by striking “AND FSC’S” in the heading thereof.

(20) Subsection (c) of section 6072 is amended by striking “a FSC or former FSC” and inserting “a former FSC (as defined in section 922 as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)”.

(21) Section 6686 is amended by inserting “FORMER” before “FSC” in the heading thereof.

Approved December 29, 2007.

Public Law 110–173
110th Congress

An Act

Dec. 29, 2007
[S. 2499]

To amend titles XVIII, XIX, and XXI of the Social Security Act to extend provisions under the Medicare, Medicaid, and SCHIP programs, and for other purposes.

Medicare,
Medicaid, and
SCHIP Extension
Act of 2007.
42 USC 1305
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) IN GENERAL.—This Act may be cited as the “Medicare, Medicaid, and SCHIP Extension Act of 2007”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE

- Sec. 101. Increase in physician payment update; extension of the physician quality reporting system.
- Sec. 102. Extension of Medicare incentive payment program for physician scarcity areas.
- Sec. 103. Extension of floor on work geographic adjustment under the Medicare physician fee schedule.
- Sec. 104. Extension of treatment of certain physician pathology services under Medicare.
- Sec. 105. Extension of exceptions process for Medicare therapy caps.
- Sec. 106. Extension of payment rule for brachytherapy; extension to therapeutic radiopharmaceuticals.
- Sec. 107. Extension of Medicare reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
- Sec. 108. Extension of authority of specialized Medicare Advantage plans for special needs individuals to restrict enrollment.
- Sec. 109. Extension of deadline for application of limitation on extension or renewal of Medicare reasonable cost contract plans.
- Sec. 110. Adjustment to the Medicare Advantage stabilization fund.
- Sec. 111. Medicare secondary payor.
- Sec. 112. Payment for part B drugs.
- Sec. 113. Payment rate for certain diagnostic laboratory tests.
- Sec. 114. Long-term care hospitals.
- Sec. 115. Payment for inpatient rehabilitation facility (IRF) services.
- Sec. 116. Extension of accommodation of physicians ordered to active duty in the Armed Services.
- Sec. 117. Treatment of certain hospitals.
- Sec. 118. Additional Funding for State Health Insurance Assistance Programs, Area Agencies on Aging, and Aging and Disability Resource Centers.

TITLE II—MEDICAID AND SCHIP

- Sec. 201. Extending SCHIP funding through March 31, 2009.
- Sec. 202. Extension of transitional medical assistance (TMA) and abstinence education program.
- Sec. 203. Extension of qualifying individual (QI) program.
- Sec. 204. Medicaid DSH extension.
- Sec. 205. Improving data collection.
- Sec. 206. Moratorium on certain payment restrictions.

TITLE III—MISCELLANEOUS

Sec. 301. Medicare Payment Advisory Commission status.

Sec. 302. Special Diabetes Programs for Type I Diabetes and Indians.

TITLE I—MEDICARE**SEC. 101. INCREASE IN PHYSICIAN PAYMENT UPDATE; EXTENSION OF THE PHYSICIAN QUALITY REPORTING SYSTEM.**

(a) INCREASE IN PHYSICIAN PAYMENT UPDATE.—

(1) IN GENERAL.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended—

(A) in paragraph (4)(B), by striking “and paragraphs (5) and (6)” and inserting “and the succeeding paragraphs of this subsection”; and

(B) by adding at the end the following new paragraph: “(8) UPDATE FOR A PORTION OF 2008.—

“(A) IN GENERAL.—Subject to paragraph (7)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2008, for the period beginning on January 1, 2008, and ending on June 30, 2008, the update to the single conversion factor shall be 0.5 percent.

“(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR THE REMAINING PORTION OF 2008 AND 2009.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for the period beginning on July 1, 2008, and ending on December 31, 2008, and for 2009 and subsequent years as if subparagraph (A) had never applied.”.

(2) REVISION OF THE PHYSICIAN ASSISTANCE AND QUALITY INITIATIVE FUND.—

(A) REVISION.—Section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)) is amended—

(i) by striking subparagraph (A) and inserting the following:

“(A) AMOUNT AVAILABLE.—

“(i) IN GENERAL.—Subject to clause (ii), there shall be available to the Fund the following amounts:

“(I) For expenditures during 2008, an amount equal to \$150,500,000.

“(II) For expenditures during 2009, an amount equal to \$24,500,000.

“(III) For expenditures during 2013, an amount equal to \$4,960,000,000.

“(ii) LIMITATIONS ON EXPENDITURES.—

“(I) 2008.—The amount available for expenditures during 2008 shall be reduced as provided by subparagraph (A) of section 225(c)(1) and section 524 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008 (division G of the Consolidated Appropriations Act, 2008).

“(II) 2009.—The amount available for expenditures during 2009 shall be reduced as provided by subparagraph (B) of such section 225(c)(1).

“(III) 2013.—The amount available for expenditures during 2013 shall only be available

for an adjustment to the update of the conversion factor under subsection (d) for that year.”; and
 (ii) in subparagraph (B), by striking “entire amount specified in the first sentence of subparagraph (A)” and all that follows and inserting the following: “entire amount available for expenditures, after application of subparagraph (A)(ii), during—

“(i) 2008 for payment with respect to physicians’ services furnished during 2008;

“(ii) 2009 for payment with respect to physicians’ services furnished during 2009; and

“(iii) 2013 for payment with respect to physicians’ services furnished during 2013.”.

42 USC 1395w–4
note.

(B) EFFECTIVE DATE.—

(i) IN GENERAL.—Subject to clause (ii), the amendments made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(ii) SPECIAL RULE FOR COORDINATION WITH CONSOLIDATED APPROPRIATIONS ACT, 2008.—If the date of the enactment of the Consolidated Appropriations Act, 2008, occurs on or after the date described in clause (i), the amendments made by subparagraph (A) shall be deemed to be made on the day after the effective date of sections 225(c)(1) and 524 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008 (division G of the Consolidated Appropriations Act, 2008).

42 USC 1395w–4
note.

(C) TRANSFER OF FUNDS TO PART B TRUST FUND.—

Amounts that would have been available to the Physician Assistance and Quality Initiative Fund under section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)) for payment with respect to physicians’ services furnished prior to January 1, 2013, but for the amendments made by subparagraph (A), shall be deposited into, and made available for expenditures from, the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t).

(b) EXTENSION OF THE PHYSICIAN QUALITY REPORTING SYSTEM.—

(1) SYSTEM.—Section 1848(k)(2)(B) of the Social Security Act (42 U.S.C. 1395w–4(k)(2)(B)) is amended—

(A) in the heading, by inserting “AND 2009” after “2008”;

(B) in clause (i), by inserting “and 2009” after “2008”;

and

(C) in each of clauses (ii) and (iii)—

(i) by striking “, 2007” and inserting “of each of 2007 and 2008”; and

(ii) by inserting “or 2009, as applicable” after “2008”.

(2) REPORTING.—Section 101(c) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note) is amended—

(A) in the heading, by inserting “AND 2008” after “2007”;

(B) in paragraph (5), by adding at the end the following:

“(F) EXTENSION.—For 2008 and 2009, paragraph (3) shall not apply, and the Secretary shall establish alternative criteria for satisfactorily reporting under paragraph (2) and alternative reporting periods under paragraph (6)(C) for reporting groups of measures under paragraph (2)(B) of section 1848(k) of the Social Security Act (42 U.S.C. 1395w-4(k)) and for reporting using the method specified in paragraph (4) of such section.”; and

Criteria.

(C) in paragraph (6), by striking subparagraph (C) and inserting the following new subparagraph:

“(C) REPORTING PERIOD.—The term ‘reporting period’ means—

“(i) for 2007, the period beginning on July 1, 2007, and ending on December 31, 2007; and

“(ii) for 2008, all of 2008.”.

(c) IMPLEMENTATION.—For purposes of carrying out the provisions of, and amendments made by subsections (a) and (b), in addition to any amounts otherwise provided in this title, there are appropriated to the Centers for Medicare & Medicaid Services Program Management Account, out of any money in the Treasury not otherwise appropriated, \$25,000,000 for the period of fiscal years 2008 and 2009.

Appropriation
authorization.

SEC. 102. EXTENSION OF MEDICARE INCENTIVE PAYMENT PROGRAM FOR PHYSICIAN SCARCITY AREAS.

Section 1833(u) of the Social Security Act (42 U.S.C. 1395l(u)) is amended—

(1) in paragraph (1), by striking “before January 1, 2008” and inserting “before July 1, 2008”; and

(2) in paragraph (4)—

(A) by redesignating subparagraph (D) as subparagraph (E); and

(B) by inserting after subparagraph (C) the following new subparagraph:

“(D) SPECIAL RULE.—With respect to physicians’ services furnished on or after January 1, 2008, and before July 1, 2008, for purposes of this subsection, the Secretary shall use the primary care scarcity counties and the specialty care scarcity counties (as identified under the preceding provisions of this paragraph) that the Secretary was using under this subsection with respect to physicians’ services furnished on December 31, 2007.”.

SEC. 103. EXTENSION OF FLOOR ON WORK GEOGRAPHIC ADJUSTMENT UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)(E)), as amended by section 102 of division B of the Tax Relief and Health Care Act of 2006, is amended by striking “before January 1, 2008” and inserting “before July 1, 2008”.

SEC. 104. EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w-4 note) and section 104 of division B of the Tax Relief and Health Care Act of 2006 (42

U.S.C. 1395w–4 note), is amended by striking “and 2007” and inserting “2007, and the first 6 months of 2008”.

SEC. 105. EXTENSION OF EXCEPTIONS PROCESS FOR MEDICARE THERAPY CAPS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by striking “December 31, 2007” and inserting “June 30, 2008”.

SEC. 106. EXTENSION OF PAYMENT RULE FOR BRACHYTHERAPY; EXTENSION TO THERAPEUTIC RADIOPHARMACEUTICALS.

(a) **EXTENSION OF PAYMENT RULE FOR BRACHYTHERAPY.**—Section 1833(t)(16)(C) of the Social Security Act (42 U.S.C. 1395l(t)(16)(C)), as amended by section 107(a) of division B of the Tax Relief and Health Care Act of 2006, is amended by striking “January 1, 2008” and inserting “July 1, 2008”.

(b) **PAYMENT FOR THERAPEUTIC RADIOPHARMACEUTICALS.**—Section 1833(t)(16)(C) of the Social Security Act (42 U.S.C. 1395l(t)(16)(C)), as amended by subsection (a), is amended—

(1) in the heading, by inserting “AND THERAPEUTIC RADIOPHARMACEUTICALS” before “AT CHARGES”;

(2) in the first sentence—

(A) by inserting “and for therapeutic radiopharmaceuticals furnished on or after January 1, 2008, and before July 1, 2008,” after “July 1, 2008,”;

(B) by inserting “or therapeutic radiopharmaceutical” after “the device”; and

(C) by inserting “or therapeutic radiopharmaceutical” after “each device”; and

(3) in the second sentence, by inserting “or therapeutic radiopharmaceuticals” after “such devices”.

42 USC 1395l
note.

SEC. 107. EXTENSION OF MEDICARE REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Section 416(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395l–4), as amended by section 105 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395l note), is amended by striking “the 3-year period beginning on July 1, 2004” and inserting “the period beginning on July 1, 2004, and ending on June 30, 2008”.

SEC. 108. EXTENSION OF AUTHORITY OF SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS TO RESTRICT ENROLLMENT.

(a) **EXTENSION OF AUTHORITY TO RESTRICT ENROLLMENT.**—Section 1859(f) of the Social Security Act (42 U.S.C. 1395w–28(f)) is amended by striking “2009” and inserting “2010”.

(b) **MORATORIUM.**—

(1) **AUTHORITY TO DESIGNATE OTHER PLANS AS SPECIALIZED MA PLANS.**—During the period beginning on January 1, 2008, and ending on December 31, 2009, the Secretary of Health and Human Services shall not exercise the authority provided under section 231(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–21 note) to designate other plans as specialized MA plans for special needs individuals under part C of title XVIII

42 USC 1395w–
21 note.

of the Social Security Act. The preceding sentence shall not apply to plans designated as specialized MA plans for special needs individuals under such authority prior to January 1, 2008.

(2) **ENROLLMENT IN NEW PLANS.**—During the period beginning on January 1, 2008, and ending on December 31, 2009, the Secretary of Health and Human Services shall not permit enrollment of any individual residing in an area in a specialized Medicare Advantage plan for special needs individuals under part C of title XVIII of the Social Security Act to take effect unless that specialized Medicare Advantage plan for special needs individuals was available for enrollment for individuals residing in that area on January 1, 2008.

SEC. 109. EXTENSION OF DEADLINE FOR APPLICATION OF LIMITATION ON EXTENSION OR RENEWAL OF MEDICARE REASONABLE COST CONTRACT PLANS.

Section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)), in the matter preceding subclause (I), is amended by striking “January 1, 2008” and inserting “January 1, 2009”.

SEC. 110. ADJUSTMENT TO THE MEDICARE ADVANTAGE STABILIZATION FUND.

Section 1858(e)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395w–27a(e)(2)(A)(i)), as amended by section 3 of Public Law 110–48, is amended by striking “the Fund” and all that follows and inserting “the Fund during 2013, \$1,790,000,000.”

SEC. 111. MEDICARE SECONDARY PAYOR.

(a) **IN GENERAL.**—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraphs:

“(7) **REQUIRED SUBMISSION OF INFORMATION BY GROUP HEALTH PLANS.**—

“(A) **REQUIREMENT.**—On and after the first day of the first calendar quarter beginning after the date that is 1 year after the date of the enactment of this paragraph, an entity serving as an insurer or third party administrator for a group health plan, as defined in paragraph (1)(A)(v), and, in the case of a group health plan that is self-insured and self-administered, a plan administrator or fiduciary, shall—

“(i) secure from the plan sponsor and plan participants such information as the Secretary shall specify for the purpose of identifying situations where the group health plan is or has been a primary plan to the program under this title; and

“(ii) submit such information to the Secretary in a form and manner (including frequency) specified by the Secretary.

“(B) **ENFORCEMENT.**—

“(i) **IN GENERAL.**—An entity, a plan administrator, or a fiduciary described in subparagraph (A) that fails to comply with the requirements under such subparagraph shall be subject to a civil money penalty of

Penalties.

Applicability.

\$1,000 for each day of noncompliance for each individual for which the information under such subparagraph should have been submitted. The provisions of subsections (e) and (k) of section 1128A shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). A civil money penalty under this clause shall be in addition to any other penalties prescribed by law and in addition to any Medicare secondary payer claim under this title with respect to an individual.

“(ii) DEPOSIT OF AMOUNTS COLLECTED.—Any amounts collected pursuant to clause (i) shall be deposited in the Federal Hospital Insurance Trust Fund under section 1817.

“(C) SHARING OF INFORMATION.—Notwithstanding any other provision of law, under terms and conditions established by the Secretary, the Secretary—

“(i) shall share information on entitlement under Part A and enrollment under Part B under this title with entities, plan administrators, and fiduciaries described in subparagraph (A);

“(ii) may share the entitlement and enrollment information described in clause (i) with entities and persons not described in such clause; and

“(iii) may share information collected under this paragraph as necessary for purposes of the proper coordination of benefits.

“(D) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement this paragraph by program instruction or otherwise.

“(8) REQUIRED SUBMISSION OF INFORMATION BY OR ON BEHALF OF LIABILITY INSURANCE (INCLUDING SELF-INSURANCE), NO FAULT INSURANCE, AND WORKERS’ COMPENSATION LAWS AND PLANS.—

“(A) REQUIREMENT.—On and after the first day of the first calendar quarter beginning after the date that is 18 months after the date of the enactment of this paragraph, an applicable plan shall—

“(i) determine whether a claimant (including an individual whose claim is unresolved) is entitled to benefits under the program under this title on any basis; and

“(ii) if the claimant is determined to be so entitled, submit the information described in subparagraph (B) with respect to the claimant to the Secretary in a form and manner (including frequency) specified by the Secretary.

“(B) REQUIRED INFORMATION.—The information described in this subparagraph is—

“(i) the identity of the claimant for which the determination under subparagraph (A) was made; and

“(ii) such other information as the Secretary shall specify in order to enable the Secretary to make an appropriate determination concerning coordination of benefits, including any applicable recovery claim.

“(C) TIMING.—Information shall be submitted under subparagraph (A)(ii) within a time specified by the Secretary after the claim is resolved through a settlement, judgment, award, or other payment (regardless of whether or not there is a determination or admission of liability).

“(D) CLAIMANT.—For purposes of subparagraph (A), the term ‘claimant’ includes—

“(i) an individual filing a claim directly against the applicable plan; and

“(ii) an individual filing a claim against an individual or entity insured or covered by the applicable plan.

“(E) ENFORCEMENT.—

“(i) IN GENERAL.—An applicable plan that fails to comply with the requirements under subparagraph (A) with respect to any claimant shall be subject to a civil money penalty of \$1,000 for each day of non-compliance with respect to each claimant. The provisions of subsections (e) and (k) of section 1128A shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). A civil money penalty under this clause shall be in addition to any other penalties prescribed by law and in addition to any Medicare secondary payer claim under this title with respect to an individual.

Penalties.

“(ii) DEPOSIT OF AMOUNTS COLLECTED.—Any amounts collected pursuant to clause (i) shall be deposited in the Federal Hospital Insurance Trust Fund.

Applicability.

“(F) APPLICABLE PLAN.—In this paragraph, the term ‘applicable plan’ means the following laws, plans, or other arrangements, including the fiduciary or administrator for such law, plan, or arrangement:

“(i) Liability insurance (including self-insurance).

“(ii) No fault insurance.

“(iii) Workers’ compensation laws or plans.

“(G) SHARING OF INFORMATION.—The Secretary may share information collected under this paragraph as necessary for purposes of the proper coordination of benefits.

“(H) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement this paragraph by program instruction or otherwise.”.

(b) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to limit the authority of the Secretary of Health and Human Services to collect information to carry out Medicare secondary payer provisions under title XVIII of the Social Security Act, including under parts C and D of such title.

42 USC 1395y
note.

(c) IMPLEMENTATION.—For purposes of implementing paragraphs (7) and (8) of section 1862(b) of the Social Security Act, as added by subsection (a), to ensure appropriate payments under title XVIII of such Act, the Secretary of Health and Human Services shall provide for the transfer, from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), in such proportions as the Secretary determines

Appropriation
authorization.

appropriate, of \$35,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for the period of fiscal years 2008, 2009, and 2010.

SEC. 112. PAYMENT FOR PART B DRUGS.

(a) APPLICATION OF ALTERNATIVE VOLUME WEIGHTING IN COMPUTATION OF ASP.—Section 1847A(b) of the Social Security Act (42 U.S.C. 1395w-3a(b)) is amended—

(1) in paragraph (1)(A), by inserting “for a multiple source drug furnished before April 1, 2008, or 106 percent of the amount determined under paragraph (6) for a multiple source drug furnished on or after April 1, 2008” after “paragraph (3)”;

(2) in each of subparagraphs (A) and (B) of paragraph (4), by inserting “for single source drugs and biologicals furnished before April 1, 2008, and using the methodology applied under paragraph (6) for single source drugs and biologicals furnished on or after April 1, 2008,” after “paragraph (3)”; and

(3) by adding at the end the following new paragraph:

“(6) USE OF VOLUME-WEIGHTED AVERAGE SALES PRICES IN CALCULATION OF AVERAGE SALES PRICE.—

“(A) IN GENERAL.—For all drug products included within the same multiple source drug billing and payment code, the amount specified in this paragraph is the volume-weighted average of the average sales prices reported under section 1927(b)(3)(A)(iii) determined by—

“(i) computing the sum of the products (for each National Drug Code assigned to such drug products) of—

“(I) the manufacturer’s average sales price (as defined in subsection (c)), determined by the Secretary without dividing such price by the total number of billing units for the National Drug Code for the billing and payment code; and

“(II) the total number of units specified under paragraph (2) sold; and

“(ii) dividing the sum determined under clause (i) by the sum of the products (for each National Drug Code assigned to such drug products) of—

“(I) the total number of units specified under paragraph (2) sold; and

“(II) the total number of billing units for the National Drug Code for the billing and payment code.

“(B) BILLING UNIT DEFINED.—For purposes of this subsection, the term ‘billing unit’ means the identifiable quantity associated with a billing and payment code, as established by the Secretary.”.

(b) TREATMENT OF CERTAIN DRUGS.—Section 1847A(b) of the Social Security Act (42 U.S.C. 1395w-3a(b)), as amended by subsection (a), is amended—

(1) in paragraph (1), by inserting “paragraph (7) and” after “Subject to”; and

(2) by adding at the end the following new paragraph:

“(7) SPECIAL RULE.—Beginning with April 1, 2008, the payment amount for—

Effective date.

“(A) each single source drug or biological described in section 1842(o)(1)(G) that is treated as a multiple source drug because of the application of subsection (c)(6)(C)(ii) is the lower of—

“(i) the payment amount that would be determined for such drug or biological applying such subsection; or

“(ii) the payment amount that would have been determined for such drug or biological if such subsection were not applied; and

“(B) a multiple source drug described in section 1842(o)(1)(G) (excluding a drug or biological that is treated as a multiple source drug because of the application of such subsection) is the lower of—

“(i) the payment amount that would be determined for such drug or biological taking into account the application of such subsection; or

“(ii) the payment amount that would have been determined for such drug or biological if such subsection were not applied.”.

SEC. 113. PAYMENT RATE FOR CERTAIN DIAGNOSTIC LABORATORY TESTS.

Section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended by adding at the end the following new paragraph:

“(9) Notwithstanding any other provision in this part, in the case of any diagnostic laboratory test for HbA1c that is labeled by the Food and Drug Administration for home use and is furnished on or after April 1, 2008, the payment rate for such test shall be the payment rate established under this part for a glycated hemoglobin test (identified as of October 1, 2007, by HCPCS code 83036 (and any succeeding codes)).”.

SEC. 114. LONG-TERM CARE HOSPITALS.

(a) **DEFINITION OF LONG-TERM CARE HOSPITAL.**—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Long-Term Care Hospital

“(ccc) The term ‘long-term care hospital’ means a hospital which—

“(1) is primarily engaged in providing inpatient services, by or under the supervision of a physician, to Medicare beneficiaries whose medically complex conditions require a long hospital stay and programs of care provided by a long-term care hospital;

“(2) has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days, or meets the requirements of clause (II) of section 1886(d)(1)(B)(iv);

“(3) satisfies the requirements of subsection (e); and

“(4) meets the following facility criteria:

“(A) the institution has a patient review process, documented in the patient medical record, that screens patients prior to admission for appropriateness of admission to a long-term care hospital, validates within 48 hours of admission that patients meet admission criteria for long-term care hospitals, regularly evaluates patients throughout

their stay for continuation of care in a long-term care hospital, and assesses the available discharge options when patients no longer meet such continued stay criteria;

“(B) the institution has active physician involvement with patients during their treatment through an organized medical staff, physician-directed treatment with physician on-site availability on a daily basis to review patient progress, and consulting physicians on call and capable of being at the patient’s side within a moderate period of time, as determined by the Secretary; and

“(C) the institution has interdisciplinary team treatment for patients, requiring interdisciplinary teams of health care professionals, including physicians, to prepare and carry out an individualized treatment plan for each patient.”.

(b) STUDY AND REPORT ON LONG-TERM CARE HOSPITAL FACILITY AND PATIENT CRITERIA.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall conduct a study on the establishment of national long-term care hospital facility and patient criteria for purposes of determining medical necessity, appropriateness of admission, and continued stay at, and discharge from, long-term care hospitals.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1), together with recommendations for such legislation and administrative actions, including timelines for implementation of patient criteria or other actions, as the Secretary determines appropriate.

(3) CONSIDERATIONS.—In conducting the study and preparing the report under this subsection, the Secretary shall consider—

(A) recommendations contained in a report to Congress by the Medicare Payment Advisory Commission in June 2004 for long-term care hospital-specific facility and patient criteria to ensure that patients admitted to long-term care hospitals are medically complex and appropriate to receive long-term care hospital services; and

(B) ongoing work by the Secretary to evaluate and determine the feasibility of such recommendations.

(c) PAYMENT FOR LONG-TERM CARE HOSPITAL SERVICES.—

(1) NO APPLICATION OF 25 PERCENT PATIENT THRESHOLD PAYMENT ADJUSTMENT TO FREESTANDING AND GRANDFATHERED LTCHS.—The Secretary shall not apply, for cost reporting periods beginning on or after the date of the enactment of this Act for a 3-year period—

(A) section 412.536 of title 42, Code of Federal Regulations, or any similar provision, to freestanding long-term care hospitals; and

(B) such section or section 412.534 of title 42, Code of Federal Regulations, or any similar provisions, to a long-term care hospital identified by the amendment made by section 4417(a) of the Balanced Budget Act of 1997 (Public Law 105-33).

(2) PAYMENT FOR HOSPITALS-WITHIN-HOSPITALS.—

(A) IN GENERAL.—Payment to an applicable long-term care hospital or satellite facility which is located in a rural area or which is co-located with an urban single or MSA dominant hospital under paragraphs (d)(1), (e)(1), and (e)(4) of section 412.534 of title 42, Code of Federal Regulations, shall not be subject to any payment adjustment under such section if no more than 75 percent of the hospital's Medicare discharges (other than discharges described in paragraph (d)(2) or (e)(3) of such section) are admitted from a co-located hospital.

(B) CO-LOCATED LONG-TERM CARE HOSPITALS AND SATELLITE FACILITIES.—

(i) IN GENERAL.—Payment to an applicable long-term care hospital or satellite facility which is co-located with another hospital shall not be subject to any payment adjustment under section 412.534 of title 42, Code of Federal Regulations, if no more than 50 percent of the hospital's Medicare discharges (other than discharges described in paragraph (c)(3) of such section) are admitted from a co-located hospital.

(ii) APPLICABLE LONG-TERM CARE HOSPITAL OR SATELLITE FACILITY DEFINED.—In this paragraph, the term “applicable long-term care hospital or satellite facility” means a hospital or satellite facility that is subject to the transition rules under section 412.534(g) of title 42, Code of Federal Regulations.

(C) EFFECTIVE DATE.—Subparagraphs (A) and (B) shall apply to cost reporting periods beginning on or after the date of the enactment of this Act for a 3-year period.

(3) NO APPLICATION OF VERY SHORT-STAY OUTLIER POLICY.—The Secretary shall not apply, for the 3-year period beginning on the date of the enactment of this Act, the amendments finalized on May 11, 2007 (72 Federal Register 26904, 26992) made to the short-stay outlier payment provision for long-term care hospitals contained in section 412.529(c)(3)(i) of title 42, Code of Federal Regulations, or any similar provision.

(4) NO APPLICATION OF ONE-TIME ADJUSTMENT TO STANDARD AMOUNT.—The Secretary shall not, for the 3-year period beginning on the date of the enactment of this Act, make the one-time prospective adjustment to long-term care hospital prospective payment rates provided for in section 412.523(d)(3) of title 42, Code of Federal Regulations, or any similar provision.

(d) MORATORIUM ON THE ESTABLISHMENT OF LONG-TERM CARE HOSPITALS, LONG-TERM CARE SATELLITE FACILITIES AND ON THE INCREASE OF LONG-TERM CARE HOSPITAL BEDS IN EXISTING LONG-TERM CARE HOSPITALS OR SATELLITE FACILITIES.—

(1) IN GENERAL.—During the 3-year period beginning on the date of the enactment of this Act, the Secretary shall impose a moratorium for purposes of the Medicare program under title XVIII of the Social Security Act—

(A) subject to paragraph (2), on the establishment and classification of a long-term care hospital or satellite facility, other than an existing long-term care hospital or facility; and

(B) subject to paragraph (3), on an increase of long-term care hospital beds in existing long-term care hospitals or satellite facilities.

42 USC 1395ww
note.

(2) EXCEPTION FOR CERTAIN LONG-TERM CARE HOSPITALS.—The moratorium under paragraph (1)(A) shall not apply to a long-term care hospital that as of the date of the enactment of this Act—

(A) began its qualifying period for payment as a long-term care hospital under section 412.23(e) of title 42, Code of Federal Regulations, on or before the date of the enactment of this Act;

(B) has a binding written agreement with an outside, unrelated party for the actual construction, renovation, lease, or demolition for a long-term care hospital, and has expended, before the date of the enactment of this Act, at least 10 percent of the estimated cost of the project (or, if less, \$2,500,000); or

(C) has obtained an approved certificate of need in a State where one is required on or before the date of the enactment of this Act.

(3) EXCEPTION FOR BED INCREASES DURING MORATORIUM.—

(A) IN GENERAL.—Subject to subparagraph (B), the moratorium under paragraph (1)(B) shall not apply to an increase in beds in an existing hospital or satellite facility if the hospital or facility—

(i) is located in a State where there is only one other long-term care hospital; and

(ii) requests an increase in beds following the closure or the decrease in the number of beds of another long-term care hospital in the State.

(B) NO EFFECT ON CERTAIN LIMITATION.—The exception under subparagraph (A) shall not effect the limitation on increasing beds under sections 412.22(h)(3) and 412.22(f) of title 42, Code of Federal Regulations.

(4) EXISTING HOSPITAL OR SATELLITE FACILITY DEFINED.—For purposes of this subsection, the term “existing” means, with respect to a hospital or satellite facility, a hospital or satellite facility that received payment under the provisions of subpart O of part 412 of title 42, Code of Federal Regulations, as of the date of the enactment of this Act.

(5) JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869 of the Social Security Act (42 U.S.C. 1395ff), section 1878 of such Act (42 U.S.C. 1395oo), or otherwise, of the application of this subsection by the Secretary.

(e) LONG-TERM CARE HOSPITAL PAYMENT UPDATE.—

(1) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

“(m) PROSPECTIVE PAYMENT FOR LONG-TERM CARE HOSPITALS.—

“(1) REFERENCE TO ESTABLISHMENT AND IMPLEMENTATION OF SYSTEM.—For provisions related to the establishment and implementation of a prospective payment system for payments under this title for inpatient hospital services furnished by a long-term care hospital described in subsection (d)(1)(B)(iv), see section 123 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 and section 307(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

“(2) UPDATE FOR RATE YEAR 2008.—In implementing the system described in paragraph (1) for discharges occurring during the rate year ending in 2008 for a hospital, the base rate for such discharges for the hospital shall be the same as the base rate for discharges for the hospital occurring during the rate year ending in 2007.”.

(2) DELAYED EFFECTIVE DATE.—Subsection (m)(2) of section 1886 of the Social Security Act, as added by paragraph (1), shall not apply to discharges occurring on or after July 1, 2007, and before April 1, 2008.

42 USC 1395ww
note.

(f) EXPANDED REVIEW OF MEDICAL NECESSITY.—

42 USC 1395ww
note.
Contracts.

(1) IN GENERAL.—The Secretary of Health and Human Services shall provide, under contracts with one or more appropriate fiscal intermediaries or medicare administrative contractors under section 1874A(a)(4)(G) of the Social Security Act (42 U.S.C. 1395kk-1(a)(4)(G)), for reviews of the medical necessity of admissions to long-term care hospitals (described in section 1886(d)(1)(B)(iv) of such Act) and continued stay at such hospitals, of individuals entitled to, or enrolled for, benefits under part A of title XVIII of such Act consistent with this subsection. Such reviews shall be made for discharges occurring on or after October 1, 2007.

(2) REVIEW METHODOLOGY.—The medical necessity reviews under paragraph (1) shall be conducted on an annual basis in accordance with rules specified by the Secretary. Such reviews shall—

(A) provide for a statistically valid and representative sample of admissions of such individuals sufficient to provide results at a 95 percent confidence interval; and

(B) guarantee that at least 75 percent of overpayments received by long-term care hospitals for medically unnecessary admissions and continued stays of individuals in long-term care hospitals will be identified and recovered and that related days of care will not be counted toward the length of stay requirement contained in section 1886(d)(1)(B)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(iv)).

(3) CONTINUATION OF REVIEWS.—Under contracts under this subsection, the Secretary shall establish an error rate with respect to such reviews that could require further review of the medical necessity of admissions and continued stay in the hospital involved and other actions as determined by the Secretary.

Contracts.

(4) TERMINATION OF REQUIRED REVIEWS.—

(A) IN GENERAL.—Subject to subparagraph (B), the previous provisions of this subsection shall cease to apply for discharges occurring on or after October 1, 2010.

(B) CONTINUATION.—As of the date specified in subparagraph (A), the Secretary shall determine whether to continue to guarantee, through continued medical review and sampling under this paragraph, recovery of at least 75 percent of overpayments received by long-term care hospitals due to medically unnecessary admissions and continued stays.

(5) FUNDING.—The costs to fiscal intermediaries or medicare administrative contractors conducting the medical necessity reviews under paragraph (1) shall be funded from the

aggregate overpayments recouped by the Secretary of Health and Human Services from long-term care hospitals due to medically unnecessary admissions and continued stays. The Secretary may use an amount not in excess of 40 percent of the overpayments recouped under this paragraph to compensate the fiscal intermediaries or Medicare administrative contractors for the costs of services performed.

Appropriation
authorization.

(g) IMPLEMENTATION.—For purposes of carrying out the provisions of, and amendments made by, this title, in addition to any amounts otherwise provided in this title, there are appropriated to the Centers for Medicare & Medicaid Services Program Management Account, out of any money in the Treasury not otherwise appropriated, \$35,000,000 for the period of fiscal years 2008 and 2009.

SEC. 115. PAYMENT FOR INPATIENT REHABILITATION FACILITY (IRF) SERVICES.

(a) PAYMENT UPDATE.—

(1) IN GENERAL.—Section 1886(j)(3)(C) of the Social Security Act (42 U.S.C. 1395ww(j)(3)(C)) is amended by adding at the end the following: “The increase factor to be applied under this subparagraph for each of fiscal years 2008 and 2009 shall be 0 percent.”.

42 USC 1395ww
note.

(2) DELAYED EFFECTIVE DATE.—The amendment made by paragraph (1) shall not apply to payment units occurring before April 1, 2008.

(b) INPATIENT REHABILITATION FACILITY CLASSIFICATION CRITERIA.—

(1) IN GENERAL.—Section 5005 of the Deficit Reduction Act of 2005 (Public Law 109-171; 42 U.S.C. 1395ww note) is amended—

(A) in subsection (a), by striking “apply the applicable percent specified in subsection (b)” and inserting “require a compliance rate that is no greater than the 60 percent compliance rate that became effective for cost reporting periods beginning on or after July 1, 2006,”; and

(B) by amending subsection (b) to read as follows: “(b) CONTINUED USE OF COMORBIDITIES.—For cost reporting periods beginning on or after July 1, 2007, the Secretary shall include patients with comorbidities as described in section 412.23(b)(2)(i) of title 42, Code of Federal Regulations (as in effect as of January 1, 2007), in the inpatient population that counts toward the percent specified in subsection (a).”.

42 USC 1395ww
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall apply for cost reporting periods beginning on or after July 1, 2007.

(c) RECOMMENDATIONS FOR CLASSIFYING INPATIENT REHABILITATION HOSPITALS AND UNITS.—

(1) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with physicians (including geriatricians and physiatrists), administrators of inpatient rehabilitation, acute care hospitals, skilled nursing facilities, and other settings providing rehabilitation services, Medicare beneficiaries, trade organizations representing inpatient rehabilitation hospitals and units and skilled nursing facilities, and the Medicare Payment Advisory Commission, shall submit

to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that includes the following:

(A) An analysis of Medicare beneficiaries' access to medically necessary rehabilitation services, including the potential effect of the 75 percent rule (as defined in paragraph (2)) on access to care.

(B) An analysis of alternatives or refinements to the 75 percent rule policy for determining criteria for inpatient rehabilitation hospital and unit designation under the Medicare program, including alternative criteria which would consider a patient's functional status, diagnosis, comorbidities, and other relevant factors.

(C) An analysis of the conditions for which individuals are commonly admitted to inpatient rehabilitation hospitals that are not included as a condition described in section 412.23(b)(2)(iii) of title 42, Code of Federal Regulations, to determine the appropriate setting of care, and any variation in patient outcomes and costs, across settings of care, for treatment of such conditions.

(2) 75 PERCENT RULE DEFINED.—For purposes of this subsection, the term “75 percent rule” means the requirement of section 412.23(b)(2) of title 42, Code of Federal Regulations, that 75 percent of the patients of a rehabilitation hospital or converted rehabilitation unit are in 1 or more of 13 listed treatment categories.

SEC. 116. EXTENSION OF ACCOMMODATION OF PHYSICIANS ORDERED TO ACTIVE DUTY IN THE ARMED SERVICES.

Section 1842(b)(6)(D)(iii) of the Social Security Act (42 U.S.C. 1395u(b)(6)(D)(iii)), as amended by Public Law 110-54 (121 Stat. 551) is amended by striking “January 1, 2008” and inserting “July 1, 2008”.

SEC. 117. TREATMENT OF CERTAIN HOSPITALS.

(a) EXTENDING CERTAIN MEDICARE HOSPITAL WAGE INDEX RECLASSIFICATIONS THROUGH FISCAL YEAR 2008.— 42 USC 1395ww note.

(1) IN GENERAL.—Section 106(a) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note) is amended by striking “September 30, 2007” and inserting “September 30, 2008”. 42 USC 1395ww note.

(2) SPECIAL EXCEPTION RECLASSIFICATIONS.—The Secretary of Health and Human Services shall extend for discharges occurring through September 30, 2008, the special exception reclassifications made under the authority of section 1886(d)(5)(I)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(I)(i)) and contained in the final rule promulgated by the Secretary in the Federal Register on August 11, 2004 (69 Fed. Reg. 49105, 49107).

(3) USE OF PARTICULAR WAGE INDEX.—For purposes of implementation of this subsection, the Secretary shall use the hospital wage index that was promulgated by the Secretary in the Federal Register on October 10, 2007 (72 Fed. Reg. 57634), and any subsequent corrections.

(b) DISREGARDING SECTION 508 HOSPITAL RECLASSIFICATIONS FOR PURPOSES OF GROUP RECLASSIFICATIONS.—Section 508 of the Medicare Prescription Drug, Improvement, and Modernization Act

of 2003 (Public Law 108-173, 42 U.S.C. 1395ww note) is amended by adding at the end the following new subsection:

“(g) DISREGARDING HOSPITAL RECLASSIFICATIONS FOR PURPOSES OF GROUP RECLASSIFICATIONS.—For purposes of the reclassification of a group of hospitals in a geographic area under section 1886(d) of the Social Security Act for purposes of discharges occurring during fiscal year 2008, a hospital reclassified under this section (including any such reclassification which is extended under section 106(a) of the Medicare Improvements and Extension Act of 2006) shall not be taken into account and shall not prevent the other hospitals in such area from continuing such a group for such purpose.”.

42 USC 1395ww
note.

(c) CORRECTION OF APPLICATION OF WAGE INDEX DURING TAX RELIEF AND HEALTH CARE ACT EXTENSION.—In the case of a subsection (d) hospital (as defined for purposes of section 1886 of the Social Security Act (42 U.S.C. 1395ww)) with respect to which—

(1) a reclassification of its wage index for purposes of such section was extended for the period beginning on April 1, 2007, and ending on September 30, 2007, pursuant to subsection (a) of section 106 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note); and

(2) the wage index applicable for such hospital during such period was lower than the wage index applicable for such hospital during the period beginning on October 1, 2006, and ending on March 31, 2007,

the Secretary shall apply the higher wage index that was applicable for such hospital during the period beginning on October 1, 2006, and ending on March 31, 2007, for the entire fiscal year 2007. If the Secretary determines that the application of the preceding sentence to a hospital will result in a hospital being owed additional reimbursement, the Secretary shall make such payments within 90 days after the settlement of the applicable cost report.

Deadline.

Grants.

SEC. 118. ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE ASSISTANCE PROGRAMS, AREA AGENCIES ON AGING, AND AGING AND DISABILITY RESOURCE CENTERS.

(a) STATE HEALTH INSURANCE ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall use amounts made available under paragraph (2) to make grants to States for State health insurance assistance programs receiving assistance under section 4360 of the Omnibus Budget Reconciliation Act of 1990.

(2) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w-23(f)), of \$15,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for fiscal year 2008.

(b) AREA AGENCIES ON AGING AND AGING AND DISABILITY RESOURCE CENTERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall use amounts made available under paragraph (2) to make grants—

(A) to States for area agencies on aging (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)); and

(B) to Aging and Disability Resource Centers under the Aging and Disability Resource Center grant program.

(2) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of \$5,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for the period of fiscal years 2008 through 2009.

TITLE II—MEDICAID AND SCHIP

SEC. 201. EXTENDING SCHIP FUNDING THROUGH MARCH 31, 2009.

(a) THROUGH THE SECOND QUARTER OF FISCAL YEAR 2009.—

(1) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(A) in subsection (a)—

(i) by striking “and” at the end of paragraph (9);

(ii) by striking the period at the end of paragraph

(10) and inserting “; and”; and

(iii) by adding at the end the following new paragraph:

“(11) for each of fiscal years 2008 and 2009, \$5,000,000,000.”; and

(B) in subsection (c)(4)(B), by striking “for fiscal year 2007” and inserting “for each of fiscal years 2007 through 2009”.

(2) AVAILABILITY OF EXTENDED FUNDING.—Funds made available from any allotment made from funds appropriated under subsection (a)(11) or (c)(4)(B) of section 2104 of the Social Security Act (42 U.S.C. 1397dd) for fiscal year 2008 or 2009 shall not be available for child health assistance for items and services furnished after March 31, 2009, or, if earlier, the date of the enactment of an Act that provides funding for fiscal years 2008 and 2009, and for one or more subsequent fiscal years for the State Children’s Health Insurance Program under title XXI of the Social Security Act.

(3) END OF FUNDING UNDER CONTINUING RESOLUTION.—Section 136(a)(2) of Public Law 110–92 is amended by striking “after the termination date” and all that follows and inserting “after the date of the enactment of the Medicare, Medicaid, and SCHIP Extension Act of 2007.”.

Ante, p. 994.

(4) CLARIFICATION OF APPLICATION OF FUNDING UNDER CONTINUING RESOLUTION.—Section 107 of Public Law 110–92 shall apply with respect to expenditures made pursuant to section 136(a)(1) of such Public Law.

(b) EXTENSION OF TREATMENT OF QUALIFYING STATES; RULES ON REDISTRIBUTION OF UNSPENT FISCAL YEAR 2005 ALLOTMENTS MADE PERMANENT.—

(1) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)), as amended by subsection (d) of section 136 of Public Law 110-92, is amended by striking “or 2008” and inserting “2008, or 2009”.

42 USC 1397ee
note.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall be in effect through March 31, 2009.

(3) CERTAIN RULES MADE PERMANENT.—Subsection (e) of section 136 of Public Law 110-92 is repealed.

Ante, p. 994.

(c) ADDITIONAL ALLOTMENTS TO ELIMINATE REMAINING FUNDING SHORTFALLS THROUGH MARCH 31, 2009.—

(1) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsections:

“(j) ADDITIONAL ALLOTMENTS TO ELIMINATE FUNDING SHORTFALLS FOR FISCAL YEAR 2008.—

“(1) APPROPRIATION; ALLOTMENT AUTHORITY.—For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed \$1,600,000,000 for fiscal year 2008.

“(2) SHORTFALL STATES DESCRIBED.—For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of November 30, 2007, that the Federal share amount of the projected expenditures under such plan for such State for fiscal year 2008 will exceed the sum of—

“(A) the amount of the State’s allotments for each of fiscal years 2006 and 2007 that will not be expended by the end of fiscal year 2007;

“(B) the amount, if any, that is to be redistributed to the State during fiscal year 2008 in accordance with subsection (i); and

“(C) the amount of the State’s allotment for fiscal year 2008.

“(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2008, the Secretary shall allot—

“(A) to each shortfall State described in paragraph (2) not described in subparagraph (B), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

“(B) to each commonwealth or territory described in subsection (c)(3), an amount equal to the percentage specified in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

“(4) PRORATION RULE.—If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

“(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2008, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

“(6) ONE-YEAR AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2008, subject to paragraph (5), shall only remain available for expenditure by the State through September 30, 2008. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f).

“(k) REDISTRIBUTION OF UNUSED FISCAL YEAR 2006 ALLOTMENTS TO STATES WITH ESTIMATED FUNDING SHORTFALLS DURING THE FIRST 2 QUARTERS OF FISCAL YEAR 2009.—

“(1) IN GENERAL.—Notwithstanding subsection (f) and subject to paragraphs (3) and (4), with respect to months beginning during the first 2 quarters of fiscal year 2009, the Secretary shall provide for a redistribution under such subsection from the allotments for fiscal year 2006 under subsection (b) that are not expended by the end of fiscal year 2008, to a fiscal year 2009 shortfall State described in paragraph (2), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for such State for the month.

“(2) FISCAL YEAR 2009 SHORTFALL STATE DESCRIBED.—A fiscal year 2009 shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on a monthly basis using the most recent data available to the Secretary as of such month, that the Federal share amount of the projected expenditures under such plan for such State for the first 2 quarters of fiscal year 2009 will exceed the sum of—

“(A) the amount of the State’s allotments for each of fiscal years 2007 and 2008 that was not expended by the end of fiscal year 2008; and

“(B) the amount of the State’s allotment for fiscal year 2009.

“(3) FUNDS REDISTRIBUTED IN THE ORDER IN WHICH STATES REALIZE FUNDING SHORTFALLS.—The Secretary shall redistribute the amounts available for redistribution under paragraph (1) to fiscal year 2009 shortfall States described in paragraph (2) in the order in which such States realize monthly funding shortfalls under this title for fiscal year 2009. The Secretary shall only make redistributions under this subsection to the extent that there are unexpended fiscal year 2006 allotments under subsection (b) available for such redistributions.

“(4) PRORATION RULE.—If the amounts available for redistribution under paragraph (1) are less than the total amounts of the estimated shortfalls determined for the month under that paragraph, the amount computed under such paragraph for each fiscal year 2009 shortfall State for the month shall be reduced proportionally.

“(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out

Deadline.

this subsection as necessary on the basis of the amounts reported by States not later than May 31, 2009, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

“(6) AVAILABILITY; NO FURTHER REDISTRIBUTION.—Notwithstanding subsections (e) and (f), amounts redistributed to a State pursuant to this subsection for the first 2 quarters of fiscal year 2009 shall only remain available for expenditure by the State through March 31, 2009, and any amounts of such redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f).

“(1) ADDITIONAL ALLOTMENTS TO ELIMINATE FUNDING SHORTFALLS FOR THE FIRST 2 QUARTERS OF FISCAL YEAR 2009.—

“(1) APPROPRIATION; ALLOTMENT AUTHORITY.—For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed \$275,000,000 for the first 2 quarters of fiscal year 2009.

“(2) SHORTFALL STATES DESCRIBED.—For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary, that the Federal share amount of the projected expenditures under such plan for such State for the first 2 quarters of fiscal year 2009 will exceed the sum of—

“(A) the amount of the State’s allotments for each of fiscal years 2007 and 2008 that will not be expended by the end of fiscal year 2008;

“(B) the amount, if any, that is to be redistributed to the State during fiscal year 2009 in accordance with subsection (k); and

“(C) the amount of the State’s allotment for fiscal year 2009.

“(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for the first 2 quarters of fiscal year 2009, the Secretary shall allot—

“(A) to each shortfall State described in paragraph (2) not described in subparagraph (B) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

“(B) to each commonwealth or territory described in subsection (c)(3), an amount equal to the percentage specified in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

“(4) PRORATION RULE.—If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

“(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out

Deadline.

this subsection as necessary on the basis of the amounts reported by States not later than May 31, 2009, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

“(6) AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2009, subject to paragraph (5), shall only remain available for expenditure by the State through March 31, 2009. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f).”.

SEC. 202. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.

Section 401 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109-432, 120 Stat. 2994), as amended by section 1 of Public Law 110-48 (121 Stat. 244) and section 2 of the TMA, Abstinence, Education, and QI Programs Extension Act of 2007 (Public Law 110-90, 121 Stat. 984), is amended—

(1) by striking “December 31, 2007” and inserting “June 30, 2008”; and

(2) by striking “first quarter” and inserting “third quarter” each place it appears.

SEC. 203. EXTENSION OF QUALIFYING INDIVIDUAL (QI) PROGRAM.

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking “December 2007” and inserting “June 2008”.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g)(2) of the Social Security Act (42 U.S.C. 1396u-3(g)(2)) is amended—

(1) in subparagraph (G), by striking “and” at the end;

(2) in subparagraph (H), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(I) for the period that begins on January 1, 2008, and ends on June 30, 2008, the total allocation amount is \$200,000,000.”.

SEC. 204. MEDICAID DSH EXTENSION.

Section 1923(f)(6) of the Social Security Act (42 U.S.C. 1396r-4(f)(6)) is amended—

(1) in the heading, by inserting “AND PORTIONS OF FISCAL YEAR 2008” after “FISCAL YEAR 2007”; and

(2) in subparagraph (A)—

(A) in clause (i), by adding at the end (after and below subclause (II)) the following:

“Only with respect to fiscal year 2008 for the period ending on June 30, 2008, the DSH allotment for Tennessee for such portion of the fiscal year, notwithstanding such table or terms, shall be $\frac{3}{4}$ of the amount specified in the previous sentence for fiscal year 2007.”;

(B) in clause (ii)—

(i) by inserting “or for a period in fiscal year 2008 described in clause (i)” after “fiscal year 2007”; and

(ii) by inserting “or period” after “such fiscal year”; and

Tennessee.

(C) in clause (iv)—

(i) in the heading, by inserting “AND FISCAL YEAR 2008” after “FISCAL YEAR 2007”;

(ii) in subclause (I)—

(I) by inserting “or for a period in fiscal year 2008 described in clause (i)” after “fiscal year 2007”; and

(II) by inserting “or period” after “for such fiscal year”; and

(iii) in subclause (II)—

(I) by inserting “or for a period in fiscal year 2008 described in clause (i)” after “fiscal year 2007”; and

(II) by inserting “or period” after “such fiscal year” each place it appears; and

Hawaii.

(3) in subparagraph (B)(i), by adding at the end the following: “Only with respect to fiscal year 2008 for the period ending on June 30, 2008, the DSH allotment for Hawaii for such portion of the fiscal year, notwithstanding the table set forth in paragraph (2), shall be \$7,500,000.”.

SEC. 205. IMPROVING DATA COLLECTION.

Section 2109(b)(2) of the Social Security Act (42 U.S.C. 1397ii(b)(2)) is amended by inserting before the period at the end the following “(except that only with respect to fiscal year 2008, there are appropriated \$20,000,000 for the purpose of carrying out this subsection, to remain available until expended)”.

SEC. 206. MORATORIUM ON CERTAIN PAYMENT RESTRICTIONS.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to June 30, 2008, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to coverage or payment under title XIX of the Social Security Act for rehabilitation services or school-based administration and school-based transportation if such restrictions are more restrictive in any aspect than those applied to such areas as of July 1, 2007.

TITLE III—MISCELLANEOUS

SEC. 301. MEDICARE PAYMENT ADVISORY COMMISSION STATUS.

Section 1805(a) of the Social Security Act (42 U.S.C. 1395b–6(a)) is amended by inserting “as an agency of Congress” after “established”.

SEC. 302. SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES AND INDIANS.

(a) SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.—Section 330B(b)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–2(b)(2)(C)) is amended by striking “2008” and inserting “2009”.

(b) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–3(c)(2)(C)) is amended by striking “2008” and inserting “2009”.

Approved December 29, 2007.

LEGISLATIVE HISTORY—S. 2499:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 18, considered and passed Senate.

Dec. 19, considered and passed House.



Public Law 110–174
110th Congress

An Act

Dec. 31, 2007
[S. 2271]

Sudan
Accountability
and Divestment
Act of 2007.
50 USC 1701
note.

To authorize State and local governments to divest assets in companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Sudan Accountability and Divestment Act of 2007”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Financial Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) **BUSINESS OPERATIONS.**—The term “business operations” means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(3) **EXECUTIVE AGENCY.**—The term “executive agency” has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(4) **GOVERNMENT OF SUDAN.**—The term “Government of Sudan”—

(A) means the government in Khartoum, Sudan, which is led by the National Congress Party (formerly known as the National Islamic Front) or any successor government formed on or after October 13, 2006 (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan); and

(B) does not include the regional government of southern Sudan.

(5) **MARGINALIZED POPULATIONS OF SUDAN.**—The term “marginalized populations of Sudan” refers to—

(A) adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace

and Accountability Act (Public Law 109-344; 50 U.S.C. 1701 note); and

(B) marginalized areas in Northern Sudan described in section 4(9) of such Act.

(6) **MILITARY EQUIPMENT.**—The term “military equipment” means—

(A) weapons, arms, military supplies, and equipment that readily may be used for military purposes, including radar systems or military-grade transport vehicles; or

(B) supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

(7) **MINERAL EXTRACTION ACTIVITIES.**—The term “mineral extraction activities” means exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc.

(8) **OIL-RELATED ACTIVITIES.**—

(A) **IN GENERAL.**—Except as provided in subparagraph

(B), the term “oil-related activities” means—

(i) exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading oil; and

(ii) constructing, maintaining, or operating a pipeline, refinery, or other oilfield infrastructure.

(B) **EXCLUSIONS.**—A person shall not be considered to be involved in an oil-related activity if—

(i) the person is involved in the retail sale of gasoline or related consumer products in Sudan but is not involved in any other activity described in subparagraph (A); or

(ii) the person is involved in leasing, or owns, rights to an oil block in Sudan but is not involved in any other activity described in subparagraph (A).

(9) **PERSON.**—The term “person” means—

(A) a natural person, corporation, company, business association, partnership, society, trust, any other non-governmental entity, organization, or group;

(B) any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3))); and

(C) any successor, subunit, parent company or subsidiary of any entity described in subparagraph (A) or (B).

(10) **POWER PRODUCTION ACTIVITIES.**—The term “power production activities” means any business operation that involves a project commissioned by the National Electricity Corporation of Sudan or other similar entity of the Government of Sudan whose purpose is to facilitate power generation and delivery, including establishing power-generating plants or hydroelectric dams, selling or installing components for the project, or providing service contracts related to the installation or maintenance of the project.

(11) **STATE.**—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto

Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(12) STATE OR LOCAL GOVERNMENT.—The term “State or local government” includes—

(A) any State and any agency or instrumentality thereof;

(B) any local government within a State, and any agency or instrumentality thereof;

(C) any other governmental instrumentality; and

(D) any public institution of higher education within the meaning of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 3. AUTHORITY OF STATE AND LOCAL GOVERNMENTS TO DIVEST FROM CERTAIN COMPANIES DIRECTLY INVESTED IN CERTAIN SUDANESE SECTORS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should support the decision of any State or local government to divest from, or to prohibit the investment of assets of the State or local government in, a person that the State or local government determines poses a financial or reputational risk.

(b) AUTHORITY TO DIVEST.—Notwithstanding any other provision of law, a State or local government may adopt and enforce measures that meet the requirements of subsection (e) to divest the assets of the State or local government from, or prohibit investment of the assets of the State or local government in, persons that the State or local government determines, using credible information available to the public, are conducting or have direct investments in business operations described in subsection (d).

Deadline.

(c) NOTICE TO DEPARTMENT OF JUSTICE.—Not later than 30 days after adopting a measure pursuant to subsection (b), a State or local government shall submit written notice to the Attorney General describing the measure.

(d) BUSINESS OPERATIONS DESCRIBED.—

(1) IN GENERAL.—Business operations described in this subsection are business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment.

(2) EXCEPTIONS.—Business operations described in this subsection do not include business operations that the person conducting the business operations can demonstrate—

(A) are conducted under contract directly and exclusively with the regional government of southern Sudan;

(B) are conducted under a license from the Office of Foreign Assets Control, or are expressly exempted under Federal law from the requirement to be conducted under such a license;

(C) consist of providing goods or services to marginalized populations of Sudan;

(D) consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(E) consist of providing goods or services that are used only to promote health or education; or

(F) have been voluntarily suspended.

(e) **REQUIREMENTS.**—Any measure taken by a State or local government under subsection (b) shall meet the following requirements:

(1) **NOTICE.**—The State or local government shall provide written notice and an opportunity to comment in writing to each person to whom a measure is to be applied.

(2) **TIMING.**—The measure shall apply to a person not earlier than the date that is 90 days after the date on which written notice is provided to the person under paragraph (1).

Applicability.
Deadline.

(3) **APPLICABILITY.**—The measure shall not apply to a person that demonstrates to the State or local government that the person does not conduct or have direct investments in business operations described in subsection (d).

(4) **SENSE OF CONGRESS ON AVOIDING ERRONEOUS TARGETING.**—It is the sense of Congress that a State or local government should not adopt a measure under subsection (b) with respect to a person unless the State or local government has made every effort to avoid erroneously targeting the person and has verified that the person conducts or has direct investments in business operations described in subsection (d).

(f) **DEFINITIONS.**—In this section:

(1) **INVESTMENT.**—The “investment” of assets, with respect to a State or local government, includes—

(A) a commitment or contribution of assets;

(B) a loan or other extension of credit of assets; and

(C) the entry into or renewal of a contract for goods or services.

(2) **ASSETS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term “assets” refers to public monies and includes any pension, retirement, annuity, or endowment fund, or similar instrument, that is controlled by a State or local government.

(B) **EXCEPTION.**—The term “assets” does not include employee benefit plans covered by title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(g) **NONPREEMPTION.**—A measure of a State or local government authorized under subsection (b) is not preempted by any Federal law or regulation.

(h) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), this section applies to measures adopted by a State or local government before, on, or after the date of the enactment of this Act.

(2) **NOTICE REQUIREMENTS.**—Subsections (c) and (e) apply to measures adopted by a State or local government on or after the date of the enactment of this Act.

Applicability.

SEC. 4. SAFE HARBOR FOR CHANGES OF INVESTMENT POLICIES BY ASSET MANAGERS.

(a) **IN GENERAL.**—Section 13 of the Investment Company Act of 1940 (15 U.S.C. 80a-13) is amended by adding at the end the following:

“(c) **LIMITATION ON ACTIONS.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of Federal or State law, no person may bring any civil, criminal,

or administrative action against any registered investment company, or any employee, officer, director, or investment adviser thereof, based solely upon the investment company divesting from, or avoiding investing in, securities issued by persons that the investment company determines, using credible information that is available to the public, conduct or have direct investments in business operations in Sudan described in section 3(d) of the Sudan Accountability and Divestment Act of 2007.

“(2) APPLICABILITY.—

“(A) ACTIONS FOR BREACHES OF FIDUCIARY DUTIES.—

Paragraph (1) does not prevent a person from bringing an action based on a breach of a fiduciary duty owed to that person with respect to a divestment or non-investment decision, other than as described in paragraph (1).

“(B) DISCLOSURES.—Paragraph (1) shall not apply to a registered investment company, or any employee, officer, director, or investment adviser thereof, unless the investment company makes disclosures in accordance with regulations prescribed by the Commission.

“(3) PERSON DEFINED.—For purposes of this subsection the term ‘person’ includes the Federal Government and any State or political subdivision of a State.”.

Deadline.

(b) SEC REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Securities and Exchange Commission shall prescribe regulations, in the public interest and for the protection of investors, to require disclosure by each registered investment company that divests itself of securities in accordance with section 13(c) of the Investment Company Act of 1940. Such rules shall require the disclosure to be included in the next periodic report filed with the Commission under section 30 of such Act (15 U.S.C. 80a-29) following such divestiture.

SEC. 5. SENSE OF CONGRESS REGARDING CERTAIN ERISA PLAN INVESTMENTS.

It is the sense of Congress that a fiduciary of an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), may divest plan assets from, or avoid investing plan assets in, any person the fiduciary determines is conducting or has direct investments in business operations in Sudan described in section 3(d) of this Act, without breaching the responsibilities, obligations, or duties imposed upon the fiduciary by section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104), if—

(1) the fiduciary makes such determination using credible information that is available to the public; and

(2) such divestment or avoidance of investment is conducted in accordance with section 2509.94-1 of title 29, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

SEC. 6. PROHIBITION ON UNITED STATES GOVERNMENT CONTRACTS.

(a) CERTIFICATION REQUIREMENT.—The head of each executive agency shall ensure that each contract entered into by such executive agency for the procurement of goods or services includes a clause that requires the contractor to certify to the contracting officer that the contractor does not conduct business operations in Sudan described in section 3(d).

(b) REMEDIES.—

(1) IN GENERAL.—The head of an executive agency may impose remedies as provided in this subsection if the head of the executive agency determines that the contractor has submitted a false certification under subsection (a) after the date the Federal Acquisition Regulation is amended under subsection (e) to implement the requirements of this section.

(2) TERMINATION.—The head of an executive agency may terminate a covered contract upon the determination of a false certification under paragraph (1).

(3) SUSPENSION AND DEBARMENT.—The head of an executive agency may debar or suspend a contractor from eligibility for Federal contracts upon the determination of a false certification under paragraph (1). The debarment period may not exceed 3 years.

(4) INCLUSION ON LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT AND NONPROCUREMENT PROGRAMS.—The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained by the Administrator under part 9 of the Federal Acquisition Regulation issued under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) each contractor that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an executive agency on the basis of a determination of a false certification under paragraph (1).

(5) RULE OF CONSTRUCTION.—This section shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a determination of a false certification under paragraph (1).

(c) WAIVER.—

(1) IN GENERAL.—The President may waive the requirement of subsection (a) on a case-by-case basis if the President determines and certifies in writing to the appropriate congressional committees that it is in the national interest to do so.

Certification.

(2) REPORTING REQUIREMENT.—Not later than April 15, 2008, and semi-annually thereafter, the Administrator for Federal Procurement Policy shall submit to the appropriate congressional committees a report on waivers granted under paragraph (1).

(d) IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.—Not later than 120 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) to provide for the implementation of the requirements of this section.

Deadline.

(e) REPORT.—Not later than one year after the date the Federal Acquisition Regulation is amended under subsection (e) to implement the requirements of this section, the Administrator of General Services, with the assistance of other executive agencies, shall submit to the Office of Management and Budget and the appropriate congressional committees a report on the actions taken under this section.

SEC. 7. SENSE OF CONGRESS ON EFFORTS BY OTHER COUNTRIES.

It is the sense of Congress that the governments of all other countries should adopt measures, similar to those contained in this Act, to publicize the activities of all persons that, through their financial dealings, knowingly or unknowingly enable the Government of Sudan to continue to oppress and commit genocide against people in the Darfur region and other regions of Sudan, and to authorize divestment from, and the avoidance of further investment in, such persons.

SEC. 8. SENSE OF CONGRESS ON PEACEKEEPING EFFORTS IN SUDAN.

It is the sense of Congress that the President should—

(1) continue to work with other members of the international community, including the Permanent Members of the United Nations Security Council, the African Union, the European Union, the Arab League, and the Government of Sudan to facilitate the urgent deployment of a peacekeeping force to Sudan; and

(2) bring before the United Nations Security Council, and call for a vote on, a resolution requiring meaningful multilateral sanctions against the Government of Sudan in response to its acts of genocide against the people of Darfur and its continued refusal to allow the implementation of a peacekeeping force in Sudan.

SEC. 9. SENSE OF CONGRESS ON THE INTERNATIONAL OBLIGATIONS OF THE UNITED STATES.

It is the sense of Congress that nothing in this Act—

(1) conflicts with the international obligations or commitments of the United States; or

(2) affects article VI, clause 2, of the Constitution of the United States.

SEC. 10. REPORTS ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) IN GENERAL.—The Secretary of State and the Secretary of the Treasury shall submit to the appropriate congressional committees a report assessing the effectiveness of sanctions imposed with respect to Sudan at the time the Secretary of State and the Secretary of the Treasury submits reports required under—

(1) the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note);

(2) the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note); and

(3) the Darfur Peace and Accountability Act of 2006 (Public Law 109–344; 50 U.S.C. 1701 note).

(b) ADDITIONAL REPORT BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall submit to the appropriate congressional committees a report assessing the effectiveness of sanctions imposed with respect to Sudan under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) at the time the President submits the reports required by section 204(c) of such Act (50 U.S.C. 1703(c)) with respect to Executive Order 13,067 (50 U.S.C. 1701 note; relating to blocking property of persons in connection with the conflict in Sudan's region of Darfur).

(c) CONTENTS.—The reports required by subsections (a) and (b) shall include—

(1) a description of each sanction imposed under a law or executive order described in subsection (a) or (b);

(2) the name of the person subject to the sanction, if any;
and

(3) whether or not the person subject to the sanction is also subject to sanctions imposed by the United Nations.

SEC. 11. REPEAL OF REPORTING REQUIREMENT.

Section 6305 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 172) is repealed.

SEC. 12. TERMINATION.

President.
Certification.

The provisions of sections 3, 4, 5, 6, and 10 shall terminate 30 days after the date on which the President has certified to Congress that the Government of Sudan has honored its commitments to—

(1) abide by United Nations Security Council Resolution 1769 (2007);

(2) cease attacks on civilians;

(3) demobilize and demilitarize the Janjaweed and associated militias;

(4) grant free and unfettered access for delivery of humanitarian assistance; and

(5) allow for the safe and voluntary return of refugees and internally displaced persons.

Approved December 31, 2007.

LEGISLATIVE HISTORY—S. 2271:

SENATE REPORTS: No. 110–213 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 12, considered and passed Senate.

Dec. 18, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):

Dec. 31, Presidential statement.



Public Law 110–175
110th Congress

An Act

Dec. 31, 2007
[S. 2488]

To promote accessibility, accountability, and openness in Government by strengthening section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and for other purposes.

Openness
Promotes
Effectiveness in
our National
Government Act
of 2007.
5 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Openness Promotes Effectiveness in our National Government Act of 2007” or the “OPEN Government Act of 2007”.

5 USC 552 note.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Freedom of Information Act was signed into law on July 4, 1966, because the American people believe that—

(A) our constitutional democracy, our system of self-government, and our commitment to popular sovereignty depends upon the consent of the governed;

(B) such consent is not meaningful unless it is informed consent; and

(C) as Justice Black noted in his concurring opinion in *Barr v. Matteo* (360 U.S. 564 (1959)), “The effective functioning of a free government like ours depends largely on the force of an informed public opinion. This calls for the widest possible understanding of the quality of government service rendered by all elective or appointed public officials or employees.”;

(2) the American people firmly believe that our system of government must itself be governed by a presumption of openness;

(3) the Freedom of Information Act establishes a “strong presumption in favor of disclosure” as noted by the United States Supreme Court in *United States Department of State v. Ray* (502 U.S. 164 (1991)), a presumption that applies to all agencies governed by that Act;

(4) “disclosure, not secrecy, is the dominant objective of the Act,” as noted by the United States Supreme Court in *Department of Air Force v. Rose* (425 U.S. 352 (1976));

(5) in practice, the Freedom of Information Act has not always lived up to the ideals of that Act; and

(6) Congress should regularly review section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), in order to determine whether further changes and improvements are necessary to ensure that the

Government remains open and accessible to the American people and is always based not upon the “need to know” but upon the fundamental “right to know”.

SEC. 3. PROTECTION OF FEE STATUS FOR NEWS MEDIA.

Section 552(a)(4)(A)(ii) of title 5, United States Code, is amended by adding at the end the following:

“In this clause, the term ‘a representative of the news media’ means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term ‘news’ means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of ‘news’) who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.”.

SEC. 4. RECOVERY OF ATTORNEY FEES AND LITIGATION COSTS.

(a) IN GENERAL.—Section 552(a)(4)(E) of title 5, United States Code, is amended—

(1) by inserting “(i)” after “(E)”; and

(2) by adding at the end the following:

“(ii) For purposes of this subparagraph, a complainant has substantially prevailed if the complainant has obtained relief through either—

“(I) a judicial order, or an enforceable written agreement or consent decree; or

“(II) a voluntary or unilateral change in position by the agency, if the complainant’s claim is not insubstantial.”.

(b) LIMITATION.—Notwithstanding section 1304 of title 31, United States Code, no amounts may be obligated or expended from the Claims and Judgment Fund of the United States Treasury to pay the costs resulting from fees assessed under section 552(a)(4)(E) of title 5, United States Code. Any such amounts shall be paid only from funds annually appropriated for any authorized purpose for the Federal agency against which a claim or judgment has been rendered.

5 USC 552 note.

SEC. 5. DISCIPLINARY ACTIONS FOR ARBITRARY AND CAPRICIOUS REJECTIONS OF REQUESTS.

Reports.

Section 552(a)(4)(F) of title 5, United States Code, is amended—

(1) by inserting “(i)” after “(F)”; and

(2) by adding at the end the following:

“(ii) The Attorney General shall—

Notification.

“(I) notify the Special Counsel of each civil action described under the first sentence of clause (i); and

“(II) annually submit a report to Congress on the number of such civil actions in the preceding year.

“(iii) The Special Counsel shall annually submit a report to Congress on the actions taken by the Special Counsel under clause (i).”.

SEC. 6. TIME LIMITS FOR AGENCIES TO ACT ON REQUESTS.

(a) TIME LIMITS.—

(1) IN GENERAL.—Section 552(a)(6)(A) of title 5, United States Code, is amended by inserting after clause (ii) the following:

“The 20-day period under clause (i) shall commence on the date on which the request is first received by the appropriate component of the agency, but in any event not later than ten days after the request is first received by any component of the agency that is designated in the agency’s regulations under this section to receive requests under this section. The 20-day period shall not be tolled by the agency except—

“(I) that the agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the requester under this section; or

“(II) if necessary to clarify with the requester issues regarding fee assessment. In either case, the agency’s receipt of the requester’s response to the agency’s request for information or clarification ends the tolling period.”.

5 USC 552 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 1 year after the date of enactment of this Act.

(b) COMPLIANCE WITH TIME LIMITS.—

(1) IN GENERAL.—

(A) SEARCH FEES.—Section 552(a)(4)(A) of title 5, United States Code, is amended by adding at the end the following:

“(viii) An agency shall not assess search fees (or in the case of a requester described under clause (ii)(II), duplication fees) under this subparagraph if the agency fails to comply with any time limit under paragraph (6), if no unusual or exceptional circumstances (as those terms are defined for purposes of paragraphs (6)(B) and (C), respectively) apply to the processing of the request.”.

(B) PUBLIC LIAISON.—Section 552(a)(6)(B)(ii) of title 5, United States Code, is amended by inserting after the first sentence the following: “To aid the requester, each agency shall make available its FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the agency.”.

5 USC 552 note.

(2) EFFECTIVE DATE AND APPLICATION.—The amendment made by this subsection shall take effect 1 year after the date of enactment of this Act and apply to requests for information under section 552 of title 5, United States Code, filed on or after that effective date.

SEC. 7. INDIVIDUALIZED TRACKING NUMBERS FOR REQUESTS AND STATUS INFORMATION.

(a) **IN GENERAL.**—Section 552(a) of title 5, United States Code, is amended by adding at the end the following:

“(7) Each agency shall—

“(A) establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request; and

“(B) establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including—

“(i) the date on which the agency originally received the request; and

“(ii) an estimated date on which the agency will complete action on the request.”.

(b) **EFFECTIVE DATE AND APPLICATION.**—The amendment made by this section shall take effect 1 year after the date of enactment of this Act and apply to requests for information under section 552 of title 5, United States Code, filed on or after that effective date.

5 USC 552 note.

SEC. 8. REPORTING REQUIREMENTS.

(a) **IN GENERAL.**—Section 552(e)(1) of title 5, United States Code, is amended—

(1) in subparagraph (B)(ii), by inserting after the first comma “the number of occasions on which each statute was relied upon,”;

(2) in subparagraph (C), by inserting “and average” after “median”;

(3) in subparagraph (E), by inserting before the semicolon “, based on the date on which the requests were received by the agency”;

(4) by redesignating subparagraphs (F) and (G) as subparagraphs (N) and (O), respectively; and

(5) by inserting after subparagraph (E) the following:

“(F) the average number of days for the agency to respond to a request beginning on the date on which the request was received by the agency, the median number of days for the agency to respond to such requests, and the range in number of days for the agency to respond to such requests;

“(G) based on the number of business days that have elapsed since each request was originally received by the agency—

“(i) the number of requests for records to which the agency has responded with a determination within a period up to and including 20 days, and in 20-day increments up to and including 200 days;

“(ii) the number of requests for records to which the agency has responded with a determination within a period greater than 200 days and less than 301 days;

“(iii) the number of requests for records to which the agency has responded with a determination within

a period greater than 300 days and less than 401 days; and

“(iv) the number of requests for records to which the agency has responded with a determination within a period greater than 400 days;

“(H) the average number of days for the agency to provide the granted information beginning on the date on which the request was originally filed, the median number of days for the agency to provide the granted information, and the range in number of days for the agency to provide the granted information;

“(I) the median and average number of days for the agency to respond to administrative appeals based on the date on which the appeals originally were received by the agency, the highest number of business days taken by the agency to respond to an administrative appeal, and the lowest number of business days taken by the agency to respond to an administrative appeal;

“(J) data on the 10 active requests with the earliest filing dates pending at each agency, including the amount of time that has elapsed since each request was originally received by the agency;

“(K) data on the 10 active administrative appeals with the earliest filing dates pending before the agency as of September 30 of the preceding year, including the number of business days that have elapsed since the requests were originally received by the agency;

“(L) the number of expedited review requests that are granted and denied, the average and median number of days for adjudicating expedited review requests, and the number adjudicated within the required 10 days;

“(M) the number of fee waiver requests that are granted and denied, and the average and median number of days for adjudicating fee waiver determinations;”.

(b) **APPLICABILITY TO AGENCY AND EACH PRINCIPAL COMPONENT OF THE AGENCY.**—Section 552(e) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) Information in each report submitted under paragraph (1) shall be expressed in terms of each principal component of the agency and for the agency overall.”.

(c) **PUBLIC AVAILABILITY OF DATA.**—Section 552(e)(3) of title 5, United States Code, (as redesignated by subsection (b) of this section) is amended by adding at the end “In addition, each agency shall make the raw statistical data used in its reports available electronically to the public upon request.”.

SEC. 9. OPENNESS OF AGENCY RECORDS MAINTAINED BY A PRIVATE ENTITY.

Section 552(f) of title 5, United States Code, is amended by striking paragraph (2) and inserting the following:

“(2) ‘record’ and any other term used in this section in reference to information includes—

“(A) any information that would be an agency record subject to the requirements of this section when maintained

by an agency in any format, including an electronic format; and

“(B) any information described under subparagraph (A) that is maintained for an agency by an entity under Government contract, for the purposes of records management.”.

SEC. 10. OFFICE OF GOVERNMENT INFORMATION SERVICES.

(a) IN GENERAL.—Section 552 of title 5, United States Code, is amended by adding at the end the following:

“(h)(1) There is established the Office of Government Information Services within the National Archives and Records Administration. Establishment.

“(2) The Office of Government Information Services shall—

“(A) review policies and procedures of administrative agencies under this section;

“(B) review compliance with this section by administrative agencies; and

“(C) recommend policy changes to Congress and the President to improve the administration of this section.

“(3) The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under this section and administrative agencies as a non-exclusive alternative to litigation and, at the discretion of the Office, may issue advisory opinions if mediation has not resolved the dispute.

“(i) The Government Accountability Office shall conduct audits of administrative agencies on the implementation of this section and issue reports detailing the results of such audits. Audits. Reports.

“(j) Each agency shall designate a Chief FOIA Officer who shall be a senior official of such agency (at the Assistant Secretary or equivalent level). Designation.

“(k) The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency—

“(1) have agency-wide responsibility for efficient and appropriate compliance with this section;

“(2) monitor implementation of this section throughout the agency and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency’s performance in implementing this section;

“(3) recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve its implementation of this section;

“(4) review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency’s performance in implementing this section;

“(5) facilitate public understanding of the purposes of the statutory exemptions of this section by including concise descriptions of the exemptions in both the agency’s handbook issued under subsection (g), and the agency’s annual report on this section, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply; and

“(6) designate one or more FOIA Public Liaisons.

“(l) FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a

requester under this section can raise concerns about the service the requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center Staff. FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.”.

5 USC 552 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 11. REPORT ON PERSONNEL POLICIES RELATED TO FOIA.

Not later than 1 year after the date of enactment of this Act, the Office of Personnel Management shall submit to Congress a report that examines—

(1) whether changes to executive branch personnel policies could be made that would—

(A) provide greater encouragement to all Federal employees to fulfill their duties under section 552 of title 5, United States Code; and

(B) enhance the stature of officials administering that section within the executive branch;

(2) whether performance of compliance with section 552 of title 5, United States Code, should be included as a factor in personnel performance evaluations for any or all categories of Federal employees and officers;

(3) whether an employment classification series specific to compliance with sections 552 and 552a of title 5, United States Code, should be established;

(4) whether the highest level officials in particular agencies administering such sections should be paid at a rate of pay equal to or greater than a particular minimum rate; and

(5) whether other changes to personnel policies can be made to ensure that there is a clear career advancement track for individuals interested in devoting themselves to a career in compliance with such sections; and

(6) whether the executive branch should require any or all categories of Federal employees to undertake awareness training of such sections.

SEC. 12. REQUIREMENT TO DESCRIBE EXEMPTIONS AUTHORIZING DELETIONS OF MATERIAL PROVIDED UNDER FOIA.

Section 552(b) of title 5, United States Code, is amended in the matter after paragraph (9)—

(1) in the second sentence, by inserting after “amount of information deleted” the following: “, and the exemption under which the deletion is made,”; and

(2) in the third sentence, by inserting after “amount of the information deleted” the following: “, and the exemption under which the deletion is made,”.

Approved December 31, 2007.

LEGISLATIVE HISTORY—S. 2488:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 14, considered and passed Senate.

Dec. 18, considered and passed House.



Public Law 110–176
110th Congress

An Act

Jan. 4, 2008
[S. 2436]

To amend the Internal Revenue Code of 1986 to clarify the term of the Commissioner of Internal Revenue.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF TERM OF THE COMMISSIONER OF INTERNAL REVENUE.

26 USC 7803. (a) IN GENERAL.—Paragraph (1) of section 7803(a) of the Internal Revenue Code of 1986 (relating to appointment) is amended to read as follows:

President.

“(1) APPOINTMENT.—

“(A) IN GENERAL.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

“(B) TERM.—The term of the Commissioner of Internal Revenue shall be a 5-year term, beginning with a term to commence on November 13, 1997. Each subsequent term shall begin on the day after the date on which the previous term expires.

“(C) VACANCY.—Any individual appointed as Commissioner of Internal Revenue during a term as defined in subparagraph (B) shall be appointed for the remainder of that term.

“(D) REMOVAL.—The Commissioner may be removed at the will of the President.

“(E) REAPPOINTMENT.—The Commissioner may be appointed to serve more than one term.”.

26 USC 7803
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in the amendment made by section

1102(a) of the Internal Revenue Service Restructuring and Reform Act of 1998.

Approved January 4, 2008.

LEGISLATIVE HISTORY—S. 2436:

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 18, considered and passed Senate.

Dec. 19, considered and passed House.



Public Law 110–177
110th Congress

An Act

Jan. 7, 2008
[H.R. 660]

To amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes.

Court Security
Improvement Act
of 2007.
28 USC 1 note.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Court Security Improvement Act of 2007”.

**TITLE I—JUDICIAL SECURITY
IMPROVEMENTS AND FUNDING**

SEC. 101. JUDICIAL BRANCH SECURITY REQUIREMENTS.

(a) ENSURING CONSULTATION WITH THE JUDICIARY.—Section 566 of title 28, United States Code, is amended by adding at the end the following:

“(i) The Director of the United States Marshals Service shall consult with the Judicial Conference of the United States on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term ‘judicial security’ includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.”.

(b) CONFORMING AMENDMENT.—Section 331 of title 28, United States Code, is amended by adding at the end the following:

“The Judicial Conference shall consult with the Director of United States Marshals Service on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term ‘judicial security’ includes the security of buildings housing the judiciary, the personal security of judicial

officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.”.

SEC. 102. PROTECTION OF UNITED STATES TAX COURT.

(a) **IN GENERAL.**—Section 566(a) of title 28, United States Code, is amended by striking “and the Court of International Trade” and inserting “, the Court of International Trade, and the United States Tax Court, as provided by law”.

(b) **INTERNAL REVENUE CODE.**—Section 7456(c) of the Internal Revenue Code of 1986 (relating to incidental powers of the Tax Court) is amended in the matter following paragraph (3), by striking the period at the end, and inserting “and may otherwise provide, when requested by the chief judge of the Tax Court, for the security of the Tax Court, including the personal protection of Tax Court judges, court officers, witnesses, and other threatened persons in the interests of justice, where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding. The United States Marshals Service retains final authority regarding security requirements for the Tax Court.”.

26 USC 7456.

(c) **REIMBURSEMENT.**—The United States Tax Court shall reimburse the United States Marshals Service for protection provided under the amendments made by this section.

26 USC 7456
note.

SEC. 103. ADDITIONAL AMOUNTS FOR UNITED STATES MARSHALS SERVICE TO PROTECT THE JUDICIARY.

Appropriation
authorization.

In addition to any other amounts authorized to be appropriated for the United States Marshals Service, there are authorized to be appropriated for the United States Marshals Service \$20,000,000 for each of fiscal years 2007 through 2011 for—

(1) hiring entry-level deputy marshals for providing judicial security;

(2) hiring senior-level deputy marshals for investigating threats to the judiciary and providing protective details to members of the judiciary, assistant United States attorneys, and other attorneys employed by the Federal Government; and

(3) for the Office of Protective Intelligence, for hiring senior-level deputy marshals, hiring program analysts, and providing secure computer systems.

SEC. 104. FINANCIAL DISCLOSURE REPORTS.

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking “2009” each place it appears and inserting “2011”.

TITLE II—CRIMINAL LAW ENHANCEMENTS TO PROTECT JUDGES, FAMILY MEMBERS, AND WITNESSES

SEC. 201. PROTECTIONS AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES AND FEDERAL LAW ENFORCEMENT OFFICERS.

(a) **OFFENSE.**—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

“§ 1521. Retaliating against a Federal judge or Federal law enforcement officer by false claim or slander of title

“Whoever files, attempts to file, or conspires to file, in any public record or in any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of an individual described in section 1114, on account of the performance of official duties by that individual, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than 10 years, or both.”.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

“1521. Retaliating against a Federal judge or Federal law enforcement officer by false claim or slander of title.”.

SEC. 202. PROTECTION OF INDIVIDUALS PERFORMING CERTAIN OFFICIAL DUTIES.

(a) OFFENSE.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

“§ 119. Protection of individuals performing certain official duties

“(a) IN GENERAL.—Whoever knowingly makes restricted personal information about a covered person, or a member of the immediate family of that covered person, publicly available—

“(1) with the intent to threaten, intimidate, or incite the commission of a crime of violence against that covered person, or a member of the immediate family of that covered person; or

“(2) with the intent and knowledge that the restricted personal information will be used to threaten, intimidate, or facilitate the commission of a crime of violence against that covered person, or a member of the immediate family of that covered person,

shall be fined under this title, imprisoned not more than 5 years, or both.

“(b) DEFINITIONS.—In this section—

“(1) the term ‘restricted personal information’ means, with respect to an individual, the Social Security number, the home address, home phone number, mobile phone number, personal email, or home fax number of, and identifiable to, that individual;

“(2) the term ‘covered person’ means—

“(A) an individual designated in section 1114;

“(B) a grand or petit juror, witness, or other officer in or of, any court of the United States, or an officer who may be, or was, serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate;

“(C) an informant or witness in a Federal criminal investigation or prosecution; or

“(D) a State or local officer or employee whose restricted personal information is made publicly available

because of the participation in, or assistance provided to, a Federal criminal investigation by that officer or employee;
“(3) the term ‘crime of violence’ has the meaning given the term in section 16; and

“(4) the term ‘immediate family’ has the meaning given the term in section 115(c)(2).”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

“119. Protection of individuals performing certain official duties.”.

SEC. 203. PROHIBITION OF POSSESSION OF DANGEROUS WEAPONS IN FEDERAL COURT FACILITIES.

Section 930(e)(1) of title 18, United States Code, is amended by inserting “or other dangerous weapon” after “firearm”.

SEC. 204. CLARIFICATION OF VENUE FOR RETALIATION AGAINST A WITNESS.

Section 1513 of title 18, United States Code, is amended by adding at the end the following:

“(g) A prosecution under this section may be brought in the district in which the official proceeding (whether pending, about to be instituted, or completed) was intended to be affected, or in which the conduct constituting the alleged offense occurred.”.

SEC. 205. MODIFICATION OR TAMPERING WITH A WITNESS, VICTIM, OR AN INFORMANT OFFENSE.

Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)(3)—

(A) by amending subparagraph (A) to read as follows:

“(A) in the case of a killing, the punishment provided in sections 1111 and 1112;”;

(B) in the matter following clause (ii) of subparagraph

(B) by striking “20 years” and inserting “30 years”; and

(C) in subparagraph (C), by striking “10 years” and inserting “20 years”;

(2) in subsection (b), by striking “ten years” and inserting “20 years”; and

(3) in subsection (d), by striking “one year” and inserting “3 years”.

SEC. 206. MODIFICATION OF RETALIATION OFFENSE.

Section 1513 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B)—

(A) by inserting a comma after “probation”; and

(B) by striking the comma which immediately follows another comma;

(2) in subsection (a)(2)(B), by striking “20 years” and inserting “30 years”;

(3) in subsection (b)—

(A) in paragraph (2)—

(i) by inserting a comma after “probation”; and

(ii) by striking the comma which immediately follows another comma; and

(B) in the matter following paragraph (2), by striking “ten years” and inserting “20 years”; and

(4) by redesignating the second subsection (e) as subsection (f).

SEC. 207. GENERAL MODIFICATIONS OF FEDERAL MURDER CRIME AND RELATED CRIMES.

Section 1112(b) of title 18, United States Code, is amended—
(1) by striking “ten years” and inserting “15 years”; and
(2) by striking “six years” and inserting “8 years”.

SEC. 208. ASSAULT PENALTIES.

(a) **IN GENERAL.**—Section 115(b) of title 18, United States Code, is amended by striking “(1)” and all that follows through the end of paragraph (1) and inserting the following: “(1) The punishment for an assault in violation of this section is—

“(A) a fine under this title; and

“(B)(i) if the assault consists of a simple assault, a term of imprisonment for not more than 1 year;

“(ii) if the assault involved physical contact with the victim of that assault or the intent to commit another felony, a term of imprisonment for not more than 10 years;

“(iii) if the assault resulted in bodily injury, a term of imprisonment for not more than 20 years; or

“(iv) if the assault resulted in serious bodily injury (as that term is defined in section 1365 of this title, and including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) or a dangerous weapon was used during and in relation to the offense, a term of imprisonment for not more than 30 years.”.

(b) **CONFORMING AMENDMENT.**—Section 111(a) of title 18, United States Code, is amended by striking “in all other cases” and inserting “where such acts involve physical contact with the victim of that assault or the intent to commit another felony”.

28 USC 994 note.

SEC. 209. DIRECTION TO THE SENTENCING COMMISSION.

The United States Sentencing Commission is directed to review the Sentencing Guidelines as they apply to threats punishable under section 115 of title 18, United States Code, that occur over the Internet, and determine whether and by how much that circumstance should aggravate the punishment pursuant to section 994 of title 28, United States Code. In conducting the study, the Commission shall take into consideration the number of such threats made, the intended number of recipients of such threats, and whether the initial senders of such threats were acting in an individual capacity or as part of a larger group.

TITLE III—PROTECTING STATE AND LOCAL JUDGES AND RELATED GRANT PROGRAMS

SEC. 301. GRANTS TO STATES TO PROTECT WITNESSES AND VICTIMS OF CRIMES.

(a) **IN GENERAL.**—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(5) by a State, unit of local government, or Indian tribe to create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes.”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

“SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated \$20,000,000 for each of the fiscal years 2008 through 2012 to carry out this subtitle.”.

SEC. 302. ELIGIBILITY OF STATE COURTS FOR CERTAIN FEDERAL GRANTS.

(a) **CORRECTIONAL OPTIONS GRANTS.**—Section 515 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(4) grants to State courts to improve security for State and local court systems.”; and

(2) in subsection (b), by adding at the end the following:

“Priority shall be given to State court applicants under subsection (a)(4) that have the greatest demonstrated need to provide security in order to administer justice.”.

(b) **ALLOCATIONS.**—Section 516(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended—

(1) by striking “80” and inserting “70”;

(2) by striking “and 10” and inserting “10”; and

(3) by inserting before the period the following: “, and 10 percent for section 515(a)(4)”.

(c) **STATE AND LOCAL GOVERNMENTS TO CONSIDER COURTS.**—42 USC 3702.
The Attorney General may require, as appropriate, that whenever a State or unit of local government or Indian tribe applies for a grant from the Department of Justice, the State, unit, or tribe demonstrate that, in developing the application and distributing funds, the State, unit, or tribe—

(1) considered the needs of the judicial branch of the State, unit, or tribe, as the case may be;

(2) consulted with the chief judicial officer of the highest court of the State, unit, or tribe, as the case may be; and

(3) consulted with the chief law enforcement officer of the law enforcement agency responsible for the security needs of the judicial branch of the State, unit, or tribe, as the case may be.

(d) **ARMOR VESTS.**—Section 2501 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll) is amended—

(1) in subsection (a), by inserting “and State and local court officers” after “tribal law enforcement officers”; and

(2) in subsection (b)(1), by inserting “State or local court,” after “government,”.

42 USC 3714a.

SEC. 303. GRANTS TO STATES FOR THREAT ASSESSMENT DATABASES.

(a) **IN GENERAL.**—The Attorney General, through the Office of Justice Programs, shall make grants under this section to the highest State courts in States participating in the program, for the purpose of enabling such courts to establish and maintain a threat assessment database described in subsection (b).

(b) **DATABASE.**—For purposes of subsection (a), a threat assessment database is a database through which a State can—

(1) analyze trends and patterns in domestic terrorism and crime;

(2) project the probabilities that specific acts of domestic terrorism or crime will occur; and

(3) develop measures and procedures that can effectively reduce the probabilities that those acts will occur.

(c) **CORE ELEMENTS.**—The Attorney General shall define a core set of data elements to be used by each database funded by this section so that the information in the database can be effectively shared with other States and with the Department of Justice.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2008 through 2011.

TITLE IV—LAW ENFORCEMENT OFFICERS

SEC. 401. REPORT ON SECURITY OF FEDERAL PROSECUTORS.

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the security of assistant United States attorneys and other Federal attorneys arising from the prosecution of terrorists, violent criminal gangs, drug traffickers, gun traffickers, white supremacists, those who commit fraud and other white-collar offenses, and other criminal cases.

(b) **CONTENTS.**—The report submitted under subsection (a) shall describe each of the following:

(1) The number and nature of threats and assaults against attorneys handling prosecutions described in subsection (a) and the reporting requirements and methods.

(2) The security measures that are in place to protect the attorneys who are handling prosecutions described in subsection (a), including threat assessments, response procedures, availability of security systems and other devices, firearms licensing (deputations), and other measures designed to protect the attorneys and their families.

(3) The firearms deputation policies of the Department of Justice, including the number of attorneys deputized and the time between receipt of threat and completion of the deputation and training process.

(4) For each requirement, measure, or policy described in paragraphs (1) through (3), when the requirement, measure, or policy was developed and who was responsible for developing and implementing the requirement, measure, or policy.

(5) The programs that are made available to the attorneys for personal security training, including training relating to limitations on public information disclosure, basic home security, firearms handling and safety, family safety, mail handling, counter-surveillance, and self-defense tactics.

(6) The measures that are taken to provide attorneys handling prosecutions described in subsection (a) with secure parking facilities, and how priorities for such facilities are established—

(A) among Federal employees within the facility;

(B) among Department of Justice employees within the facility; and

(C) among attorneys within the facility.

(7) The frequency attorneys handling prosecutions described in subsection (a) are called upon to work beyond standard work hours and the security measures provided to protect attorneys at such times during travel between office and available parking facilities.

(8) With respect to attorneys who are licensed under State laws to carry firearms, the policy of the Department of Justice as to—

(A) carrying the firearm between available parking and office buildings;

(B) securing the weapon at the office buildings; and

(C) equipment and training provided to facilitate safe storage at Department of Justice facilities.

(9) The offices in the Department of Justice that are responsible for ensuring the security of attorneys handling prosecutions described in subsection (a), the organization and staffing of the offices, and the manner in which the offices coordinate with offices in specific districts.

(10) The role, if any, that the United States Marshals Service or any other Department of Justice component plays in protecting, or providing security services or training for, attorneys handling prosecutions described in subsection (a).

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. EXPANDED PROCUREMENT AUTHORITY FOR THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Section 995 of title 28, United States Code, is amended by adding at the end the following:

“(f) The Commission may—

“(1) use available funds to enter into contracts for the acquisition of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year, to the same extent as executive agencies may enter into such contracts under the authority of section 303L of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253l);

“(2) enter into multi-year contracts for the acquisition of property or services to the same extent as executive agencies may enter into such contracts under the authority of section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c); and

“(3) make advance, partial, progress, or other payments under contracts for property or services to the same extent

as executive agencies may make such payments under the authority of section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255).”.

28 USC 995 note.

(b) SUNSET.—The amendment made by subsection (a) shall cease to have force and effect on September 30, 2010.

SEC. 502. MAGISTRATE JUDGES LIFE INSURANCE.

(a) IN GENERAL.—Section 604(a)(5) of title 28, United States Code, is amended by inserting after “hold office during good behavior”, the following: “magistrate judges appointed under section 631 of this title,”.

5 USC 8701 note.

(b) CONSTRUCTION.—For purposes of construing and applying chapter 87 of title 5, United States Code, including any adjustment of insurance rates by regulation or otherwise, the following categories of judicial officers shall be deemed to be judges of the United States as described under section 8701 of title 5, United States Code:

(1) Magistrate judges appointed under section 631 of title 28, United States Code.

(2) Magistrate judges retired under section 377 of title 28, United States Code.

28 USC 604 note.

(c) EFFECTIVE DATE.—Subsection (b) and the amendment made by subsection (a) shall apply with respect to any payment made on or after the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

SEC. 503. ASSIGNMENT OF JUDGES.

Section 296 of title 28, United States Code, is amended by inserting at the end of the second undesignated paragraph the following new sentence: “However, a district judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed, having performed in the preceding calendar year an amount of work equal to or greater than the amount of work an average judge in active service on that court would perform in 6 months, and having elected to exercise such powers, shall have the powers of a judge of that court to participate in appointment of court officers and magistrate judges, rulemaking, governance, and administrative matters.”.

SEC. 504. SENIOR JUDGE PARTICIPATION IN THE SELECTION OF MAGISTRATE JUDGES.

Section 631(a) of title 28, United States Code, is amended by striking “Northern Mariana Islands” the first place it appears and inserting “Northern Mariana Islands (including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed)”.

SEC. 505. GUARANTEEING COMPLIANCE WITH PRISONER PAYMENT COMMITMENTS.

Notification.

Section 3624(e) of title 18, United States Code, is amended by striking the last sentence and inserting the following: “Upon the release of a prisoner by the Bureau of Prisons to supervised release, the Bureau of Prisons shall notify such prisoner, verbally and in writing, of the requirement that the prisoner adhere to an installment schedule, not to exceed 2 years except in special circumstances, to pay for any fine imposed for the offense committed

by such prisoner, and of the consequences of failure to pay such fines under sections 3611 through 3614 of this title.”.

SEC. 506. STUDY AND REPORT.

The Attorney General shall study whether the generally open public access to State and local records imperils the safety of the Federal judiciary. Not later than 18 months after the enactment of this Act, the Attorney General shall report to Congress the results of that study together with any recommendations the Attorney General deems necessary.

SEC. 507. REAUTHORIZATION OF FUGITIVE APPREHENSION TASK FORCES.

Section 6(b) of the Presidential Threat Protection Act of 2000 (28 U.S.C. 566 note; Public Law 106–544) is amended—

(1) by striking “and” after “fiscal year 2002,”; and

(2) by inserting “, and \$10,000,000 for each of fiscal years 2008 through 2012” before the period.

SEC. 508. INCREASED PROTECTION OF FEDERAL JUDGES.

49 USC 30301
note.

(a) MINIMUM DOCUMENT REQUIREMENTS.—

(1) MINIMUM REQUIREMENTS.—For purposes of section 202(b)(6) of the REAL ID Act of 2005 (49 U.S.C. 30301 note), a State may, in the case of an individual described in subparagraph (A) or (B) of paragraph (2), include in a driver’s license or other identification card issued to that individual by the State, the address specified in that subparagraph in lieu of the individual’s address of principle residence.

(2) INDIVIDUALS AND INFORMATION.—The individuals and addresses referred to in paragraph (1) are the following:

(A) In the case of a Justice of the United States, the address of the United States Supreme Court.

(B) In the case of a judge of a Federal court, the address of the courthouse.

(b) VERIFICATION OF INFORMATION.—For purposes of section 202(c)(1)(D) of the REAL ID Act of 2005 (49 U.S.C. 30301 note), in the case of an individual described in subparagraph (A) or (B) of subsection (a)(2), a State need only require documentation of the address appearing on the individual’s driver’s license or other identification card issued by that State to the individual.

SEC. 509. FEDERAL JUDGES FOR COURTS OF APPEALS.

(a) IN GENERAL.—Section 44(a) of title 28, United States Code, is amended in the table—

(1) in the item relating to the District of Columbia Circuit, by striking “12” and inserting “11”; and

(2) in the item relating to the Ninth Circuit, by striking “28” and inserting “29”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(2) shall take effect on January 21, 2009. 28 USC 44 note.

SEC. 510. NATIONAL INSTITUTE OF JUSTICE STUDY AND REPORT.

(a) STUDY REQUIRED.—The Director of the National Institute of Justice (referred to in this section as the “Director”) shall conduct a study to determine and compile the collateral consequences of convictions for criminal offenses in the United States, each of the 50 States, each territory of the United States, and the District of Columbia.

(b) **ACTIVITIES UNDER STUDY.**—In conducting the study under subsection (a), the Director shall identify any provision in the Constitution, statutes, or administrative rules of each jurisdiction described in that subsection that imposes collateral sanctions or authorizes the imposition of disqualifications, and any provision that may afford relief from such collateral sanctions and disqualifications.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Director shall submit to Congress a report on the activities carried out under this section.

(2) **CONTENTS.**—The report submitted under paragraph (1) shall include a compilation of citations, text, and short descriptions of any provision identified under subsection (b).

(3) **DISTRIBUTION.**—The report submitted under paragraph (1) shall be distributed to the legislature and chief executive of each of the 50 States, each territory of the United States, and the District of Columbia.

(d) **DEFINITIONS.**—In this section:

(1) **COLLATERAL CONSEQUENCE.**—The term “collateral consequence” means a collateral sanction or a disqualification.

(2) **COLLATERAL SANCTION.**—The term “collateral sanction”—

(A) means a penalty, disability, or disadvantage, however denominated, that is imposed by law as a result of an individual’s conviction for a felony, misdemeanor, or other offense, but not as part of the judgment of the court; and

(B) does not include a term of imprisonment, probation, parole, supervised release, fine, assessment, forfeiture, restitution, or the costs of prosecution.

(3) **DISQUALIFICATION.**—The term “disqualification” means a penalty, disability, or disadvantage, however denominated, that an administrative agency, official, or a court in a civil proceeding is authorized, but not required, to impose on an individual convicted of a felony, misdemeanor, or other offense on grounds relating to the conviction.

SEC. 511. TECHNICAL AMENDMENT.

Section 2255 of title 28, United States Code, is amended by designating the 8 undesignated paragraphs as subsections (a) through (h), respectively.

Approved January 7, 2008.

LEGISLATIVE HISTORY—H.R. 660 (S. 378):

HOUSE REPORTS: No. 110–218, Pt. 1 (Comm. on the Judiciary).

SENATE REPORTS: No. 110–42 accompanying S. 378 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 153 (2007):

July 10, considered and passed House.

Dec. 17, considered and passed Senate, amended.

Dec. 19, House concurred in Senate amendment.



Public Law 110–178
110th Congress

An Act

Jan. 7, 2008
[H.R. 3690]

To provide for the transfer of the Library of Congress police to the United States Capitol Police, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

U.S. Capitol
Police and
Library of
Congress
Police Merger
Implementation
Act of 2007.
2 USC 1901 note.
2 USC 1901 note.
Effective date.

SECTION 1. SHORT TITLE.

This Act may be cited as the “U.S. Capitol Police and Library of Congress Police Merger Implementation Act of 2007”.

SEC. 2. TRANSFER OF PERSONNEL.

(a) TRANSFERS.—

(1) LIBRARY OF CONGRESS POLICE EMPLOYEES.—Effective on the employee’s transfer date, each Library of Congress Police employee shall be transferred to the United States Capitol Police and shall become either a member or civilian employee of the Capitol Police, as determined by the Chief of the Capitol Police under subsection (b).

(2) LIBRARY OF CONGRESS POLICE CIVILIAN EMPLOYEES.—Effective on the employee’s transfer date, each Library of Congress Police civilian employee shall be transferred to the United States Capitol Police and shall become a civilian employee of the Capitol Police.

(b) TREATMENT OF LIBRARY OF CONGRESS POLICE EMPLOYEES.—

(1) DETERMINATION OF STATUS WITHIN CAPITOL POLICE.—

(A) ELIGIBILITY TO SERVE AS MEMBERS OF THE CAPITOL POLICE.—A Library of Congress Police employee shall become a member of the Capitol Police on the employee’s transfer date if the Chief of the Capitol Police determines and issues a written certification that the employee meets each of the following requirements:

(i) Based on the assumption that such employee would perform a period of continuous Federal service after the transfer date, the employee would be entitled to an annuity for immediate retirement under section 8336(b) or 8412(b) of title 5, United States Code (as determined by taking into account paragraph (3)(A)), on the date such employee becomes 60 years of age.

(ii) During the transition period, the employee successfully completes training, as determined by the Chief of the Capitol Police.

(iii) The employee meets the qualifications required to be a member of the Capitol Police, as determined by the Chief of the Capitol Police.

(B) SERVICE AS CIVILIAN EMPLOYEE OF CAPITOL POLICE.—If the Chief of the Capitol Police determines that a Library of Congress Police employee does not meet the eligibility requirements, the employee shall become a civilian employee of the Capitol Police on the employee's transfer date.

(C) FINALITY OF DETERMINATIONS.—Any determination of the Chief of the Capitol Police under this paragraph shall not be appealable or reviewable in any manner.

(D) DEADLINE FOR DETERMINATIONS.—The Chief of the Capitol Police shall complete the determinations required under this paragraph for all Library of Congress Police employees not later than September 30, 2009.

(2) EXEMPTION FROM MANDATORY SEPARATION.—Section 8335(c) or 8425(c) of title 5, United States Code, shall not apply to any Library of Congress Police employee who becomes a member of the Capitol Police under this subsection, until the earlier of—

(A) the date on which the individual is entitled to an annuity for immediate retirement under section 8336(b) or 8412(b) of title 5, United States Code; or

(B) the date on which the individual—

(i) is 57 years of age or older; and

(ii) is entitled to an annuity for immediate retirement under section 8336(m) or 8412(d) of title 5, United States Code, (as determined by taking into account paragraph (3)(A)).

(3) TREATMENT OF PRIOR CREDITABLE SERVICE FOR RETIREMENT PURPOSES.—

(A) PRIOR SERVICE FOR PURPOSES OF ELIGIBILITY FOR IMMEDIATE RETIREMENT AS MEMBER OF CAPITOL POLICE.—Any Library of Congress Police employee who becomes a member of the Capitol Police under this subsection shall be entitled to have any creditable service under section 8332 or 8411 of title 5, United States Code, that was accrued prior to becoming a member of the Capitol Police included in calculating the employee's service as a member of the Capitol Police for purposes of section 8336(m) or 8412(d) of title 5, United States Code.

(B) PRIOR SERVICE FOR PURPOSES OF COMPUTATION OF ANNUITY.—Any creditable service under section 8332 or 8411 of title 5, United States Code, of an individual who becomes a member of the Capitol Police under this subsection that was accrued prior to becoming a member of the Capitol Police—

(i) shall be treated and computed as employee service under section 8339 or section 8415 of such title; but

(ii) shall not be treated as service as a member of the Capitol Police or service as a congressional employee for purposes of applying any formula under section 8339(b), 8339(q), 8415(c), or 8415(d) of such title under which a percentage of the individual's average pay is multiplied by the years (or other period) of such service.

(c) DUTIES OF EMPLOYEES TRANSFERRED TO CIVILIAN POSITIONS.—

(1) DUTIES.—The duties of any individual who becomes a civilian employee of the Capitol Police under this section, including a Library of Congress Police civilian employee under subsection (a)(2) and a Library of Congress Police employee who becomes a civilian employee of the Capitol Police under subsection (b)(1)(B), shall be determined solely by the Chief of the Capitol Police, except that a Library of Congress Police civilian employee under subsection (a)(2) shall continue to support Library of Congress police operations until all Library of Congress Police employees are transferred to the United States Capitol Police under this section.

(2) FINALITY OF DETERMINATIONS.—Any determination of the Chief of the Capitol Police under this subsection shall not be appealable or reviewable in any manner.

(d) PROTECTING STATUS OF TRANSFERRED EMPLOYEES.—

(1) NONREDUCTION IN PAY, RANK, OR GRADE.—The transfer of any individual under this section shall not cause that individual to be separated or reduced in basic pay, rank or grade.

(2) LEAVE AND COMPENSATORY TIME.—Any annual leave, sick leave, or other leave, or compensatory time, to the credit of an individual transferred under this section shall be transferred to the credit of that individual as a member or an employee of the Capitol Police (as the case may be). The treatment of leave or compensatory time transferred under this section shall be governed by regulations of the Capitol Police Board.

(3) PROHIBITING IMPOSITION OF PROBATIONARY PERIOD.—The Chief of the Capitol Police may not impose a period of probation with respect to the transfer of any individual who is transferred under this section.

(e) RULES OF CONSTRUCTION RELATING TO EMPLOYEE REPRESENTATION.—

(1) EMPLOYEE REPRESENTATION.—Nothing in this Act shall be construed to authorize any labor organization that represented an individual who was a Library of Congress police employee or a Library of Congress police civilian employee before the individual's transfer date to represent that individual as a member of the Capitol Police or an employee of the Capitol Police after the individual's transfer date.

(2) AGREEMENTS NOT APPLICABLE.—Nothing in this Act shall be construed to authorize any collective bargaining agreement (or any related court order, stipulated agreement, or agreement to the terms or conditions of employment) applicable to Library of Congress police employees or to Library of Congress police civilian employees to apply to members of the Capitol Police or to civilian employees of the Capitol Police.

(f) RULE OF CONSTRUCTION RELATING TO PERSONNEL AUTHORITY OF THE CHIEF OF THE CAPITOL POLICE.—Nothing in this Act shall be construed to affect the authority of the Chief of the Capitol Police to—

(1) terminate the employment of a member of the Capitol Police or a civilian employee of the Capitol Police; or

(2) transfer any individual serving as a member of the Capitol Police or a civilian employee of the Capitol Police to another position with the Capitol Police.

(g) TRANSFER DATE DEFINED.—In this Act, the term “transfer date” means, with respect to an employee—

(1) in the case of a Library of Congress Police employee who becomes a member of the Capitol Police, the first day of the first pay period applicable to members of the United States Capitol Police which begins after the date on which the Chief of the Capitol Police issues the written certification for the employee under subsection (b)(1);

(2) in the case of a Library of Congress Police employee who becomes a civilian employee of the Capitol Police, the first day of the first pay period applicable to employees of the United States Capitol Police which begins after September 30, 2009; or

(3) in the case of a Library of Congress Police civilian employee, the first day of the first pay period applicable to employees of the United States Capitol Police which begins after September 30, 2008.

(h) CANCELLATION IN PORTION OF UNOBLIGATED BALANCE OF FEDLINK REVOLVING FUND.—Amounts available for obligation by the Librarian of Congress as of the date of the enactment of this Act from the unobligated balance in the revolving fund established under section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (2 U.S.C. 182c) for the Federal Library and Information Network program of the Library of Congress and the Federal Research program of the Library of Congress are reduced by a total of \$560,000, and the amount so reduced is hereby cancelled.

SEC. 3. TRANSITION PROVISIONS.

2 USC 1901 note.

(a) TRANSFER AND ALLOCATIONS OF PROPERTY AND APPROPRIATIONS.—

(1) IN GENERAL.—Effective on the transfer date of any Library of Congress Police employee and Library of Congress Police civilian employee who is transferred under this Act—

Effective date.

(A) the assets, liabilities, contracts, property, and records associated with the employee shall be transferred to the Capitol Police; and

(B) the unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the employee shall be transferred to and made available under the appropriations accounts for the Capitol Police for “Salaries” and “General Expenses”, as applicable.

(2) JOINT REVIEW.—During the transition period, the Chief of the Capitol Police and the Librarian of Congress shall conduct a joint review of the assets, liabilities, contracts, property records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the transfer under this Act.

(b) TREATMENT OF ALLEGED VIOLATIONS OF CERTAIN EMPLOYMENT LAWS WITH RESPECT TO TRANSFERRED INDIVIDUALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in paragraph (3), in the case of an alleged violation of any covered law (as defined in paragraph (4)) which is alleged to have occurred prior to the transfer date with respect to an individual who is transferred under this Act, and for which the individual has not exhausted all

Applicability.

of the remedies available for the consideration of the alleged violation which are provided for employees of the Library of Congress under the covered law prior to the transfer date, the following shall apply:

(A) The individual may not initiate any procedure which is available for the consideration of the alleged violation of the covered law which is provided for employees of the Library of Congress under the covered law.

(B) To the extent that the individual has initiated any such procedure prior to the transfer date, the procedure shall terminate and have no legal effect.

(C) Subject to paragraph (2), the individual may initiate and participate in any procedure which is available for the resolution of grievances of officers and employees of the Capitol Police under the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to provide for consideration of the alleged violation. The previous sentence does not apply in the case of an alleged violation for which the individual exhausted all of the available remedies which are provided for employees of the Library of Congress under the covered law prior to the transfer date.

(2) SPECIAL RULES FOR APPLYING CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—In applying paragraph (1)(C) with respect to an individual to whom this subsection applies, for purposes of the consideration of the alleged violation under the Congressional Accountability Act of 1995—

(A) the date of the alleged violation shall be the individual's transfer date;

(B) notwithstanding the third sentence of section 402(a) of such Act (2 U.S.C. 1402(a)), the individual's request for counseling under such section shall be made not later than 60 days after the date of the alleged violation; and

(C) the employing office of the individual at the time of the alleged violation shall be the Capitol Police Board.

(3) EXCEPTION FOR ALLEGED VIOLATIONS SUBJECT TO HEARING PRIOR TO TRANSFER.—Paragraph (1) does not apply with respect to an alleged violation for which a hearing has commenced in accordance with the covered law on or before the transfer date.

(4) COVERED LAW DEFINED.—In this subsection, a “covered law” is any law for which the remedy for an alleged violation is provided for officers and employees of the Capitol Police under the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.).

(c) AVAILABILITY OF DETAILEES DURING TRANSITION PERIOD.—During the transition period, the Chief of the Capitol Police may detail additional members of the Capitol Police to the Library of Congress, without reimbursement.

(d) EFFECT ON EXISTING MEMORANDUM OF UNDERSTANDING.—The Memorandum of Understanding between the Library of Congress and the Capitol Police entered into on December 12, 2004, shall remain in effect during the transition period, subject to—

(1) the provisions of this Act; and

(2) such modifications as may be made in accordance with the modification and dispute resolution provisions of the Memorandum of Understanding, consistent with the provisions of this Act.

(e) **RULE OF CONSTRUCTION RELATING TO PERSONNEL AUTHORITY OF THE LIBRARIAN OF CONGRESS.**—Nothing in this Act shall be construed to affect the authority of the Librarian of Congress to—

(1) terminate the employment of a Library of Congress Police employee or Library of Congress Police civilian employee; or

(2) transfer any individual serving in a Library of Congress Police employee position or Library of Congress Police civilian employee position to another position at the Library of Congress.

SEC. 4. POLICE JURISDICTION, UNLAWFUL ACTIVITIES, AND PENALTIES.

(a) **JURISDICTION.**—

(1) **EXTENSION OF CAPITOL POLICE JURISDICTION.**—Section 9 of the Act entitled “An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes”, approved July 31, 1946 (2 U.S.C. 1961) is amended by adding at the end the following:

“(d) For purposes of this section, ‘United States Capitol Buildings and Grounds’ shall include the Library of Congress buildings and grounds described under section 11 of the Act entitled ‘An Act relating to the policing of the buildings of the Library of Congress’, approved August 4, 1950 (2 U.S.C. 167j), except that in a case of buildings or grounds not located in the District of Columbia, the authority granted to the Metropolitan Police Force of the District of Columbia shall be granted to any police force within whose jurisdiction the buildings or grounds are located.”.

(2) **REPEAL OF LIBRARY OF CONGRESS POLICE JURISDICTION.**—The first section and sections 7 and 9 of the Act of August 4, 1950 (2 U.S.C. 167, 167f, 167h) are repealed on October 1, 2009.

Effective date.
2 USC 167 note.

(b) **UNLAWFUL ACTIVITIES AND PENALTIES.**—

(1) **EXTENSION OF UNITED STATES CAPITOL BUILDINGS AND GROUNDS PROVISIONS TO THE LIBRARY OF CONGRESS BUILDINGS AND GROUNDS.**—

(A) **CAPITOL BUILDINGS.**—Section 5101 of title 40, United States Code, is amended by inserting “all buildings on the real property described under section 5102(d)” after “(including the Administrative Building of the United States Botanic Garden)”.

(B) **CAPITOL GROUNDS.**—Section 5102 of title 40, United States Code, is amended by adding at the end the following:

“(d) **LIBRARY OF CONGRESS BUILDINGS AND GROUNDS.**—

“(1) **IN GENERAL.**—Except as provided under paragraph (2), the United States Capitol Grounds shall include the Library of Congress grounds described under section 11 of the Act entitled ‘An Act relating to the policing of the buildings of the Library of Congress’, approved August 4, 1950 (2 U.S.C. 167j).

“(2) **AUTHORITY OF LIBRARIAN OF CONGRESS.**—Notwithstanding subsections (a) and (b), the Librarian of Congress

shall retain authority over the Library of Congress buildings and grounds in accordance with section 1 of the Act of June 29, 1922 (2 U.S.C. 141; 42 Stat. 715).”.

(C) CONFORMING AMENDMENT RELATING TO DISORDERLY CONDUCT.—Section 5104(e)(2) of title 40, United States Code, is amended by striking subparagraph (C) and inserting the following:

“(C) with the intent to disrupt the orderly conduct of official business, enter or remain in a room in any of the Capitol Buildings set aside or designated for the use of—

“(i) either House of Congress or a Member, committee, officer, or employee of Congress, or either House of Congress; or

“(ii) the Library of Congress;”.

(2) REPEAL OF OFFENSES AND PENALTIES SPECIFIC TO THE LIBRARY OF CONGRESS.—Sections 2, 3, 4, 5, 6, and 8 of the Act of August 4, 1950 (2 U.S.C. 167a, 167b, 167c, 167d, 167e, and 167g) are repealed.

(3) SUSPENSION OF PROHIBITIONS AGAINST USE OF LIBRARY OF CONGRESS BUILDINGS AND GROUNDS.—Section 10 of the Act of August 4, 1950 (2 U.S.C. 167i) is amended by striking “2 to 6, inclusive, of this Act” and inserting “5103 and 5104 of title 40, United States Code”.

(4) CONFORMING AMENDMENT TO DESCRIPTION OF LIBRARY OF CONGRESS GROUNDS.—Section 11 of the Act of August 4, 1950 (2 U.S.C. 167j) is amended—

(A) in subsection (a), by striking “For the purposes of this Act the” and inserting “The”;

(B) in subsection (b), by striking “For the purposes of this Act, the” and inserting “The”;

(C) in subsection (c), by striking “For the purposes of this Act, the” and inserting “The”; and

(D) in subsection (d), by striking “For the purposes of this Act, the” and inserting “The”.

(c) CONFORMING AMENDMENT RELATING TO JURISDICTION OF INSPECTOR GENERAL OF LIBRARY OF CONGRESS.—Section 1307(b)(1) of the Legislative Branch Appropriations Act, 2006 (2 U.S.C. 185(b)), is amended by striking the semicolon at the end and inserting the following: “, except that nothing in this paragraph may be construed to authorize the Inspector General to audit or investigate any operations or activities of the United States Capitol Police;”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 2009.

2 USC 167 note.

2 USC 141b.

SEC. 5. COLLECTIONS, PHYSICAL SECURITY, CONTROL, AND PRESERVATION OF ORDER AND DECORUM WITHIN THE LIBRARY.

(a) ESTABLISHMENT OF REGULATIONS.—The Librarian of Congress shall establish standards and regulations for the physical security, control, and preservation of the Library of Congress collections and property, and for the maintenance of suitable order and decorum within Library of Congress.

(b) TREATMENT OF SECURITY SYSTEMS.—

(1) RESPONSIBILITY FOR SECURITY SYSTEMS.—In accordance with the authority of the Capitol Police and the Librarian of Congress established under this Act, the amendments made

by this Act, and the provisions of law referred to in paragraph (3), the Chief of the Capitol Police and the Librarian of Congress shall be responsible for the operation of security systems at the Library of Congress buildings and grounds described under section 11 of the Act of August 4, 1950, in consultation and coordination with each other, subject to the following:

(A) The Librarian of Congress shall be responsible for the design of security systems for the control and preservation of Library collections and property, subject to the review and approval of the Chief of the Capitol Police.

(B) The Librarian of Congress shall be responsible for the operation of security systems at any building or facility of the Library of Congress which is located outside of the District of Columbia, subject to the review and approval of the Chief of the Capitol Police.

(2) INITIAL PROPOSAL FOR OPERATION OF SYSTEMS.—Not later than October 1, 2008, the Chief of the Capitol Police, in coordination with the Librarian of Congress, shall prepare and submit to the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate an initial proposal for carrying out this subsection.

Deadline.

(3) PROVISIONS OF LAW.—The provisions of law referred to in this paragraph are as follows:

(A) Section 1 of the Act of June 29, 1922 (2 U.S.C. 141).

(B) The undesignated provision under the heading “General Provision, This Chapter” in chapter 5 of title II of division B of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (2 U.S.C. 141a).

(C) Section 308 of the Legislative Branch Appropriations Act, 1996 (2 U.S.C. 1964).

(D) Section 308 of the Legislative Branch Appropriations Act, 1997 (2 U.S.C. 1965).

SEC. 6. PAYMENT OF CAPITOL POLICE SERVICES PROVIDED IN CONNECTION WITH RELATING TO LIBRARY OF CONGRESS SPECIAL EVENTS.

(a) PAYMENTS OF AMOUNTS DEPOSITED IN REVOLVING FUND.—Section 102(e) of the Library of Congress Fiscal Operations Improvement Act of 2000 (2 U.S.C. 182b(e)) is amended to read as follows:

“(e) USE OF AMOUNTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the accounts of the revolving fund under this section shall be available to the Librarian, in amounts specified in appropriations Acts and without fiscal year limitation, to carry out the programs and activities covered by such accounts.

“(2) SPECIAL RULE FOR PAYMENTS FOR CERTAIN CAPITOL POLICE SERVICES.—In the case of any amount in the revolving fund consisting of a payment received for services of the United States Capitol Police in connection with a special event or program described in subsection (a)(4), the Librarian shall transfer such amount upon receipt to the Capitol Police for

deposit into the applicable appropriations accounts of the Capitol Police.”.

2 USC 143c.

(b) **USE OF OTHER LIBRARY FUNDS TO MAKE PAYMENTS.**—In addition to amounts transferred pursuant to section 102(e)(2) of the Library of Congress Fiscal Operations Improvement Act of 2000 (as added by subsection (a)), the Librarian of Congress may transfer amounts made available for salaries and expenses of the Library of Congress during a fiscal year to the applicable appropriations accounts of the United States Capitol Police in order to reimburse the Capitol Police for services provided in connection with a special event or program described in section 102(a)(4) of such Act.

2 USC 1826 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to services provided by the United States Capitol Police on or after the date of the enactment of this Act.

SEC. 7. OTHER CONFORMING AMENDMENTS.

(a) **IN GENERAL.**—Section 1015 of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1901 note) and section 1006 of the Legislative Branch Appropriations Act, 2004 (2 U.S.C. 1901 note; Public Law 108–83; 117 Stat. 1023) are repealed.

2 USC 1901 note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect October 1, 2009.

2 USC 1901 note.

SEC. 8. DEFINITIONS.

In this Act—

(1) the term “Act of August 4, 1950” means the Act entitled “An Act relating to the policing of the buildings and grounds of the Library of Congress,” (2 U.S.C. 167 et seq.);

(2) the term “Library of Congress Police employee” means an employee of the Library of Congress designated as police under the first section of the Act of August 4, 1950 (2 U.S.C. 167);

(3) the term “Library of Congress Police civilian employee” means an employee of the Library of Congress Office of Security and Emergency Preparedness who provides direct administrative support to, and is supervised by, the Library of Congress Police, but shall not include an employee of the Library of Congress who performs emergency preparedness or collections control and preservation functions; and

(4) the term “transition period” means the period the first day of which is the date of the enactment of this Act and the final day of which is September 30, 2009.

Approved January 7, 2008.

LEGISLATIVE HISTORY—H.R. 3690:

HOUSE REPORTS: No. 110–470, Pt. 1 (Comm. on House Administration).
CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 5, considered and passed House.
Dec. 17, considered and passed Senate, amended.
Dec. 18, House concurred in Senate amendment.



Public Law 110–179
110th Congress

An Act

Jan. 7, 2008
[S. 863]

To amend title 18, United States Code, with respect to fraud in connection with major disaster or emergency funds.

Emergency and
Disaster
Assistance Fraud
Penalty
Enhancement
Act of 2007.
18 USC 1 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2007”.

SEC. 2. FRAUD IN CONNECTION WITH MAJOR DISASTER OR EMERGENCY BENEFITS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“§ 1040. Fraud in connection with major disaster or emergency benefits

“(a) Whoever, in a circumstance described in subsection (b) of this section, knowingly—

“(1) falsifies, conceals, or covers up by any trick, scheme, or device any material fact; or

“(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation,

in any matter involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191), or in connection with any procurement of property or services related to any emergency or major disaster declaration as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, shall be fined under this title, imprisoned not more than 30 years, or both.

“(b) A circumstance described in this subsection is any instance where—

“(1) the authorization, transportation, transmission, transfer, disbursement, or payment of the benefit is in or affects interstate or foreign commerce;

“(2) the benefit is transported in the mail at any point in the authorization, transportation, transmission, transfer, disbursement, or payment of that benefit; or

“(3) the benefit is a record, voucher, payment, money, or thing of value of the United States, or of any department or agency thereof.

“(c) In this section, the term ‘benefit’ means any record, voucher, payment, money or thing of value, good, service, right, or privilege provided by the United States, a State or local government, or other entity.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

“1040. Fraud in connection with major disaster or emergency benefits.”.

SEC. 3. INCREASED CRIMINAL PENALTIES FOR ENGAGING IN WIRE, RADIO, AND TELEVISION FRAUD DURING AND RELATION TO A PRESIDENTIALLY DECLARED MAJOR DISASTER OR EMERGENCY.

Section 1343 of title 18, United States Code, is amended by inserting: “occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or” after “If the violation”.

SEC. 4. INCREASED CRIMINAL PENALTIES FOR ENGAGING IN MAIL FRAUD DURING AND RELATION TO A PRESIDENTIALLY DECLARED MAJOR DISASTER OR EMERGENCY.

Section 1341 of title 18, United States Code, is amended by inserting: “occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or” after “If the violation”.

SEC. 5. DIRECTIVE TO SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission forthwith shall—

(1) promulgate sentencing guidelines or amend existing sentencing guidelines to provide for increased penalties for persons convicted of fraud or theft offenses in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191); and

(2) submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives an explanation of actions taken by the Commission pursuant to paragraph (1) and any additional policy recommendations the Commission may have for combating offenses described in that paragraph.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in

Guidelines.
28 USC 994 note.

subsection (a) and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 30 days after the date of enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

Approved January 7, 2008.

LEGISLATIVE HISTORY—S. 863:

SENATE REPORTS: No. 110–69 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 4, considered and passed Senate.

Dec. 19, considered and passed House.



Public Law 110–180
110th Congress

An Act

To improve the National Instant Criminal Background Check System, and for
other purposes.

Jan. 8, 2008
[H.R. 2640]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “NICS Improve-
ment Amendments Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act
is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

NICS
Improvement
Amendments
Act of 2007.
Inter-
governmental
relations.
18 USC 922 note.

TITLE I—TRANSMITTAL OF RECORDS

- Sec. 101. Enhancement of requirement that Federal departments and agencies pro-
vide relevant information to the National Instant Criminal Background
Check System.
- Sec. 102. Requirements to obtain waiver.
- Sec. 103. Implementation assistance to States.
- Sec. 104. Penalties for noncompliance.
- Sec. 105. Relief from disabilities program required as condition for participation in
grant programs.
- Sec. 106. Illegal immigrant gun purchase notification.

**TITLE II—FOCUSING FEDERAL ASSISTANCE ON THE IMPROVEMENT OF
RELEVANT RECORDS**

- Sec. 201. Continuing evaluations.

**TITLE III—GRANTS TO STATE COURT SYSTEMS FOR THE IMPROVEMENT
IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS**

- Sec. 301. Disposition records automation and transmittal improvement grants.

TITLE IV—GAO AUDIT

- Sec. 401. GAO audit.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Approximately 916,000 individuals were prohibited from
purchasing a firearm for failing a background check between
November 30, 1998, (the date the National Instant Criminal
Background Check System (NICS) began operating) and
December 31, 2004.

(2) From November 30, 1998, through December 31, 2004,
nearly 49,000,000 Brady background checks were processed
through NICS.

(3) Although most Brady background checks are processed
through NICS in seconds, many background checks are delayed

if the Federal Bureau of Investigation (FBI) does not have automated access to complete information from the States concerning persons prohibited from possessing or receiving a firearm under Federal or State law.

(4) Nearly 21,000,000 criminal records are not accessible by NICS and millions of criminal records are missing critical data, such as arrest dispositions, due to data backlogs.

(5) The primary cause of delay in NICS background checks is the lack of—

(A) updates and available State criminal disposition records; and

(B) automated access to information concerning persons prohibited from possessing or receiving a firearm because of mental illness, restraining orders, or misdemeanor convictions for domestic violence.

(6) Automated access to this information can be improved by—

(A) computerizing information relating to criminal history, criminal dispositions, mental illness, restraining orders, and misdemeanor convictions for domestic violence; or

(B) making such information available to NICS in a usable format.

(7) Helping States to automate these records will reduce delays for law-abiding gun purchasers.

(8) On March 12, 2002, the senseless shooting, which took the lives of a priest and a parishioner at the Our Lady of Peace Church in Lynbrook, New York, brought attention to the need to improve information-sharing that would enable Federal and State law enforcement agencies to conduct a complete background check on a potential firearm purchaser. The man who committed this double murder had a prior disqualifying mental health commitment and a restraining order against him, but passed a Brady background check because NICS did not have the necessary information to determine that he was ineligible to purchase a firearm under Federal or State law.

(9) On April 16, 2007, a student with a history of mental illness at the Virginia Polytechnic Institute and State University shot to death 32 students and faculty members, wounded 17 more, and then took his own life. The shooting, the deadliest campus shooting in United States history, renewed the need to improve information-sharing that would enable Federal and State law enforcement agencies to conduct complete background checks on potential firearms purchasers. In spite of a proven history of mental illness, the shooter was able to purchase the two firearms used in the shooting. Improved coordination between State and Federal authorities could have ensured that the shooter's disqualifying mental health information was available to NICS.

SEC. 3. DEFINITIONS.

As used in this Act, the following definitions shall apply:

(1) COURT ORDER.—The term “court order” includes a court order (as described in section 922(g)(8) of title 18, United States Code).

(2) **MENTAL HEALTH TERMS.**—The terms “adjudicated as a mental defective” and “committed to a mental institution” have the same meanings as in section 922(g)(4) of title 18, United States Code.

(3) **MISDEMEANOR CRIME OF DOMESTIC VIOLENCE.**—The term “misdemeanor crime of domestic violence” has the meaning given the term in section 921(a)(33) of title 18, United States Code.

TITLE I—TRANSMITTAL OF RECORDS

SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FEDERAL DEPARTMENTS AND AGENCIES PROVIDE RELEVANT INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) **IN GENERAL.**—Section 103(e)(1) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) is amended—

Guidelines.

(1) by striking “Notwithstanding” and inserting the following:

“(A) **IN GENERAL.**—Notwithstanding”;

(2) by striking “On request” and inserting the following:

“(B) **REQUEST OF ATTORNEY GENERAL.**—On request”;

(3) by striking “furnish such information” and inserting “furnish electronic versions of the information described under subparagraph (A)”;

(4) by adding at the end the following:

“(C) **QUARTERLY SUBMISSION TO ATTORNEY GENERAL.**—

If a Federal department or agency under subparagraph (A) has any record of any person demonstrating that the person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code, the head of such department or agency shall, not less frequently than quarterly, provide the pertinent information contained in such record to the Attorney General.

“(D) **INFORMATION UPDATES.**—The Federal department or agency, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall—

“(i) update, correct, modify, or remove the record from any database that the agency maintains and makes available to the Attorney General, in accordance with the rules pertaining to that database; and

“(ii) notify the Attorney General that such basis no longer applies so that the National Instant Criminal Background Check System is kept up to date.

The Attorney General upon receiving notice pursuant to clause (ii) shall ensure that the record in the National Instant Criminal Background Check System is updated, corrected, modified, or removed within 30 days of receipt.

Deadline.

“(E) **ANNUAL REPORT.**—The Attorney General shall submit an annual report to Congress that describes the compliance of each department or agency with the provisions of this paragraph.”.

(b) **PROVISION AND MAINTENANCE OF NICS RECORDS.**—

(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Homeland Security shall make available to the Attorney General—

(A) records, updated not less than quarterly, which are relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, for use in background checks performed by the National Instant Criminal Background Check System; and

(B) information regarding all the persons described in subparagraph (A) of this paragraph who have changed their status to a category not identified under section 922(g)(5) of title 18, United States Code, for removal, when applicable, from the National Instant Criminal Background Check System.

(2) DEPARTMENT OF JUSTICE.—The Attorney General shall—

(A) ensure that any information submitted to, or maintained by, the Attorney General under this section is kept accurate and confidential, as required by the laws, regulations, policies, or procedures governing the applicable record system;

(B) provide for the timely removal and destruction of obsolete and erroneous names and information from the National Instant Criminal Background Check System; and

(C) work with States to encourage the development of computer systems, which would permit electronic notification to the Attorney General when—

(i) a court order has been issued, lifted, or otherwise removed by order of the court; or

(ii) a person has been adjudicated as a mental defective or committed to a mental institution.

(c) STANDARD FOR ADJUDICATIONS AND COMMITMENTS RELATED TO MENTAL HEALTH.—

(1) IN GENERAL.—No department or agency of the Federal Government may provide to the Attorney General any record of an adjudication related to the mental health of a person or any commitment of a person to a mental institution if—

(A) the adjudication or commitment, respectively, has been set aside or expunged, or the person has otherwise been fully released or discharged from all mandatory treatment, supervision, or monitoring;

(B) the person has been found by a court, board, commission, or other lawful authority to no longer suffer from the mental health condition that was the basis of the adjudication or commitment, respectively, or has otherwise been found to be rehabilitated through any procedure available under law; or

(C) the adjudication or commitment, respectively, is based solely on a medical finding of disability, without an opportunity for a hearing by a court, board, commission, or other lawful authority, and the person has not been adjudicated as a mental defective consistent with section 922(g)(4) of title 18, United States Code, except that nothing in this section or any other provision of law shall

prevent a Federal department or agency from providing to the Attorney General any record demonstrating that a person was adjudicated to be not guilty by reason of insanity, or based on lack of mental responsibility, or found incompetent to stand trial, in any criminal case or under the Uniform Code of Military Justice.

(2) TREATMENT OF CERTAIN ADJUDICATIONS AND COMMITMENTS.—

(A) PROGRAM FOR RELIEF FROM DISABILITIES.—

(i) IN GENERAL.—Each department or agency of the United States that makes any adjudication related to the mental health of a person or imposes any commitment to a mental institution, as described in subsection (d)(4) and (g)(4) of section 922 of title 18, United States Code, shall establish, not later than 120 days after the date of enactment of this Act, a program that permits such a person to apply for relief from the disabilities imposed by such subsections.

Deadline.

(ii) PROCESS.—Each application for relief submitted under the program required by this subparagraph shall be processed not later than 365 days after the receipt of the application. If a Federal department or agency fails to resolve an application for relief within 365 days for any reason, including a lack of appropriated funds, the department or agency shall be deemed for all purposes to have denied such request for relief without cause. Judicial review of any petitions brought under this clause shall be de novo.

Deadline.

(iii) JUDICIAL REVIEW.—Relief and judicial review with respect to the program required by this subparagraph shall be available according to the standards prescribed in section 925(c) of title 18, United States Code. If the denial of a petition for relief has been reversed after such judicial review, the court shall award the prevailing party, other than the United States, a reasonable attorney's fee for any and all proceedings in relation to attaining such relief, and the United States shall be liable for such fee. Such fee shall be based upon the prevailing rates awarded to public interest legal aid organizations in the relevant community.

(B) RELIEF FROM DISABILITIES.—In the case of an adjudication related to the mental health of a person or a commitment of a person to a mental institution, a record of which may not be provided to the Attorney General under paragraph (1), including because of the absence of a finding described in subparagraph (C) of such paragraph, or from which a person has been granted relief under a program established under subparagraph (A) or (B), or because of a removal of a record under section 103(e)(1)(D) of the Brady Handgun Violence Prevention Act, the adjudication or commitment, respectively, shall be deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code. Any Federal agency that grants a person relief from disabilities under this subparagraph shall notify such person that the person is no longer prohibited under 922(d)(4) or 922(g)(4)

of title 18, United States Code, on account of the relieved disability for which relief was granted pursuant to a proceeding conducted under this subparagraph, with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms.

Effective date.

(3) NOTICE REQUIREMENT.—Effective 30 days after the date of enactment of this Act, any Federal department or agency that conducts proceedings to adjudicate a person as a mental defective under 922(d)(4) or 922(g)(4) of title 18, United States Code, shall provide both oral and written notice to the individual at the commencement of the adjudication process including—

(A) notice that should the agency adjudicate the person as a mental defective, or should the person be committed to a mental institution, such adjudication, when final, or such commitment, will prohibit the individual from purchasing, possessing, receiving, shipping or transporting a firearm or ammunition under section 922(d)(4) or section 922(g)(4) of title 18, United States Code;

(B) information about the penalties imposed for unlawful possession, receipt, shipment or transportation of a firearm under section 924(a)(2) of title 18, United States Code; and

(C) information about the availability of relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms.

(4) EFFECTIVE DATE.—Except for paragraph (3), this subsection shall apply to names and other information provided before, on, or after the date of enactment of this Act. Any name or information provided in violation of this subsection (other than in violation of paragraph (3)) before, on, or after such date shall be removed from the National Instant Criminal Background Check System.

SEC. 102. REQUIREMENTS TO OBTAIN WAIVER.

Effective date.

(a) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act, a State shall be eligible to receive a waiver of the 10 percent matching requirement for National Criminal History Improvement Grants under the Crime Identification Technology Act of 1988 (42 U.S.C. 14601) if the State provides at least 90 percent of the information described in subsection (c). The length of such a waiver shall not exceed 2 years.

(b) STATE ESTIMATES.—

(1) INITIAL STATE ESTIMATE.—

Deadline.

(A) IN GENERAL.—To assist the Attorney General in making a determination under subsection (a) of this section, and under section 104, concerning the compliance of the States in providing information to the Attorney General for the purpose of receiving a waiver under subsection (a) of this section, or facing a loss of funds under section 104, by a date not later than 180 days after the date of the enactment of this Act, each State shall provide the Attorney General with a reasonable estimate, as calculated by a method determined by the Attorney General and in accordance with section 104(d), of the number of the records described in subparagraph (C) applicable to

such State that concern persons who are prohibited from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

(B) FAILURE TO PROVIDE INITIAL ESTIMATE.—A State that fails to provide an estimate described in subparagraph (A) by the date required under such subparagraph shall be ineligible to receive any funds under section 103, until such date as it provides such estimate to the Attorney General.

(C) RECORD DEFINED.—For purposes of subparagraph (A), a record is the following:

(i) A record that identifies a person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year.

(ii) A record that identifies a person for whom an indictment has been returned for a crime punishable by imprisonment for a term exceeding 1 year that is valid under the laws of the State involved or who is a fugitive from justice, as of the date of the estimate, and for which a record of final disposition is not available.

(iii) A record that identifies a person who is an unlawful user of, or addicted to a controlled substance (as such terms “unlawful user” and “addicted” are respectively defined in regulations implementing section 922(g)(3) of title 18, United States Code, as in effect on the date of the enactment of this Act) as demonstrated by arrests, convictions, and adjudications, and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

(iv) A record that identifies a person who has been adjudicated as a mental defective or committed to a mental institution, consistent with section 922(g)(4) of title 18, United States Code, and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

(v) A record that is electronically available and that identifies a person who, as of the date of such estimate, is subject to a court order described in section 922(g)(8) of title 18, United States Code.

(vi) A record that is electronically available and that identifies a person convicted in any court of a misdemeanor crime of domestic violence, as defined in section 921(a)(33) of title 18, United States Code.

(2) SCOPE.—The Attorney General, in determining the compliance of a State under this section or section 104 for the purpose of granting a waiver or imposing a loss of Federal funds, shall assess the total percentage of records provided by the State concerning any event occurring within the prior 20 years, which would disqualify a person from possessing a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

(3) CLARIFICATION.—Notwithstanding paragraph (2), States shall endeavor to provide the National Instant Criminal Background Check System with all records concerning persons who are prohibited from possessing or receiving a firearm under

subsection (g) or (n) of section 922 of title 18, United States Code, regardless of the elapsed time since the disqualifying event.

(c) ELIGIBILITY OF STATE RECORDS FOR SUBMISSION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—

(1) REQUIREMENTS FOR ELIGIBILITY.—

(A) IN GENERAL.—From the information collected by a State, the State shall make electronically available to the Attorney General records relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, or applicable State law.

(B) NICS UPDATES.—The State, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall, as soon as practicable—

(i) update, correct, modify, or remove the record from any database that the Federal or State government maintains and makes available to the National Instant Criminal Background Check System, consistent with the rules pertaining to that database; and

(ii) notify the Attorney General that such basis no longer applies so that the record system in which the record is maintained is kept up to date.

Notification.

Deadline.

The Attorney General upon receiving notice pursuant to clause (ii) shall ensure that the record in the National Instant Criminal Background Check System is updated, corrected, modified, or removed within 30 days of receipt.

(C) CERTIFICATION.—To remain eligible for a waiver under subsection (a), a State shall certify to the Attorney General, not less than once during each 2-year period, that at least 90 percent of all records described in subparagraph (A) has been made electronically available to the Attorney General in accordance with subparagraph (A).

(D) INCLUSION OF ALL RECORDS.—For purposes of this paragraph, a State shall identify and include all of the records described under subparagraph (A) without regard to the age of the record.

(2) APPLICATION TO PERSONS CONVICTED OF MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE.—The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, records relevant to a determination of whether a person has been convicted in any court of a misdemeanor crime of domestic violence. With respect to records relating to such crimes, the State shall provide information specifically describing the offense and the specific section or subsection of the offense for which the defendant has been convicted and the relationship of the defendant to the victim in each case.

(3) APPLICATION TO PERSONS WHO HAVE BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A MENTAL INSTITUTION.—The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, the name and other relevant identifying information of persons adjudicated as a mental defective or those committed

to mental institutions to assist the Attorney General in enforcing section 922(g)(4) of title 18, United States Code.

(d) **PRIVACY PROTECTIONS.**—For any information provided to the Attorney General for use by the National Instant Criminal Background Check System, relating to persons prohibited from possessing or receiving a firearm under section 922(g)(4) of title 18, United States Code, the Attorney General shall work with States and local law enforcement and the mental health community to establish regulations and protocols for protecting the privacy of information provided to the system. The Attorney General shall make every effort to meet with any mental health group seeking to express its views concerning these regulations and protocols and shall seek to develop regulations as expeditiously as practicable. Regulations.

(e) **ATTORNEY GENERAL REPORT.**—Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of States in automating the databases containing the information described in subsection (b) and in making that information electronically available to the Attorney General pursuant to the requirements of subsection (c).

SEC. 103. IMPLEMENTATION ASSISTANCE TO STATES.

(a) **AUTHORIZATION.**—

(1) **IN GENERAL.**—From amounts made available to carry out this section and subject to section 102(b)(1)(B), the Attorney General shall make grants to States and Indian tribal governments, in a manner consistent with the National Criminal History Improvement Program, which shall be used by the States and Indian tribal governments, in conjunction with units of local government and State and local courts, to establish or upgrade information and identification technologies for firearms eligibility determinations. Not less than 3 percent, and no more than 10 percent of each grant under this paragraph shall be used to maintain the relief from disabilities program in accordance with section 105. Grants.
Native Americans.

(2) **GRANTS TO INDIAN TRIBES.**—Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments, including tribal judicial systems.

(b) **USE OF GRANT AMOUNTS.**—Grants awarded to States or Indian tribes under this section may only be used to—

(1) create electronic systems, which provide accurate and up-to-date information which is directly related to checks under the National Instant Criminal Background Check System (referred to in this section as “NICS”), including court disposition and corrections records;

(2) assist States in establishing or enhancing their own capacities to perform NICS background checks;

(3) supply accurate and timely information to the Attorney General concerning final dispositions of criminal records to databases accessed by NICS;

(4) supply accurate and timely information to the Attorney General concerning the identity of persons who are prohibited from obtaining a firearm under section 922(g)(4) of title 18, United States Code, to be used by the Federal Bureau of Investigation solely to conduct NICS background checks;

(5) supply accurate and timely court orders and records of misdemeanor crimes of domestic violence for inclusion in Federal and State law enforcement databases used to conduct NICS background checks;

(6) collect and analyze data needed to demonstrate levels of State compliance with this Act; and

(7) maintain the relief from disabilities program in accordance with section 105, but not less than 3 percent, and no more than 10 percent of each grant shall be used for this purpose.

Certification.

(c) ELIGIBILITY.—To be eligible for a grant under this section, a State shall certify, to the satisfaction of the Attorney General, that the State has implemented a relief from disabilities program in accordance with section 105.

(d) CONDITION.—As a condition of receiving a grant under this section, a State shall specify the projects for which grant amounts will be used, and shall use such amounts only as specified. A State that violates this subsection shall be liable to the Attorney General for the full amount of the grant received under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section \$125,000,000 for fiscal year 2009, \$250,000,000 for fiscal year 2010, \$250,000,000 for fiscal year 2011, \$125,000,000 for fiscal year 2012, and \$125,000,000 for fiscal year 2013.

(2) ALLOCATIONS.—For fiscal years 2009 and 2010, the Attorney General shall endeavor to allocate at least $\frac{1}{2}$ of the authorized appropriations to those States providing more than 50 percent of the records required to be provided under sections 102 and 103. For fiscal years 2011, 2012, and 2013, the Attorney General shall endeavor to allocate at least $\frac{1}{2}$ of the authorized appropriations to those States providing more than 70 percent of the records required to be provided under section 102 and 103. The allocations in this paragraph shall be subject to the discretion of the Attorney General, who shall have the authority to make adjustments to the distribution of the authorized appropriations as necessary to maximize incentives for State compliance.

(f) USER FEE.—The Federal Bureau of Investigation shall not charge a user fee for background checks pursuant to section 922(t) of title 18, United States Code.

SEC. 104. PENALTIES FOR NONCOMPLIANCE.

(a) ATTORNEY GENERAL REPORT.—

(1) IN GENERAL.—Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of the States in automating the databases containing information described under sections 102 and 103, and in providing that information pursuant to the requirements of sections 102 and 103.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, such funds as may be necessary to carry out paragraph (1).

(b) PENALTIES.—

(1) DISCRETIONARY REDUCTION.—

(A) During the 2-year period beginning 3 years after the date of enactment of this Act, the Attorney General may withhold not more than 3 percent of the amount that would otherwise be allocated to a State under section 505 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) if the State provides less than 50 percent of the records required to be provided under sections 102 and 103.

Effective date.

(B) During the 5-year period after the expiration of the period referred to in subparagraph (A), the Attorney General may withhold not more than 4 percent of the amount that would otherwise be allocated to a State under section 505 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) if the State provides less than 70 percent of the records required to be provided under sections 102 and 103.

(2) MANDATORY REDUCTION.—After the expiration of the periods referred to in paragraph (1), the Attorney General shall withhold 5 percent of the amount that would otherwise be allocated to a State under section 505 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755), if the State provides less than 90 percent of the records required to be provided under sections 102 and 103.

(3) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the applicability of paragraph (2) to a State if the State provides substantial evidence, as determined by the Attorney General, that the State is making a reasonable effort to comply with the requirements of sections 102 and 103, including an inability to comply due to court order or other legal restriction.

(c) REALLOCATION.—Any funds that are not allocated to a State because of the failure of the State to comply with the requirements of this Act shall be reallocated to States that meet such requirements.

(d) METHODOLOGY.—The method established to calculate the number of records to be reported, as set forth in section 102(b)(1)(A), and State compliance with the required level of reporting under sections 102 and 103 shall be determined by the Attorney General. The Attorney General shall calculate the methodology based on the total number of records to be reported from all subcategories of records, as described in section 102(b)(1)(C).

SEC. 105. RELIEF FROM DISABILITIES PROGRAM REQUIRED AS CONDITION FOR PARTICIPATION IN GRANT PROGRAMS.

(a) PROGRAM DESCRIBED.—A relief from disabilities program is implemented by a State in accordance with this section if the program—

(1) permits a person who, pursuant to State law, has been adjudicated as described in subsection (g)(4) of section 922 of title 18, United States Code, or has been committed to a mental institution, to apply to the State for relief from the disabilities imposed by subsections (d)(4) and (g)(4) of such section by reason of the adjudication or commitment;

(2) provides that a State court, board, commission, or other lawful authority shall grant the relief, pursuant to State law and in accordance with the principles of due process, if the

circumstances regarding the disabilities referred to in paragraph (1), and the person's record and reputation, are such that the person will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest; and

(3) permits a person whose application for the relief is denied to file a petition with the State court of appropriate jurisdiction for a de novo judicial review of the denial.

(b) **AUTHORITY TO PROVIDE RELIEF FROM CERTAIN DISABILITIES WITH RESPECT TO FIREARMS.**—If, under a State relief from disabilities program implemented in accordance with this section, an application for relief referred to in subsection (a)(1) of this section is granted with respect to an adjudication or a commitment to a mental institution or based upon a removal of a record under section 102(c)(1)(B), the adjudication or commitment, as the case may be, is deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code.

SEC. 106. ILLEGAL IMMIGRANT GUN PURCHASE NOTIFICATION.

(a) **IN GENERAL.**—Notwithstanding any other provision of law or of this Act, all records obtained by the National Instant Criminal Background Check system relevant to whether an individual is prohibited from possessing a firearm because such person is an alien illegally or unlawfully in the United States shall be made available to U.S. Immigration and Customs Enforcement.

(b) **REGULATIONS.**—The Attorney General, at his or her discretion, shall promulgate guidelines relevant to what records relevant to illegal aliens shall be provided pursuant to the provisions of this Act.

TITLE II—FOCUSING FEDERAL ASSISTANCE ON THE IMPROVEMENT OF RELEVANT RECORDS

SEC. 201. CONTINUING EVALUATIONS.

(a) **EVALUATION REQUIRED.**—The Director of the Bureau of Justice Statistics (referred to in this section as the “Director”) shall study and evaluate the operations of the National Instant Criminal Background Check System. Such study and evaluation shall include compilations and analyses of the operations and record systems of the agencies and organizations necessary to support such System.

(b) **REPORT ON GRANTS.**—Not later than January 31 of each year, the Director shall submit to Congress a report containing the estimates submitted by the States under section 102(b).

(c) **REPORT ON BEST PRACTICES.**—Not later than January 31 of each year, the Director shall submit to Congress, and to each State participating in the National Criminal History Improvement Program, a report of the practices of the States regarding the collection, maintenance, automation, and transmittal of information relevant to determining whether a person is prohibited from possessing or receiving a firearm by Federal or State law, by the State or any other agency, or any other records relevant to the National Instant Criminal Background Check System, that the Director considers to be best practices.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013 to complete the studies, evaluations, and reports required under this section.

TITLE III—GRANTS TO STATE COURT SYSTEMS FOR THE IMPROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS

SEC. 301. DISPOSITION RECORDS AUTOMATION AND TRANSMITTAL IMPROVEMENT GRANTS.

(a) **GRANTS AUTHORIZED.**—From amounts made available to carry out this section, the Attorney General shall make grants to each State, consistent with State plans for the integration, automation, and accessibility of criminal history records, for use by the State court system to improve the automation and transmittal of criminal history dispositions, records relevant to determining whether a person has been convicted of a misdemeanor crime of domestic violence, court orders, and mental health adjudications or commitments, to Federal and State record repositories in accordance with sections 102 and 103 and the National Criminal History Improvement Program.

(b) **GRANTS TO INDIAN TRIBES.**—Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments for use by Indian tribal judicial systems.

(c) **USE OF FUNDS.**—Amounts granted under this section shall be used by the State court system only—

(1) to carry out, as necessary, assessments of the capabilities of the courts of the State for the automation and transmission of arrest and conviction records, court orders, and mental health adjudications or commitments to Federal and State record repositories; and

(2) to implement policies, systems, and procedures for the automation and transmission of arrest and conviction records, court orders, and mental health adjudications or commitments to Federal and State record repositories.

(d) **ELIGIBILITY.**—To be eligible to receive a grant under this section, a State shall certify, to the satisfaction of the Attorney General, that the State has implemented a relief from disabilities program in accordance with section 105.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Attorney General to carry out this section \$62,500,000 for fiscal year 2009, \$125,000,000 for fiscal year 2010, \$125,000,000 for fiscal year 2011, \$62,500,000 for fiscal year 2012, and \$62,500,000 for fiscal year 2013.

TITLE IV—GAO AUDIT

SEC. 401. GAO AUDIT.

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct an audit of the expenditure of all funds appropriated for criminal records improvement pursuant to section 106(b) of

the Brady Handgun Violence Prevention Act (Public Law 103–159) to determine if the funds were expended for the purposes authorized by the Act and how those funds were expended for those purposes or were otherwise expended.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit a report to Congress describing the findings of the audit conducted pursuant to subsection (a).

Approved January 8, 2008.

LEGISLATIVE HISTORY—H.R. 2640:

CONGRESSIONAL RECORD, Vol. 153 (2007):

June 13, considered and passed House.

Dec. 19, considered and passed Senate, amended. House concurred in Senate amendment.

